United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, WEDNESDAY, MAY 15, 1996 No. 68

Senate

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

PRAYER

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

Cast your burden on the Lord and He shall sustain you.—Psalm 55:22.

Gracious Father, we respond to this uplifting promise with gratitude. Each of us has burdens. Some of them are profoundly personal. We carry the burden of our failures. In the quiet we hear You say, ''You are forgiven; peace be with you.'' We also carry the burden of worry over our families and friends. You remind us that You love the people about whom we are concerned and so we turn our anxiety about the needs of people over to You. In our work we are burdened by the unfinished and the unresolved. Help us to do the very best we can each day and leave the results to You. As leaders of our Nation, we are troubled by the drift of our society from Your righteousness and truth. The burden of leadership rests heavily on our shoulders. We hear Your whisper in our souls, ''I will never leave you or forsake you.''

Dear God, bless the Senators, their families, staffs, and all who are part of the extended Senate family here in the Capitol. Whatever burdens each carries today, we ask You to lift them by Your grace and provide for them out of Your boundless resources. Then help us to lift each other's burdens by being as encouraging as You have been to us.

Today we join with the Nation in honoring and expressing our gratitude for peace officers. Thank You for those gallant officers who have given their lives in the line of duty.

In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from New Mexico is recognized.

SCHEDULE

Mr. DOMENICI. Mr. President, on behalf of the leader, I make the following statement to the Senate.

This morning the Senate will immediately begin consideration of Senate Concurrent Resolution 57, the concurrent budget resolution. There is a 50-hour statutory time limitation on the budget, therefore Senators can expect late sessions this week and rollcall votes throughout in order to complete action on the budget this week.

CONCURRENT RESOLUTION ON THE BUDGET

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senate will now proceed to consideration of Senate Concurrent Resolution 57, which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 57) setting forth the congressional budget for the United States Government for fiscal years 1997, 1998, 1999, 2000, 2001, and 2002.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. DOMENICI. Mr. President, I send to the desk a list of majority and minority staff members and ask unanimous consent they be granted the privilege of the floor at various times at the option of the manager and the ranking member.

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

The list is as follows:

MAJORITY STAFF

Brian Benczkowski, Jim Capretta, Amy Call, Lisa Cieplak, Christy Dunn, Beth Felder, Alice Grant, Jim Hearn, Keith Hennessey, William Hoagland.

Carol McGuire, Anne Miller, Mieko Nakabayashi, Denise G. Ramonas, Cheri Reidy, Ricardo Rel, Karen Ricoy, J. Brian Riley, Mike Ruffner.

Melissa Sampson, Andrea Shank, Amy Smith, Austin Smythe, Bob Stevenson, Beth Wallis, Winslow Wheeler (detailee).

MINORITY STAFF

Amy Abraham, Kenneth Colling (fellow), Bill Dauster, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Phil Karsting, Jim Klumpner, Soo Jin Kwon.

Daniela Mays, Sue Nelson, Jon Rosenwasser (fellow), Jerry Slominski, Barry Strumpf.

Mr. DOMENICI. Mr. President, again in behalf of the majority leader, I ask unanimous consent that the presence of small electronic calculators be permitted on the floor of the Senate during consideration of the 1997 concurrent resolution.

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

Mr. DOMENICI. Now, Mr. President, as I understand it, there are 50 hours of debate on this resolution. Unless it is agreed to add additional time, each amendment is given 1 hour for the amendment, 1 hour in opposition to the amendment. Amendments to the amendments have one-half hour, and one-half hour in opposition.

The Budget Act prescribes that opening statements will utilize 4 hours on economics, and that will be the opening of the budget debate. I am not so sure we are going to use all that time, but I would like to engage in a dialog with the ranking member, if he would, at this point.

Senator EXON, I note, and I think you would concur, this is a rather exceptional year in that there are three full budgets that will be offered to the Senate: There is the Republican budget that is pending, encapsulated in the

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

Printed on recycled paper.

resolution; there is a bipartisan proposal, led by Senators CHAFEE and BREAUX, which is a full substitute for the Republican proposal; and then there is a third proposal, which I assume you or someone on your side will offer, which is the President's budget, which, again, is a full substitute for the Republican plan. Also, obviously, there are many amendments that Members on your side and our side would like to offer, either to the Republican budget resolution or to one or the other of the other full budgets that I have just briefly described.

It had been my hope, and I share this with you to see what your thoughts are, that we could use the 4 hours allowed for economic discussion, 2 on each side, and then proceed with amendments to the Republican budget for the remainder of the day—we ought to get a lot of them in if we can do that—and that we then, late this evening, take an accounting for ourselves and see where we are, and that at a later time in this debate we take the full budgets that are offered as full substitutes to the Domenici mark. So at some point you would offer the President's and, some time thereafter, Senators CHAFEE and BREAUX, or BREAUX and CHAFEE, would offer theirs.

I think we had a very good spirit of cooperation in the committee. I am just hoping that between us we can get our Members to start sending their amendments to us so we will know where we are going. I can say unequivocally—I heard from the leader yesterday and I read a statement this morning—we are going to finish this this week. I see no reason to go into Friday night and Saturday if we can work together to kind of organize, as best we can, our colleagues in their presentations.

I yield at this point for your thoughts or observations, if you would share them with me.

Mr. EXON. I thank my friend, the chairman of the committee, for his remarks and outline. Generally speaking, I do not know that I have any serious reservations. I think the chairman of the committee has basically stated what should be the procedure. I have a caveat to that that I will mention in just a moment. I simply say that I agree that even though we have 25 hours on each side—and while you have not said that, I understand the intent is the 25 hours on your side would be controlled by the majority leader or his designee, which would normally be you, and the same thing would be true on our side with the minority leader and myself as the ranking Democrat on the Budget Committee. Is that the way? Would we follow usual procedures in that regard?

Mr. DOMENICI. Yes.

Mr. EXON. I see no reason why we should not head for, and very likely can, finish this by Friday late, if not sooner. I say to my friend, in the 4 hours set aside for economic discussions, I do not anticipate we would use all of our 2 hours on this side, although no one ever knows what happens for sure in the U.S. Senate.

I simply say, as I listened to the opening remarks from the chairman of the committee, if he felt we would likely only have amendments to the Republican measure today, I had intended at a very early time to offer the President's budget, which we offered very early in the procedure in the committee, as you will remember, and we would not agree in advance to any extensive delay in our desire to offer the President's budget, which very likely would be the first action on this side. And so I would like to advise the leader of that.

Mr. DOMENICI. First of all, let me indicate, the leader has already indicated that I am his designee to manage this bill and allocate the time. From time to time, as you will, I will give that to some other Senator who will manage in my stead.

Mr. EXON. We will follow the same procedure here.

Mr. DOMENICI. Let me tell you one thing I failed to mention by way of trying to reach some accord. It is my commitment and desire, and I hope you will cooperate—I think there is no reason why we should not do this. Senator GRASSLEY has requested and I have agreed that his amendment with reference to defense will be the first amendment offered, and it addresses the pending resolution.

So sometime after our opening remarks and some discussions on the economics, I will clearly ask that he be the first one, and I think you will not have any objection.

Mr. EXON. I think it should be a foregone conclusion that whatever the procedure, that you on that side and myself on this side will make the final determination of what will be the order of filing amendments. Certainly you have every right to recognize Senator GRASSLEY for the first remarks on that side.

What I have indicated is when our time comes, it is very likely that the first action on this side will be the offering of the President's budget as a substitute. I just want to alert you to that.

Mr. DOMENICI. You do not intend to have other amendments that address themselves either to our budget or other things before you offer the full budget?

Mr. EXON. That is my present plan, although we have not locked in anything.

Mr. DOMENICI. I just thought it might be interesting, from the standpoint of understanding, if we got some of the amendments out of the way and we were looking at three full budgets and debating them in a sequence which would permit us to see them all kind of one, two, three. But you have every right to do that. So why do we not proceed.

Parliamentary inquiry, Mr. President: Is it correct, under the Budget Act, that there are now 4 hours equally divided, minus the time we have used, I guess, after the opening statements?

The PRESIDING OFFICER. Yes, that is correct.

Mr. EXON. May I inquire further along those lines. If, after the opening statements by the managers, and we are into the 4-hour period that has just been referenced by the leader of the committee, we jointly agree or should jointly agree to yield back any remaining time—in other words, suppose we have an hour on each side or an hour on that side and half an hour on this side, whatever it is, we can hopefully work to expedite the procedures——

Mr. DOMENICI. Absolutely.

Mr. EXON. And I am sure you would agree.

Mr. DOMENICI. I agree.

Mr. EXON. If we can take that 4 hours and get it down to 1 or 1½, that is our goal.

Mr. DOMENICI. We are going to try to make it less than the 4 hours. We have a few Senators who want to speak on this subject, and they are going to be given that opportunity. And then we will get off that as soon as we can.

I thank Senator EXON for his cooperative spirit this morning. I hope we can do that all the way through the next 3 days.

Mr. President, we begin again today a debate that some might think has not yet ended and others might think never ends. To my friend, the ranking member of the Budget Committee, I know this is the last budget resolution he will manage on the Senate floor. I will have more to say about Senator EXON at the end of these remarks, but he knows the work we are about today and probably for the rest of this week. It is very serious work. It is work that will directly affect our country's future.

In many ways, the work we are about today is a continuation of our efforts of the last year to find a way to balance our Federal budget early in the next century and, in doing that, to look through the budget of the United States and find some areas where we are going to have real trouble down the line if we do not make some reforms and changes now.

In other ways, the work we are about here today builds on the successful efforts last year to reduce spending and put us on a path to a balanced budget. I think the fact has been lost in the heated debates last winter that we did reduce spending on appropriated accounts to the levels assumed in last year's budget resolution.

Largely because of those successes in the appropriated accounts, we are able to continue our goal of reaching balance in 2002 as originally planned. Obviously, our work is to achieve that goal, that goal which would have been made easier had the President signed the Balanced Budget Act of 1995 instead of vetoing it last December. But because the President vetoed that legislation, which we worked so hard to

enact last year, we find ourselves back here today. A little discouraged perhaps, but not daunted at all in our effort and our endeavor, because this issue is not going to go away and the American public demands that we balance spending and revenues at the earliest possible time.

While some things will surely seem not to have changed from last year as the debate progresses, in other ways things will have changed significantly since 1 year ago.

First, one big change is that the President, after nine attempts, has now, at least on paper, with some major gimmicks, figured out a way to present what he claims to be a balanced budget plan. We will have a lot more to say about the President's so-called balanced budget plan, and I sincerely look forward to debating it.

But let me say at the outset, however, that I have known smoke-and-mirrors budgets and I have known real budget plans, and I do not hesitate to award the President, the President's so-called balanced budget plan this year with an Oscar for the best acting in fiction.

Second, another big change this year, we will have a third budget plan to debate. I think that is exciting. The bipartisan budget plan to be offered by Senators CHAFEE and BREAUX is a real budget plan. Again, I look forward to debating that plan.

Unlike the President's, which is a hoax of a budget, I want to compliment the group of Senators who have worked hard this last year to put together a real budget, certainly not a smoke-and-mirrors budget like the President's plan. Unfortunately, the bipartisan plan does not achieve balance in 2002, and I have some concerns about elements of that plan that we will debate later. But this is a welcome change from a year ago when Republicans stood here on the floor alone and offered the only real balanced plan for the American people, the only one to be on the floor of the Senate in almost four decades.

Mr. President, the Senate-reported budget resolution, the one before us today, Senate Concurrent Resolution 57, offers America hope. It is real—no smoke and mirrors. It recognizes the need to set priorities, it makes tough decisions, or at least says to those who will follow after it with legislation that they are compelled to make some tough decisions, and it is realistic. It can be done. It needs to be done. This is a budget designed to help working American families, to make them more secure, secure in their homes, in their communities, and in their jobs.

It offers them a more efficient Government, one dedicated to economic growth and security, support for our children and lower taxes on American families.

The resolution before us today recognizes the very simple notion that our Government cannot simply go on spending our children's money. It is good medicine for our Nation and it is designed to prevent America's children from having to swallow a poison pill of mounting Federal debt. It is designed to prevent our Medicare system from going bankrupt in just 5 years. It is designed to prevent a future of a crushing tax burden on those just starting out in life.

The resolution before us, Mr. President, will strengthen America, it will continue to build on our successes of last year, and change the way our Government works, to make it more efficient, more responsive, and less expensive.

Most importantly, it is a budget plan that will ensure a better future for our children and our Nation. I said that last year; I believed it then; I continue to believe it now. True leadership cannot simply postpone this difficult work because it is an election year. The problem will not go away simply because there is an election this fall.

The second balanced budget plan the Republicans have proposed in this Congress is designed to return our Nation to fiscal reality and preserve America as the land of opportunity, not only for now but for future generations. In short, it reflects our commitment to fiscal responsibility, generating economic growth, creating family wage jobs and protecting the American dream for all our citizens young and old.

This budget will restore America's fiscal equilibrium. It will balance the budget by the year 2002 without touching Social Security, by ratcheting down the deficit by slowing the growth of Government spending. But let me emphasize, Government spending will continue to grow over the next 6 years. It is a budget which will reverse the tide of 50 years of power that flowed from the rest of the country to Washington.

We want to provide more freedom and opportunity to people at the local level so they might have more control over the decisions on the programs that affect their lives, affect their children, and affect their communities.

Key changes are proposed to shrink the Federal bureaucracy to terminate duplication in Government, to consolidate programs to improve efficiency, and prioritize the limited resources we have. But at the same time, we continue to support programs which provide needed services to our citizens. We have been careful to preserve a safety net for those truly in need.

We support programs aimed at keeping America safe, safe in their homes, their schools, and their neighborhoods, by funding needed crime programs and funding those parts of the U.S. Government that are engaged day by day in fighting crime across America, such as the FBI, the DEA, Border Patrol and the like.

The budget before us today provides $6.5 billion for environmental protection, including increases of nearly $1 billion in the safe drinking, Superfund and the environmental enforcement programs of EPA. So in 1997 it cannot be said that this budget cuts environmental spending. It does not. It increases environmental spending.

This budget moves toward protecting America's senior citizens. It makes the Medicare trust fund solvent for 10 years, 1 decade. I regret that I cannot stand here and say to the senior citizens of the United States, we are going to make the trust fund solvent for 50 years. The truth of the matter is, it is difficult to make it solvent for 10. And we must at least do that.

I mention that the President's stated goal in his budget is solvency of the trust fund through 2006, 10 years, the same goal as we have in this budget resolution. The way we have solved it—that is, the budget before us and the President's—is very different. We will have more to say about this issue, a lot more during the debate.

But the Congressional Budget Office tells us very simply—question: How much must we save in the trust fund to keep it solvent for 10 years? Their answer is: You need $123 billion of savings in the trust funded portion of Medicare to meet the President's goal of 10 years. That is what we have done. We have said, Medicare will be changed, reformed, but there for every senior that wants it just like it is, but the providers in that system, and through changing the program to offer options, we must save $123 billion.

The President's budget, I regret to say, does not meet his goal. He only extends the life of the trust fund for 1 additional year. This is the President's first big gimmick, an unbelievable cruel hoax on senior citizens, particularly those who depend upon home health care as part of this system.

We protect, preserve and keep Medicare solvent for one decade. For Medicare part B—all should know that when you speak of Medicare, there are two pieces. One is a trust fund. Every working American puts money in that trust fund. That is essentially the part that is an encapsulated trust fund for the protection of senior citizens and their health programs related to hospitalization and long-term home health care. That is the part that is going bankrupt, and we will be there in 5 years unless we fix it. We have been told, to fix that part you must reform it to save $123 billion.

The other part, frequently called part B, is an insurance program for the rest of health care that is not provided in the trust fund. This program is funded by general tax dollars, and there is no trust fund. Seniors pay a portion of the insurance premium, and essentially it is an insurance policy.

I want to make it absolutely clear, for part B we have taken the President's proposed savings, $44 billion—we have heard all we can take about Republicans and Medicare—and this year it is clear that we are responding with 44 billion dollar's worth of savings in part B, exactly the same number as the

President. But we are making the trust fund solvent in a real way with no gimmicks and absolute integrity.

In our budget, so that everyone will understand the dimension of this issue, we provide $1.46 trillion of Medicare spending over the next 6 years—$1.46 trillion. We propose to increase on each Medicare beneficiary the amount of money spent from $5,300 per person today to $7,000 per person in 2002. How can that be called a cut? You do the arithmetic and it is a huge increase. If we were to provide these kinds of increases anywhere else in any budget it would be impossible to sustain it. In the case of seniors, we have a commitment. We want to save the fund and maximize their coverage.

Our budget throws the Medicare trust fund a life preserver. The President's budget throws Medicare overboard. We will have more to say about how the President gets to his statement of 10 years of solvency in part A of the trust fund as we move along.

Medicaid: Now, so everybody will understand, Medicare is for seniors; Medicaid is a program of the U.S. Government, or I should say, a composite of 23 programs that are put together to help poor people by giving them health care, by paying their health care bills with certain limitations and certain exceptions. This budget assumes we will spend $731 billion on Medicaid over the next 6 years. This budget assumes the implementation of the Medicaid reform plan as recommended unanimously by a bipartisan group of Governors—that is, 48 Governors. We have added back $54 billion in Medicaid spending compared with last year's resolution. Mr. President, that is $36 billion of Medicaid spending, compared with the Balanced Budget Act vetoed by the President. We are anxious to get this Medicaid reform done. With the support of Democrat and Republican Governors it can be done. The amount proposed for savings is truly achievable.

Medicaid spending, Mr. President, will increase under this budget 46 percent over the next 6 years. How can that be called a cut? Medicaid spending in this budget will increase by 46 percent over the next 6 years. This budget recognizes the need to overhaul America's deteriorated welfare system. Funding levels in this resolution allow Congress to send power back to the States as requested by the National Governors' Association, by converting a failed AFDC Program, Aid for Dependent Children Program, sometimes called the welfare program, into a block grant with certain guarantees.

The resolution before the Senate assumes reforms in the food stamp and child nutrition programs to slow the growth rate of spending in those programs but maintains the entitlement to preserve a nutrition safety net for children. It assumes funding targets on the severely disabled in Supplemental Security Income Program.

This budget assumes funding from reforms to child enforcement programs, to make deadbeat dads support their children instead of making the Government, the taxpayer, hard-working families trying to make a living, instead of asking them to do the supporting with tax dollars. This assumes we will change the law, truly make deadbeat dads pay their legally responsible child care and support.

This resolution assumes savings from restricting immigrants the access to Government assistance programs to ensure that sponsors live up to their promise not to allow immigrants to become a public charge. Actually, very few Americans, and until lately, very few Senators, knew that under our generous policy of family unification, for the last 15 years or so, American citizens have been busy bringing their relatives, most of them elderly mothers, fathers and grandparents, to our country, under our policy of unification, sign a certificate of support, for we do not invite the unification so that the taxpayers can pay for the support of these people that are brought to America to join in our society and be part of their family.

It is incredible how that approach has degenerated into a program where billions of American tax dollars are going to legal immigrants who are brought here purposefully to avoid the certificate of support and become wards of the Government. It is American history from our inception. We have held a policy that we are not bringing aliens to America to become wards of the public. That has fallen apart. We put it back together in our assumptions here. Many of the assumptions were realized in the votes on the immigration bill, Mr. President, as we voted numerous times last week and the week before.

Finally, this budget provides $122 billion in tax relief for American families through a $500 per child family tax credit. This will aid 52 million American children in 28 million families. I want to repeat, in this budget resolution, the resolution itself says we will reduce the amount of tax we take into the Treasury by $122 billion because we are going to give 28 million American families, 52 million American children, a chance to keep more of their money and spend it on their needs. If ever the Tax Code of America went amiss and became antifamily, it was when we lost our way and let the deduction for a dependent child wither away from where it was in my day to where it is today. What can be deducted as an expense of rearing a child is a mere shadow of what it was in years past. Yet, we wonder why there is so much strain and stress in families. We will not even be returning it to its more wholesome day of profamily taxes, but we will make a giant step when we say every parent with children under 18 will get a tax deduction of $500. Their taxes will be reduced by $500 for each child. What is wrong with that?

For those who want to stand on the floor of the Senate and talk about this budget cutting something so we can pay for tax cuts, let me just say I am very, very proud that we have made room in this budget for this $500 child tax credit. For those who accuse us, let them stand up and say they do not want to give the $500 tax credit. Under our plan, I repeat, a family with two children under age 18 would receive $1,000 of permanent tax relief.

In summary, on the $122 billion tax proposal in this resolution, we have reduced Government spending from what it would be by $712 billion. In doing that, we feel very positive about being able to say $122 billion is given back to the people rather than spent on more Government.

In closing, let me say that I hope we can move, during the next 2½ days, to enact this resolution, and then move toward implementing it in the months of June and July. I believe this can be done. But if, for some reason, we fail again to get the job done, I can only say that I think the tide is turning, and we will be back again and, clearly, sooner rather than later, we will do what is right.

Finally, I wish it were possible to have my friend and ranking member, Senator EXON, join me in support of this last budget resolution and his last budget resolution on the floor of the Senate. That is not possible. But he will be convinced, maybe, on its merits, and as we move through this debate, I just want to say that he has been a very good ranking member and has spoken his party's case extremely well. I believe it is fair to say that the two of us have done that, with little rancor and, in my case, with great respect and admiration, regardless of how it turns out in terms of where Senator EXON ends up 2½ days from now. I know that he feels very strongly about the need to find a balance in Federal spending. He has been a long-time supporter of the constitutional amendment for a balanced budget. He supported the line-item veto legislation that was enacted recently. He supported the unfunded mandates legislation voted out of our Budget Committee earlier this year.

Obviously, in the years to come, if it is my privilege to be here on the floor, I will miss him and I wish him well. We will have more to say about that soon.

At this time, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Chair recognizes the ranking minority member, the Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair. I thank my friend and colleague from New Mexico for his most kind remarks. I appreciate them more than he knows.

When I came here 18 years ago, I sought a seat on the Budget Committee and was granted one. I have served on the Budget Committee the entire time I have been here. One of the stalwarts on that committee on the other side of the aisle, whom I got to know initially very well that first year on the Budget

Committee, was PETE DOMENICI. What he has just said means a great deal, and I thank Senator DOMENICI for that. I have the highest respect for his ability and his integrity, and I appreciate what he said about my support.

I feel the same way about the Senator from New Mexico. We do not always agree, and we cannot in this body. Sometimes it may be difficult for people who do not understand the U.S. Senate to recognize and realize that we can disagree on policy, we can disagree on numbers, and we can speak very forcefully about that. That is the process. But as far as personal esteem is concerned, there is no one in the U.S. Senate whom I hold in more high personal esteem than I do my chairman, the Republican Member, and the excellent floor manager of the measure before us.

So in spite of what is said after that, I certainly want Senator DOMENICI to know, as he already knows, that we are good friends, who have high regard for each other personally. And in the difficult tasks that face the Nation, here is where we come to some disagreement as to how to reach the proper end that we both are seeking.

As Senator DOMENICI has said, Mr. President, this is the last budget resolution that I shall manage on the floor of the U.S. Senate. I remember well my first budget resolution 18 years ago. It was in the spring of 1979, and our dear and late colleague, Senator Ed Muskie of Maine, was the chairman of the Budget Committee, and the distinguished Senator from Oklahoma, Henry Bellmon, was the ranking minority member. The projected deficit for fiscal year 1980 was less than $20 billion. It does not seem possible, but that is what it was. I had high hopes, as a freshman Senator, that we would see the end of deficit spending. I said so in my first speech. But those hopes were dashed, Mr. President, during the Reagan-Bush years when deficits were piled upon deficits. President Reagan's Office of Management and Budget Director, David Stockman—in case he has been forgotten—later described that period of time under Reagan-Bush as ''fiscal carnage.'' The fiscal carnage that took place at that time is what we are attempting to deal with here today, as we were last year. Four years ago, President Clinton began the arduous task of drawing a narrowing circle on the deficit, and he succeeded beyond all expectations, with no help, Mr. President, from those on that side of the aisle.

I will simply cite the difficulties that we are in and how we are going to get out of them, and the significant contribution that President Clinton has made to the possibility of balancing the budget by the year 2002.

The graph that I have behind me here is entitled ''Budget Deficits, CBO Estimates.'' These are Congressional Budget Office estimates of where they were going. You will see the year 1980 to the year 2000 across the bottom of the chart, and the billions of dollars in deficits on the left side. If you will notice, halfway up the chart, before the dotted lines start, is where President Bill Clinton came into office. At that time, you will notice that the annual deficits were about $300 billion a year. I would like to make a point here that I think all too many Americans do not fully appreciate or grasp. They hear ''deficits,'' they hear ''national debt,'' and all too often I think the difference between the two becomes blurred. So, once again, for the RECORD, let me state that the deficits we talk about are the annual shortfalls where we spend in Government more than we take in. The annual deficits were running wild.

I just stated in my opening remarks that when I was here in my first year, we were facing an annual deficit of $20 billion. When Bill Clinton became President of the United States, we were facing annual deficits not of $20 billion but of $300 billion.

I hear attacks again and again that are not factual, indicating that the President of the United States is not sincere, that he is trying to use smoke and mirrors. The smoke and mirrors in this chart shows what has happened. This bottom line is that President Bill Clinton—without help from or even one vote on that side of the aisle in the U.S. Senate or over in the House of Representatives—has driven that $300 billion deficit down. That is the annual deficit as opposed to the trillion-dollar, multitrillion-dollar debt of the United States of America. That is something that I think people overlook.

At the end of each year when the deficit is $20 billion, as it was when I came here, or up to $300 billion when Bill Clinton came here as President of the United States, those deficits at the end of each and every year are piled upon, and we start all over at the end of each year. Those deficits magically go away, I guess. What we do is pile them onto the national debt, which has risen since I came here—before the Reagan-Bush years from under $1 trillion; today, to over $5 trillion—and are going up even under the projections of the Republicans to at least $6 trillion, before we balance the budget, hopefully by the year 2002.

The point I want to make again, Mr. President, is that when Bill Clinton became President of the United States we were running deficits of $300 billion. Notice the lower line where they have come down now to where the Congressional Budget Office projects they will be under $150 billion next year. Bill Clinton, therefore, is not even given credit by those on that side of the aisle for more than cutting in half the annual deficits of the United States of America. That is a remarkable achievement. But you do not hear much about it from that side of the aisle.

The lower part of this President's budget takes the budget down to balance by the year 2002 as opposed to what the Congressional Budget Office projections said they would be on that up line before Bill Clinton—BBC, Before Bill Clinton. I submit for the RECORD that I do not think anyone can refute it, that unless we had followed the fiscal responsibility of Bill Clinton when he became President of the United States that has more than cut the annual deficits in half, we would not be standing here today pretending, or hoping, that we could balance the budget by the year 2002 because we would have been way up here on the upper part of this chart. And had we continued to follow the policies that those on the other side of the aisle, evidently by their votes, wanted to follow we would not be standing here today talking about reaching balance in 2002.

Before Bill Clinton, BBC, we were in deep trouble, and we are still in very deep trouble. But unless Bill Clinton had taken a stand and unless the Democrats, by a tie, or one vote, had the courage to stand up and say, ''We have to stop it,'' we would not be in a position today, even under the Republican proposal to balance the budget by the year 2002. So let us give Bill Clinton at least some credit.

We thought, Mr. President, that we had a chance last year to build on the President's success. Under his leadership, we would have reduced our Federal deficit to use some other figure by a projected $846 billion through fiscal year 1998. We had a rare opportunity to balance the budget last year, but that opportunity was squandered by the radical right. Here we are yet with another year and with yet another Republican budget that does not fairly do what this Senator and most on this side of the aisle and most of the American people want to do: balance the budget in a fair and equitable manner.

During the opening remarks by my friend and colleague from New Mexico, and I think I can quote the manager of the bill correctly, he said the President claims that he will balance the budget. But he indicated in his remarks that it was fictional. Let me say, Mr. President, that all during that debate that followed the budget last year and the failure of the Republicans even to meet with the President to work out a proposition, it is clear to see where the responsibility lies.

Despite the claims, despite the statements, June O'Neill, the Republican-appointed head of the Congressional Budget Office, testified in front of the Budget Committee, and I quote June O'Neill: ''The President's budget proposals and policies, as estimated by the Congressional Budget Office, would balance the budget by the year 2002.''

Let me repeat that again. Contrary to what you have heard, contrary to what you are going to hear, the Republican-appointed head of the Congressional Budget Office says the President's budget policies will balance the budget by the year 2002.

Mr. President, we also heard a great deal so far today—and I am sure that

we will hear more about it in the future—that the President of the United States is not being honest with regard to the Medicare trust fund. Mr. President, I cite a letter, and hereby request it be printed in the RECORD of May 9, 1996, from June O'Neill, the Republican-appointed head of the Congressional Budget Office, to me, the Honorable JAMES EXON, ranking member, Committee on the Budget:

DEAR SENATOR: At your request, the Congressional Budget Office has examined the effects of the administration's budgetary proposals on the hospital insurance trust fund. Under current law, the hospital insurance trust fund is projected to become insolvent by the year 2001. CBO estimates that the administration's proposal would postpone this date to the year 2005.

Enough is enough is enough. I do not think we accomplish a great deal by plotting against other people's motives when the leader of the CBO has certified that the President is being honest and that the President and his administration are being straightforward.

Mr. President, I ask unanimous consent that the letter I just referenced be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EXON. Here we are, Mr. President, with yet another Republican budget. But after 18 months of extremism and demagoguery, after two shutdowns and a threat of a dozen more, I must say that I expected something better. True—and I congratulate and thank my friend from New Mexico—true, there is some degree of dulling the knife's edge from last year's disastrous Republican budget proposal that was not appreciated by the vast majority of the people of the United States once they understood it.

But I ask, is this latest Republican budget kinder? Is it a gentler budget than the Republicans had promised the American people? I think not. Yes, it is somewhat better, I would say, than last year. Primarily that is possible because the Congressional Budget Office in the estimating of what is going to happen in the future has come up with a healthier economic growth than they had previously. I thank Senator DOMENICI and the Republicans for wisely using that to alleviate some of the hit that many Americans not as fortunate as the rest of us would have taken.

We hear time and time again about how the Republicans are going to spend more money on these programs than in the past. You have heard already and you will hear more about the fact that the Republicans are spending more money than in the past, especially with regard to Medicare programs. Yet the facts are that the additional money the Republicans are saying they are going to spend, therefore saying, piously, that it is not a cut, even though the rate of increase that the Republicans are proposing for the average Medicare recipient is less than the projected increased costs of health care for the public at large will not be sufficient for the seniors that need Medicare. So another way of saying it, oh, yes, they are providing more money but they are not providing the money that seniors need for Medicare, if you look at the projections of what the increased costs will be for the public at large.

One need only go in this area to the materials issued on May 8 by the House Budget Committee and the joint House-Senate press conference that followed. You will see the same venomous policy and skewed priorities that were proposed in last year's budget included in this new Republican budget, although I hasten to add it is an improvement over last year.

The direct student loan program would be eliminated. The Goals 2000 Program would be terminated. That is a key educational function. The earned income tax credit would be slashed by $17 billion, $7 billion above what the bipartisan Governors found was acceptable.

So that there will be no misunderstanding, the earned income tax credit was first proposed, I believe, by President Ford, and the earned income tax credit is designed for the very lowest of the low-paid people of the United States of America. It is designed to get them out of poverty by giving them an earned income tax credit. It was a Ford-Republican proposal that we Democrats in a bipartisan fashion recognized was good, and we have taken up the mantle. They, the other side of the aisle, are devastating that earned income tax credit that goes right to the heart and throat of many people living near that economic edge.

The programs that they advocate also eliminate the Department of Commerce, and Energy would be either eliminated or deep sixed to the place where they could not function. Even the slightly better off Senate Republican budget cuts $65 billion more in discretionary spending than the President's plan, and discretionary spending is something that we all agree now is a major concern for the future welfare of America. I suppose this warms the cold hearts of Speaker GINGRICH and Mr. ARMEY and the Republican freshman class over on the other side of the Hill, but it is of little consolation to the American people who had expected moderation and imagination and teamwork.

I say to my good friend, the distinguished chairman of the Budget Committee, I compliment his leadership on that side of the aisle in many areas, and I listened with great interest and had a tendency to stand up and applaud when Senator DOMENICI was talking about the need to make changes in the immigration policy. I happen to agree that we have gone way too far and allowed way too many people into the United States of America. Not all of the immigrants but far too many are coming in here to take advantage of our safety net that is already overcrowded, and we are not doing a very good job of maintaining it. We cannot have immigrants coming into this country primarily to take advantage of our safety net.

I hope and think my friend from New Mexico appreciates the fact that during the recent debate on this measure, this particular Senator voted almost without exception with the distinguished Senator from Wyoming [Mr. SIMPSON], the leader of the effort. I think we will find that we did not do everything we wanted to do, but I think we made some good strides under the excellent leadership primarily of Senator SIMPSON and, of course, on our side Senator KENNEDY. Immigration is still a major problem and causes us great difficulty when we try to come up with what is the right thing to do.

Once again, I compliment Senator DOMENICI for his leadership in this area and in many others. Yet we are faced with those in our party and he on his side in his party among many who feel that some kind of compromise is something bad.

Compromise is the only way we have to bring 100 dedicated, strong-willed people into some kind of coalition so that we can get things done.

I must say that I look at this budget resolution, Mr. President, that this budget resolution, while some improvement over the last, still fails in many ways. Most of all, this budget fails the American people. I do not think putting frosting over a bad cake makes it any better. It still divides our great country when we should be striving to unite it. It still casts blight when we should be providing shade and comfort for the elderly, the disabled and especially our children. It still extracts the most from those who have the least when we should be asking for a fair and shared sacrifice. This is where President Clinton's budget succeeds. That is why I will be offering to use the Clinton budget, which balances the budget by the year 2002 as certified by the Republican appointee to the Congressional Budget Office.

This is where the Republican budget, in my view, fails the test of fairness. The Republican budget promises many things. As far as I can see, the Republican budget may achieve balance. I agree that it would achieve balance, as does the President's budget, in the year that they claim it will. But at what cost to the American people under the Republican budget? What sacrifices, many of them unfair in the view of this Senator, are we going to make? As far as the rest of the loud promises are concerned, they are gusty winds of propaganda. This Republican budget delivers least when it promises to do most.

The Republican majority would like Americans to believe that they are saving Medicare for future generations. ''Preserve and protect,'' was their poster-tested public relations slogan. But when $167 billion—I repeat, Mr. President, when $167 billion is lopped off the projected spending for Medicare over

the next 6 years, $50 billion more than in the President's budget, I am not so sure it will be the same first-class health care system that exists today. It is this first-class system—and it is a first-class system—more than just a trust fund that we are trying to protect and preserve.

Despite the attacks from the other side, I cite back once again to the letter that I received from June O'Neill, the Republican-appointed CBO chief, that the President is right in his projections.

The Republican budget would reduce Medicare spending growth per beneficiary far below—far below the projected private sector growth rate. I mentioned this earlier. It is right to say we are increasing the spending, but if we are increasing the spending for Medicare less than the cost of health care delivery in the private sector, then that is not an increase.

I am very fearful that what the Republicans are doing here will, without question, diminish the quality and the access to health care for millions of middle-class Americans. Doctors and hospitals will be able to charge seniors for the entire balance of the charges above the Medicare payment. Hear this again. Under the proposal, the Republican proposal that they claim is fair and reasonable, doctors and hospitals would be able to charge seniors for the entire balance of the charges above the Medicare payment. The danger here, and Americans should understand it, and they will not have the wool pulled over their eyes—is the Republican majority may assert——

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I will yield at conclusion of my remarks.

The Republican majority may assert that premiums are not going up, but they cannot make the same claim about seniors' out-of-pocket expenses to pay their medical bills. The $123 billion reduction in the growth of the Medicare hospital insurance spending will particularly devastate rural and urban hospitals. The Republicans assert that it is necessary to preserve the solvency of the trust fund through the year 2006. Not true, Mr. President. President Clinton's budget proposal extends the life of the trust fund without such deep reductions as the Republicans are proposing. The Republican-appointed CBO Director has certified, and I say this again, that the administration's proposal would extend the life of the Medicare hospital insurance trust fund until the year 2005.

What about Medicaid? What about Medicaid reform? Reform was the Republican rallying cry, but instead of attempting to reform Medicaid in a manner that would be acceptable to mainstream America, the Republican majority paddled up one of their right-wing tributaries and came out with something new. I believe you would take the whole Nation by surprise if you told them that the Republican Medicaid reform might mean that middle-class working American families might have to pay thousands of dollars out of their own pockets for nursing home care for their loved ones, or that millions of low-income children might have their health care jeopardized, or that enforcement of nursing home standards might not be as vigilant as it is today.

In other words, ''reform'' means ''conform,'' to their way of thinking, even if it means taking out a second mortgage on your home to pay for nursing home care for a sick or elderly parent. With a $72 billion reduction in Medicaid from the projected spending combined with a block grant approach, that may well be the scenario.

In closing, I want to talk for a moment about tax breaks. My colleagues know that I oppose all tax breaks until we get the deficit under control. But, of course, that is not going to prevail. This is just one conservative Senator's opinion, that we should not be talking about tax breaks until we get the budget finally and completely under control. But that is not the way it is going to be, because this is a political year. It is not easy to say ''no'' to tax cuts. It is a painful, unpopular vote. But that is what we should be doing, in the opinion of this conservative Democratic Senator.

This year the Senate Republicans claim a net tax cut of $122 billion. This figure is going to be talked about a great deal during this debate. But let me repeat that. This year the Senate Republicans claim a net tax cut of $122 billion. But no one should be fooled into believing that the Republicans intend to limit their tax breaks merely to that. The gross cuts will be much larger. The House Budget Committee and its chairman boast that this budget will provide at least $180 billion in permanent new tax relief.

There is something amiss here. The Republicans are certifying and claiming that they have only $122 billion in tax cuts in the Senate proposal and yet those who consulted with the Republicans in the Senate, their counterparts over in the House of Representatives, claim that the same numbers will add up to $180 billion in tax cuts, and have said so publicly. There is something wrong. Their budget also provides for a list of tax cuts that could include nearly every item included in last year's totally failed budget that was rejected by the President and rejected by the American people. Just so no one has forgotten, the tax cuts in that bill would have gone primarily to the wealthiest Americans. So much for the little guy in a Republican proposed budget.

I provide this side-by-side comparison for a good reason. I ask my colleagues to remember what happened last year. The Senate Republican budget had $170 billion in tax breaks and the House Republican budget lavished even more at $347 billion in tax breaks, largely for the wealthy. In the end, the conferees agreed to $245 billion in tax breaks. So experience tells us to be wary of Republican promises of how much or how little tax breaks will be, and who in the end will benefit from them.

The Republican budget also does not call upon special interests, who assume few if any of the burdens of balancing our budget. While President Clinton has proposed that $40 billion—$40 billion be raised from corporate reform and loophole closing, the Republican budget lists no savings from these categories.

When I mentioned that President Clinton has proposed $40 billion be raised from corporate tax giveaways and reforms and loophole closings, I only say, referring back to the chart I have in back of me that I referenced earlier, the President, Bill Clinton, knows what he is doing with regard to being a fiscal leader.

Having said that, I must admit that I would not have stood on the floor of the U.S. Senate and said that a year ago in January when the President sent his group down here to explain to us on the Budget Committee his budget for last year. At the time, I said it was a bad budget, I did not support it, I would not support it. But through the influence of Senators like myself and others, we have helped Bill Clinton make the firm decisions that he made to accomplish the goal of reducing the annual deficit from $300 billion when he took office down to $150 billion.

The President is now on the right course. I did not salute him when he came up with a budget last year that I did not think made any sense. I salute him for what he has done now. He is on the right course. The figures prove that he is on the right course. Let us get behind the President and support him.

Chairman DOMENICI made it clear, however, that the tax increases can be used by and maybe increased by the Finance Committee to offset additional tax breaks. If the past is any guide, the Republicans will soon be proposing to raid the pension funds for working families to pay for tax breaks that will primarily benefit those earning over $100,000 a year.

I do not believe, Mr. President, that my friend and colleague, Senator DOMENICI, wants that. But he has to deal with some people on the other side of the Hill who plainly want that, and the Republicans in the Senate need and have to have the cooperation and the support for their Republican counterparts on the other side of the Hill.

I simply say that there is an alternative. There is an alternative to this rehashed and repackaged Republican budget. It is the President's budget. In my 18 years in the Senate, this is the first Presidential budget of either a Republican President or a Democratic President that this Senator has supported, and I support it in the form that is submitted. Not that I agree with all of it, and I hope that if we were using the President's mark, the

President's budget, we would adopt some changes. But from the standpoint of starting and setting up something to amend, we would be far better off to work from the President's budget with some flaws than the Republican proposal with many, many, many more flaws.

The President's budget reflects his values and the priorities. It makes difficult choices, but it makes them fairly. It balances fiscal responsibility with caring and compassion for our seniors, the young and the neediest among us.

At the appropriate time—sometime today—I will offer the President's budget as a substitute for the Republican budget that is presently before us. There is a clear distinction between these two budgets, a distinction that is not lost on the American people. We should have the opportunity to debate and vote on these two distinct visions for the future of our Nation, and we will.

Mr. President, let me conclude by saying to the chairman of the Budget Committee, once again, that I know he had a very difficult time putting this budget resolution together, and I suspect he would be the first to admit that there are some things in here that he is not enthusiastic about. But, once again, the art of being a leader in the U.S. Senate, regardless of which side of the aisle you are on, has to take into consideration what you can do, what you can accomplish, building a coalition. Certainly, in this case, the Senator from New Mexico has built a coalition of what most of the Republicans would like to see.

I join with my chairman and thank him for mentioning the fact that Senator BREAUX and Senator CHAFEE, and several of our comrades on both sides of the aisle, have come up with a budget that is worthy of some consideration. Likewise, there are some parts of that budget that I do not agree with, but at least it is something that we should take a hard look at and possibly, in the end, incorporate some of those concepts and those ideas of those thoughtful Senators, both Democrats and Republicans, who are trying, in my opinion, to be helpful.

I had hoped one day in my Senate career I would be able to say to my good friend, for whom I have said before I have high respect and admiration, that I support his budget. Unfortunately, that day has not come. But I really enjoy working with him, and I hope that the debate that follows will be as factual as possible, will be as short as possible, and, once again, I tell him that I will try in every way I can to cooperate with him, as I did in the committee, not to have this go on and on and on.

I thank the Chair, and I yield the floor.

EXHIBIT 1

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 9, 1996.

Hon. J. JAMES EXON,
Ranking Minority Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office (CBO) has examined the effects of the Administration's budgetary proposals on the Hospital Insurance (HI) trust fund. Under current law, the HI trust fund is projected to become insolvent in 2001. CBO estimates that the Administration's proposals would postpone this date to 2005.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI], is recognized.

Mr. DOMENICI. Mr. President, shortly, I am going to yield as much time to Senator MACK as he desires. Senator SPENCER ABRAHAM will come to the floor probably during Senator MACK's discussion. On the record, I want to state that I am going to designate Senator ABRAHAM in my stead to control the time on this side, at least until noon or 12:30.

Mr. President, I want to make two very brief comments with reference to the statements of the distinguished Senator from Nebraska. First, if the Senator is suggesting that Republicans are for lower taxes, we are going to plead guilty. We are for lower taxes. If the Senator suggests that we are going to cut taxes for families with children, we plead guilty. We are going to do that.

Second, the President of the United States entered into his office as President at a point in time when a number of things were happening and, as a matter of fact, he was very, very fortunate, as was the country, that these events occurred. I personally believe the President's budget and the President's conduct had nothing whatsoever to do with them. They were in play.

Let me just put up one little chart. You see, Senator EXON says that this budget deficit CBO estimates—let me see if I can meander over there a little bit.

Does the Senator mind if I use his chart?

Mr. EXON. No. The Senator is welcome to.

Mr. DOMENICI. The Senator would make a point that at this point in history the budget starts turning down, and it would have gone up; and, therefore, President Bill Clinton has done a masterful job of controlling the expenditures of our country and being fiscally responsible.

Let us just look. This is not me. This says the Congressional Budget Office. It is not the Senator from New Mexico. We asked them, what did this? How did this happen? Lo and behold, here is what they said: Taxes were raised, and that made up 38.3 percent of getting this down.

So the American people right off should know, yes, the Democrats got the deficit down. And 38 percent was because they increased taxes. Most interesting, 50 percent—50 percent—of this reduction, from this line to this line, had nothing whatsoever to do with any action by anyone. They are merely reestimates of the expenditure of Government to adjust them to the reality instead of the estimate, such things as the savings and loan fund to pay for the bailout. We overestimated the amount of money, and it was sitting there in the budget, a huge amount of money. I cannot believe that anybody is going to claim that the President did that or the Democrats, by voting for a tax-loaded budget-deficit package, did that. That is a huge amount of money.

Others are estimates in the expenditure costs of programs. The estimated increases did not come out as high as the budget projected. I must say, in all deference, it did not matter who was elected President. That 50 percent occurred from no action on the part of the executive branch or the Congress. So that is 50 percent; plus 38 percent of the reduction in the deficit.

Over here we had economic changes amounting to $13 billion. We will just put that up there. If they want to argue about that $13 billion—that the President deserves credit for that—then we can talk about that. But the thing that we must be worried about—that we must be worried about—is that the Congressional Budget Office told us that through 1995 the total cuts in spending were $1 billion, the total cuts in spending were $1 billion.

Frankly, in all deference and with all of the gentleness that I can muster, this is not a deficit-reduction package that is calculated to permanently reduce the size of Government, which everyone says is the cause of the deficit. Nobody says we are being taxed too low—strike that. Somebody does. Most people do not think we have to raise taxes and spend more. They think we should cut the expenditures of Government to get to fiscal equilibrium. This is the history of those lines.

Having said that, I want to just make one last point. Senior citizens, senior citizens, the President of the United States has pulled off in his budget a huge hoax—a huge hoax—for which, because of other things in his budget, as I said in my opening remarks, he truly deserves the Academy Award for fiction on his budget.

Let me just tell you about Medicare. Medicare in the entrusted fund, the trust fund, Mr. President, has been assuring and paying seniors for long-term—long-term—home health care. Let me repeat, in the trust fund, seniors, you have been getting your long-term home health care paid for by this guaranteed fund.

Second point. It is the fastest growing item in Medicare. Fact—the President chooses to take that program out of the trust fund. That program is $55 billion, home health care for seniors.

What a hoax. You take out something you are providing them, and say,

''We're saving the trust fund.'' Now the question is, how does he pay for it, the home health care for the seniors? Interesting. He does not pay for it. He puts it right on the backs of the taxpayers of America. One might even say, you raise the taxes $55 billion, because the truth of the matter is, the insurance premiums that the seniors pay for, everything other than what is in the trust fund, other than hospitalization and long-term care, the insurance premiums, the President says we are not going to add the $55 billion to the premiums. So magically he has made the trust fund more solvent by taking away some of its responsibility and also diminishing the assuredness of that coverage for seniors and at the same time does not pay for it.

He just says, add it to the expenditures of the Government. I believe it is at risk. I believe it was safe in that trust fund. I believe it is at risk when you take it out and you do not pay for it and you just say, the taxpayers will pay for it, and Congress will see to that.

That is the truth of the difference in our solvency of the trust fund and the President's. He has this magic $55 billion solvency by saying what we have been giving you out of that trust fund we are not going to give you any longer. But we have made it solvent.

So frankly that is the only difference between the President and the Republicans. That is a big difference. That is a difference that, when it is understood, will turn the tables on who is really worried about making sure the senior citizens get their care and protection.

At this point I yield to Senator MACK.

Mr. EXON addressed the Chair.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from Nebraska, as manager of the bill, is recognized.

Mr. EXON. I yield myself whatever time is necessary off of my time.

Mr. President, I listened very carefully to my friend and colleague, and as near as I can tell, when he uses charts to show how we are falsely trying to take credit for reducing the annual deficit, and giving that credit where I think it logically belongs, to President Bill Clinton, I simply say, well, it is tomfoolery.

I also suggest, regardless of the charts and percentages that we talk about, one of the reasons that we are making significant progress is the fact that under President Bill Clinton we are having a good economy, a growing economy, the stock market reaching record proportions.

I simply say, at least I hope my Republican colleagues would agree that we should give President Clinton the credit that he deserves for the good economic news, the growing economy without inflation that we are experiencing under the leadership of Bill Clinton.

I would hate to think what the Republicans would be saying if we were here debating this resolution at a time when the economy was not going well, if the confidence of Americans was not as healthy as it is. I am sure that under those conditions my Republican colleagues would not be blaming President Clinton for those downturns. That is facetious and at best it is an understatement.

One other thing on Medicare. The Republicans always seem to keep moving the goalposts. Last year, how many times did we hear, ''Mr. President, just give us a balanced budget that will be scored and balanced by CBO, and we can come to an agreement.'' The President did that at the urging of myself and others who thought that his earlier budget proposal last year was not sound. He made dramatic changes. He changed many things, all for the good.

Finally, believe it or not, we got CBO to approve a budget plan that the President had offered. Then, rather than sealing the agreement that they had made—if you could come to a balanced budget agreement certified by CBO, we could get together—they started moving the goal post.

On Medicare, the Republicans always seem to be moving the goal post once again. All last year, the Republicans called for preserving the Medicare hospital insurance trust fund. All year, time and time again, that is what they wanted. Now, Mr. President, now that the President has come up with a plan, certified again by the Republican appointee, the head of the Congressional Budget Office, they are moving the goal post. They said 2005 is not enough, we have to go beyond that. It is like they are moving the budget, and every time we meet their goal and reach their goal line, they move the goal post. That may be political. I think it is. At least, it seems to me, it is not realistic.

I simply say, as somewhat of a football expert, Nebraska could not possibly have won two national championships if we moved the goal post every time we got close to the goal line. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. How much time remains on our side?

The PRESIDING OFFICER. The Senator would be advised there are 24 hours 15 minutes.

Mr. ABRAHAM. Is there a limit on opening statement time?

The PRESIDING OFFICER. There is no limit.

Mr. ABRAHAM. I yield such time as he may consume to the Senator from Florida.

Mr. MACK. Thank you, Mr. President. I am going to focus my remarks this morning not so much on the specifics of the budget, as others will during the next several days, rather I will focus on the economic conditions that surround this debate.

The distinguished Senator from Nebraska who a minute ago said he hoped that we Republicans would give President Clinton credit for good economic news, may be disappointed in what I have to say, because it certainly is not my intention to give the President high marks for what is happening in the economy.

I ask people to reflect first on my very strong feelings about the Office of President of the United States, an office that all of us hold in high regard, when we think back across our history to some of the great leaders who have held that position. But today, as I discuss the economy, I find it difficult, frankly, to hold in high regard the comments made by the President of the United States with respect to what is happening with the economy, what is happening with growth, what is happening with opportunity.

In his State of the Union Address this year, President Clinton said this is the strongest economy in three decades. Last year, fourth quarter to fourth quarter, the economy grew at an anemic 1.3 percent. Over the entire time that President Clinton has been in office, we have seen economic growth of only 2.4 percent a year. Compare that to the 10 years prior to President Clinton's administration, when economic growth in America averaged 3.4 percent a year. I do not believe this economy is something that we should brag about.

Now, some economists cite statistics and say to us, ''Well, things are really kind of OK, not to worry.'' Let me tell you who I pay attention to. It may be all right for the President to pay attention to those economists and maybe try to hide behind the numbers—2.8 percent annual real growth in the first quarter of this year—while ignoring the fact that in 1995 we had only 1.3 percent real growth; or to say the unemployment rate is at 5.4 percent, while failing to say at the same time that there were no net jobs created in the private sector last month—none, zero. What does that mean? No opportunity. No opportunity to find a new job, no opportunity to leave one job to advance to another. No jobs created.

When I want to know about the state of the economy, I pay attention to the people back home, people who come up to me and tell me they are worried about their future. In fact, it is interesting to ask people these days, how many of you believe that you are better off than your parents were at your age? Almost every hand in every audience goes up, agreeing that they are better off than the previous generation. But when you then ask how many believe their children will be better off when they are your age, maybe four or five hands go up. It appears that for the first time in a long, long time, we have a generation of Americans that thinks the next generation will not do as well as they have done. That is what is causing the tremendous anxiety that exists in America today.

Still, President Clinton wants to claim the strongest economy in three decades—on the basis of 1.3 percent growth. It is interesting to remember

that in 1992, when he was campaigning for the Presidency, he called the economy the worst in 50 years, even though the economy that year grew at 3.7 percent. It is a little difficult to understand the President's line of thinking: one day he talks about 3.7 percent growth as being a very weak economy, and then a few years later and he is President, and the economy is growing at only 1.3 percent, or even 2.4 percent, to say we have the strongest economy in three decades. It is very difficult for me, frankly, to give this administration, or this President, credit for a strong economy.

I think we ought to, again, listen to what the people back home are saying to us. One example. I recently heard a story about a woman recalling that her husband had said to her on two separate occasions, ''You better not go out today. I may have to call and tell you to come pick me up, because I may not have a job when this day ends.'' I think about the mother telling her children she would not be home in the evening because she had to get a second job to make ends meet.

One piece of statistical data that has not made the headlines is that, since January 1994, the number of individuals holding a second job has increased 17 percent. Now, the economists might tell working people not to worry. The President may tell working people not to worry, that everything is fine. But I can tell you that the people back home do not agree. They are very anxious about their future, and their ability to make ends meet.

As a matter of fact, a recent poll asked, ''How worried are you about your ability to make ends meet?'' The response indicated that some 20 million American families a year say their ability to make ends meet is their No. 1 concern. Now there are 30 million families who are concerned about their ability to make ends meet. The anxiety question is real. Economists can say whatever they want, but the people in the State of Florida are concerned about the future.

A couple of other statistics point to why people are feeling anxious. Real median family income has declined in 4 out of the last 5 years. And many other indicators suggest that trend will continue. Real compensation—that is, wages and benefits—grew only four-tenths of a percent in 1995, the slowest in 14 years. Between 1982 and 1989, real income per person grew three times as fast as it has since 1993, when President Clinton took office.

The real issue before us is, how can we help create higher levels of growth? Should America be satisfied with 2.4 percent real growth, or worse? I say the answer is absolutely not.

From the end of World War II to the beginning of the Clinton administration in 1993, economic growth averaged nearly 4 percent a year. Today, we are told we are doing well with growth of only 1.6 percent. Where are the jobs going to come from that will ensure prosperity and opportunity tomorrow?

Not long ago, the President of the United States was in Florida, and there was debate over the future of the sugar industry in the Everglades. Protesters opposed to the administration's plan said they were going to lose their jobs. In essence, the President responded: ''Don't worry, we will see that anyone who loses their job will get another one.'' I wonder how many times he has made that comment around the country. But where does he think these jobs come from? Government doesn't create jobs. They come from the private sector, and they come as a result of Government getting out of the way and allowing for investment to take place.

So we must begin this discussion, Mr. President, with the understanding that the economy is weak, not strong, that job creation has slowed. While the administration wants to brag about the 8.5 million jobs created since they came into office, they neglect to mention that if job formation took place at the same rate as in previous recoveries, there would have been 11.5 million jobs created in America, and we are really 3 million jobs short. Furthermore, of the 8.5 million jobs that have been created, many are second and part-time jobs going to families that need second jobs just to make ends meet. That does not make for a growing economy.

I think it is also important that, when we debate the budget, we must remember who is paying the bills. I think about the people at home who come up and tell me about their tax burden, what they are being asked to pay for Government. I think of the young couple, the husband who works two jobs all week long, from early in the morning until late at night, five days a week, and then stays at home on Saturday and Sunday to take care of his little ones while their mom is out on her job over the weekend in order to make ends meet. I think about the couple that gets up at the crack of dawn and commutes long distances to work, and does not get home at night until well after dark, who cannot spend time with their kids, yet are being asked to pay more and more and more to the Federal Government.

Do you know what really frustrates them? It is that they are being asked to work longer and harder to pay more taxes to support programs that they know have failed and to support individuals who are not working. That is the central theme that runs all through the debate. For example, with respect to the 4.3-cent rollback of the gasoline tax. Every time workers pull up to the gas pump, that 4.3 cents in gasoline taxes goes not to build more roads or to build more bridges, but to fund Federal programs they know have failed, and support people who refuse to work. That is why support for activities here in Washington, DC, has been so deeply undermined in America.

So, Mr. President, I believe our debate should not be so much concerned about this budget itself, but about what needs to happen in order to spur growth of this country, and thereby provide more hope and opportunity for more Americans.

Let me make one other point about productivity growth. Prior to the mid-1970's, productivity in America grew approximately 2.1 percent a year. In the last 10 years, that rate declined to about 1.1 percent. And now, during the 3 years of the Clinton administration, productivity growth has averaged only three-tenths of a percent. If productivity does not increase in a meaningful way, there is no way to pass on higher wages to employees.

What is causing productivity to decline? More taxes, more spending, more Government, and less freedom, including taking away the freedom to pursue greater creativity, to spur American ingenuity, and to provide opportunity. With higher taxes, more regulation, and more interference from Washington, there is less opportunity for American business to be more productive, more competitive, and to create jobs.

So, Mr. President, I say that, at this point, this economy is weak. There is no sign that, in the long run, we are going to achieve higher levels economic activity or offer hope and opportunity to future generations of Americans unless we follow far different policies than the ones offered by the administration. Those politicians who believe that today's economic statistics indicate opportunity are making a grave mistake. The debate on this budget should be about America's future, about the ability to create jobs and opportunity through more investment, job creation, and business formation.

Mr. President, I yield the floor.

(Mr. ABRAHAM assumed the chair.)

Mr. COATS. Mr. President, I asked the Senator from Michigan if he would assume the chair so I could take the opportunity to come down to the floor to compliment my colleague, Senator MACK from Florida. He outlined for the Senate, and for those who are observing, the real concern and the deep anxiety that exists among many Americans today about their future and their family's future. A concern that I think is now becoming almost universally shared about the impact of the decisions, or lack of decisions, that Washington has made. This inability of Congress and the President to make decisions impact their future in a negative way.

We have not faced up to some of the difficult choices that clearly must be made if we are going to put our economy on an upward path, and if we are going to offer and provide opportunity for the young people of the next generation of America, not to mention this current generation that is struggling with that economic anxiety. The Senator from Florida put his finger on the most immediate items that we in this Congress and with this President can address in answering these particular problems. We can provide immediate relief to Americans today by

doing what they have asked us to do, and that is examine the role, the function, the scope, and the size of Government. We can address what virtually a universe of Americans now believe—this Government tries to do too much, it is too big, it spends too much. Americans see the results of this Government and they are simply not the kind of return on investment that Americans are asking for. They are working harder in order to pay more taxes to fuel and feed a Government spending effort that is not addressing the basic needs of Americans in an effective way, and they are saying ''scale it back.'' If we could do so and make the appropriate decisions in doing so, we can provide them with an immediate increase in their wages. We can give them immediate salary or hourly wage increase by giving them tax relief from the excessive burden of taxes now being imposed.

This whole question about the gas tax is not really to move the price of gasoline which I paid this morning $1.65.9 a gallon. The question is, and the issue is, that the Congress has not been straight and fair with the American people on the issue of gas taxes and on a whole range of other taxes. The Clinton 4.3-cent gas tax increase was not applied to building roads and bridges, which most motorists in Indiana and, I think, across the country believe. When Americans pay extra money to cover gasoline increases, I know they at least think it goes to build roads and bridges and to help ease their commute to work, or their travel across the country. But no. This gas tax increase went to general revenues in order to feed the excessive and seemingly unabated spending habits of Congress.

So just in the gas tax alone we are talking about more than a reduction at the pump. We are talking about being honest with the American taxpayer in terms of how their money is being used and giving them some relief. The budget that we are debating today is designed to put us on a path toward fiscal responsibility that will allow us then to take the savings that occur over and above balancing the budget which can occur in outyears and return it to the American people in the form of tax relief so they do not have to work so hard and do not have to take that extra job simply to pay taxes to fuel Government.

The Senator from Florida has accurately addressed the issue. And I wanted to take the opportunity to step down from the Chair to thank him for his contributions and for reminding us and keeping our eyes focused on the real picture.

The second point I would make is simply that we as a Congress and the President of the United States must address the tough choices and the priority choices that we all know have to be addressed if we are going to get a handle on this budget.

This idea of deferring for some future Congress the questions about mandatory spending and entitlements is simply postponing the inevitable and bringing us closer to a day of cataclysmic budget collapse. We cannot continue to run up the deficit as we have. We cannot continue to pretend that there are not problems in the mandatory spending programs that need to be addressed.

It reminds me of the old commercial where the fellow picks out the dripping carburetor leaking with oil and says, ''You've got two choices. You can pay me now or you can pay me later. If you pay me now, we can make this a lot less expensive and a lot less painful. But, if you wait, the whole engine is going to fall apart.''

If we keep postponing this decision, the whole engine is going to fall apart. Republicans have attempted to come forward with budget after budget addressing these questions in an honest way even at considerable political risk only to find that President Clinton ducks his head in the sand, or slips and slides his way through the political minefield, the end result of which is to do nothing.

Mr. MACK. Will the Senator yield?

Mr. COATS. Yes. I am happy to yield to the Senator.

Mr. MACK. I think it would be helpful if we put this debate in terms that citizens around the country can associate themselves with. I remember last year when we were going through this debate, we talked about what would happen if we got a balanced budget. We said that interest rates would come down and that would mean lower mortgage payments, lower automobile payments, and more affordable student loans. I think it is important to look closely at what has happened since we did not get an agreement on a balanced budget. Long-term interest rates have risen by a percentage point. What does that mean to the average consumer, to the couple who is out there today closing on the purchase of their first home? For the average home in America, that higher interest rate means they will pay about $650 more each year in payments, or another $100 a year for a car.

So there are real consequences to this debate and for failing to get a balanced budget proposal through the Congress and signed by the President of the United States.

Real families, real individuals, hard working men and women of America, are paying hundreds of dollars more each year because of the failure to come to an agreement on a balanced budget.

I thank the Senator for yielding.

Mr. COATS. I thank the Senator for those comments.

I will close by quoting what has already been quoted on the floor today probably, the piece written in the Washington Post by Robert Samuelson, who is an economist and writer that I greatly respect because he speaks with great candor, and I think speaks about the thrust that this Congress and that the President needs to address. Just to quote part of this. He says, ''As a moral matter, Americans deserve candor.''

Americans deserve to hear the truth about the financial situation in which we find ourselves. We are debating in the Senate this week the budget for the next fiscal year and a budget which lays out a plan to achieve a balance in the future. We are debating about these very issues, the issues of how we spend taxpayer dollars, and how we establish priorities. And there is no better time to talk about it than this particular week in the Senate.

Samuelson said, ''As a moral matter, Americans deserve candor. As we debate this issue, they deserve what we believe to be the truth. They deserve candor about the situation in which we find ourselves. When you look at the mandatory spending in just the Social Security and Medicare areas, it is an unassailable fact that longer lives, steep health costs, and an aging baby boom will inevitably make Social Security and Medicare unbearably expensive in the next century.''

The next century sounds like a long way away. We have plenty of time to worry about it. This is 1996 approaching 1997. We will be at the next century before we know it.

He uses the word ''unbearably expensive.'' ''We are facing a crisis of fiscal proportions that this Nation has never faced in its history. It will be unbearably expensive, if we do not address it, and address it now.''

He goes on to say, ''At some point, spending and benefits will be cut to avoid costs that seem politically intolerable. But the trouble is that the longer changes are delayed the more abrupt and unfair those changes will be, and that's why silence is irresponsible.''

We are today hearing silence on this issue from the White House. We are seeing gimmicks, budgetary gimmicks, as the Senator from New Mexico just outlined, to fool, or attempt to fool the American people about the status of the Medicare trust fund by shifting $55 billion out of that trust fund to the general revenues to either put the benefit program at risk, or to add additional costs to the taxpayer, or to drive us deeper into debt.

Samuelson says ''This is a relevant character issue about the President. Question: Does he have the moral fiber to help America make difficult choices?''

We are trying to make difficult choices. This budget requires difficult choices. But it is time that we stood up and began to tell the American people the truth about those difficult choices and not postpone the inevitable. At great risk to this economy, at great risk to the future of this generation, and an extraordinarily unbearable risk to the future generation.

So I hope we will use this time to make these discussions relevant, to talk about them in an honest way, and to quit the posturing and the pretending and to end the practice of saying,

''Well, we cannot do it now because there is an election just months away.'' I have served in this body for some time, and every 2 years the excuse is ''we will do it after the next election.'' The time to do it after is running out. The risk is extraordinary; the results are unbearable; and I hope we could face up to these decisions and honestly put it before the American people.

Frankly, I think they are ready for the truth. Frankly, I think they will reward truth and reward candor, and I hope this can be a major part of this debate in the Presidential election and in the Senate and congressional elections, and I hope we can initiate the debate this week.

Mr. President, I thank you for your patience. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ABRAHAM. I yield myself such time as I may need.

Mr. President, once again, we have before the Senate the budget resolution that was passed by the Budget Committee under the leadership of Senator DOMENICI. This budget resolution achieves balance in the year 2002. It accomplishes this feat by reducing the size of Government and slowing the growth of various governmental programs. At the same time, it preserves and protects Medicare, provides full funding for education and environmental programs, and increases funding for Federal crime programs over previous levels.

Mr. President, let me begin by saying I am happy that this year we are dealing with a belief that we should balance the budget. One year ago in this budget process the President was talking about $200 billion a year deficits as far as the eye could see. This year the President is talking about balancing the budget and attempting, we would argue not successfully but at least attempting, to present a budget that does bring us into balance.

The differences though are considerable. The accomplishments of the Republican budget contrast strongly with the President's budget submitted earlier this year. Where we rely on tough economics and tough choices, the President's budget relies on rosy scenarios, gimmicks and deferred savings. Where we employ new ideas to help curb the growth of our entitlement programs, ideas like choice in Medicare and returning our welfare programs back to the States where they belong, the President relies on tried and, I believe, failed policies that guarantee our entitlement programs will continue to spiral out of control. Where we put our faith in individuals and families by encouraging economic growth so they can earn more, reduce the size and scope of government so they can keep more, and in the process do more for themselves and their families, the President's budget simply puts his faith in more government.

The differences are these. We are offering a budget that gets to balance and achieves it by making some tough choices, choices that have to be made if we are to truly have a balanced budget.

The President's budget, on the other hand, in effect says we can achieve a balanced budget painlessly, without anybody really having to suffer. That is, in my judgment, impossible. Obviously, we have to constrain the growth of government. We have to do it in a way that is fair and equitable. To say that we can accomplish this where tough choices are not needed is wrong.

Other Members have already addressed the important details of the Republican budget. How it reduces overall growth in Federal spending by over $440 billion through the year 2002 while increasing funding for education, the environment and crime fighting programs. How it protects veterans' health care and homeless programs from the devastating cuts included in the President's budget. And how it protects Medicare home health care programs by keeping the program within the part A portion of Medicare where it belongs.

Today, I would like just to focus on one difference between the two budgets. That is the area of tax cuts and how the Republican approach contrasts with that of the President.

First, let me put the tax picture in perspective. According to the Tax Foundation, more than one-third of the average American worker's wages go to taxes. For working parents that meant they had to work until May 7 just to pay their taxes this year. The Tax Foundation calls this tax freedom day, and May 7 is the latest it has ever been recognized.

Other indicators are just as ominous. Columnist Bruce Bartlett pointed out recently that State, local and Federal revenues now consume more of our national income than ever—31.3 percent of everything Americans earned last year. At the Federal level, taxes are also at near record levels. Last year, they consumed 20.4 percent of our national income. This marks only the second period in which the Federal tax burden has exceeded 20 percent of the gross domestic product of the United States. The last period was at the end of President Carter's administration, just prior to President Reagan's tax cut proposals of 1981.

President Clinton has played a very active role in helping achieve this record tax burden. As a candidate, he campaigned on a platform of middle-class tax cuts. At that time he stated, ''We will lower the tax burden on middle-class Americans.'' He even argued against raising gasoline taxes, telling voters, ''I oppose Federal excise gas tax increases.'' Why? Because a gas tax ''sticks it to lower income and middle-income retired people in the country, and it's wrong.''

That is the campaign rhetoric of 1992, but it is not consistent with his performance thereafter. As we all know, President Clinton pushed through the Congress in 1993 the largest tax increase in history: $265 billion over 5 years. Gas taxes were raised during that budget battle. The President also raised taxes on senior citizens. He raised taxes on the largest corporations, and he raised taxes on thousands of the smallest businesses. He raised taxes on the living and he even raised taxes on the dead. Then he turned around and told a Houston audience, ''You might be surprised to find * * * I think I raised your taxes too much.''

That is true. The fact is, the tax burden has been raised higher than it has ever been before, except for one point in American history. More significantly, by ranking tax burdens according to Presidents, you can see that this President has presided over the highest average tax burden of any President in the history of the country, 19.933 percent of national income.

In a nutshell, the President has succeeded in completely reversing the progress made during previous administrations in moving us toward a simpler, fairer, flatter Tax Code. The Tax Code now is more burdensome, it is more complex, and it is more costly as well.

What does that mean to average Americans? We can talk about numbers and percentages, as we often do on the floor here, to the point where we lose sight of its impact on real people. But what it means is this. Last year Americans paid to Uncle Sam $87.2 billion more than they would have under previous policies. For the average American family, that's over $800 taken out of their pocket each year and handed over to the Federal Government.

The Balanced Budget Act which President Clinton vetoed last year would have provided partial relief from these record tax burdens. The bill would have reduced the tax burden on Americans by a modest amount, on average about $36 billion a year. In other words, the tax relief vetoed by President Clinton last fall was less than half the increased tax burdens that Americans have experienced since he took office in 1993. President Clinton vetoed the Balanced Budget Act and deprived Americans of middle-class tax relief, like the $500-per-child family tax credit, marriage penalty relief, expand IRA's, spousal IRA's, and estate tax reforms that would have given small business and family farm owners the opportunity to pass on their enterprises to their families in a way that is not feasible right now because of the high inheritance taxes.

Which brings us to this year. In the President's State of the Union Address, Mr. Clinton announced that ''the era of big Government was over.'' He then

sent to Congress a budget which would ensure that Government spending and income taxes remains at record levels.

Once again, however, we have to look beyond the rhetoric. When the President released his budget in March, he claimed he was providing Americans with $99 billion in tax relief, enough to pay for a watered-down child tax credit.

On closer inspection, however, the President also included $62 billion in tax loophole closing and other increased revenues, which means the net tax relief is only $36 billion.

Finally, in an attempt to make the budget reach balance in the year 2002, President Clinton has to terminate his tax cuts in the year 2000, which reduces the total tax relief provided in the Clinton budget between 1996 and 2002 to something around $6 billion.

Think about that. We are talking about net tax relief over 6 years of about $1 billion per year. There are 250 million-plus Americans. That means the President's tax cut, spread over six years, averages out to about $4 per American per year. This amount is hardly consistent with the promise that was made during Clinton's election campaign for significant middle-class tax relief. In fact, Mr. President, as I think about it, it probably means one extra trip to McDonald's per year for the average American family.

But that is not the worst part. The worst part is that, while President Clinton terminates his tax cuts, his tax increases are permanent. They go on forever. The net effect is another tax increase on Americans. Between 1996 and 2006, President Clinton's budget would raise taxes on Americans by $50 billion. Add this new tax increase to the previous tax increases, and this Presidency will have cost Americans 465 billion additional dollars through the year 2002.

Contrast this tax increase with the Republican budget. Our budget includes funding for the full-sized, permanent, $500-per-child family tax credit. Our goal is to reduce the tax burden for those taxpayers who need it the most—parents attempting to raise young children. For a family earning $30,000 per year in my home State, Michigan, with two children, the child tax credit would reduce their 1996 Federal income tax burden 51 percent. That is real relief from what, under President Clinton, has become the highest tax burden on families in the history of this country.

That is the difference between the direction that we perceive Americans wanting to go and the direction they would have under the President's proposals. Our goal is to let American families earn more and keep more. Our goal is to give American families a chance to keep more of the dollars that they earn and to be able to use those dollars to help their families, particularly those families in the middle class who are struggling to make ends meet, working hard and playing by the rules.

I think the choice before the Senate is clear. On the one hand, you have a resolution that is responsive to the American voters and taxpayers in their desire to see a smaller, more effective Government with its books balanced, and, on the other hand, you have the President's budget which is responsive to the status quo and inside-the-beltway interests.

I would like to just close by thanking Senator DOMENICI for his leadership on this issue. This is my second opportunity to vote for a budget resolution. Thanks to Chairman DOMENICI's resolve and guidance, I am once again proud to support and back a document that brings this Government's budget into balance. It has been 25-plus years since the Congress was able to do that, and it is under the leadership of Senator DOMENICI and the Republican majority that we accomplished this goal.

Last year we took this goal as close as we could to the finish line by making sure that Congress ultimately passed a budget that was in balance. Unfortunately, the President chose to veto that budget. He chose to veto tax cuts for working families. He chose to veto reform of the Medicare Program to help ensure the solvency of the Medicare trust fund. And, he choose to veto a budget that will give Americans relief from the high interest rates that result from uninterrupted Federal budget deficits. years.

Hopefully this year, when a balanced budget is presented to the President, we will have a different result. I hope he will sign that budget, and I hope he will agree with us that it is time to truly put the era of Big Government to rest and move in a different direction.

The President's budget does not really accomplish that. The budget which the Senate Budget Committee passed last week does. I look forward to working to see its adoption here on the floor of the Senate.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from California.

Mrs. BOXER. Mr. President, I am pleased to be here today as a member of the Budget Committee to talk about the differences between President Clinton's budget, which I voted for in the Budget Committee, and the Republican budget that passed on a partisan vote.

First, I wanted to point out that the Senator from Michigan complains about the size of Government as a share of the economy, but he only tells half the story, if that. What he did not know is that President Clinton has reduced the size of Government. There are fewer people working for the Government now than at any time since John Kennedy was President.

Let me repeat that: There are fewer people working for the Government now than at any time since John Kennedy.

Spending by the Federal Government now is 22 percent of the economy. But what the Senator did not know is that this is the lowest percentage since the 1970's—lower than it was when we had Republican Presidents. As a matter of fact, the record level was set during the Reagan administration.

So I think when we talk about this budget and the situation today, we ought to put it into the context of where we have come from. We have come from a time when there were hardly any new jobs created to a point where President Clinton has fulfilled his commitment to create more than 8 million new jobs. We have come from a time where we talked about deficit reduction but ran up more debt during George Bush and Ronald Reagan than all the years since George Washington through Jimmy Carter. Now we have seen deficit reduction 4 years in a row.

There are many other facts about this economy that are important. The misery index is at the lowest point. That is a combination of unemployment and inflation. It is at a very low point. As I said, we have fewer Government employees than at any time since John Kennedy.

Does that mean everything is perfect? No, it does not mean everything is perfect. We have a long way to go. We should have started yesterday by passing an increase in the minimum wage. That is what we should be doing. We should be reaching across the aisle to make life better for millions and millions of working people who have seen that minimum wage go to a 40-year low in terms of its purchasing power. Seventy percent of the American people think it is an issue of fairness, and we have a Republican leader over in the House who says he really does not believe there ought to be any minimum wage—there ought to be no minimum wage. Can you believe it?

The thinking that has taken over this Congress since 1994 never fails to amaze me. Yesterday, I said the passion that is being expressed on the other side about reducing 4 cents on the gas tax should be matched by a passion to increase the minimum wage for our people.

We already know from the experts that the oil refiners will probably get that 4 cents a gallon. When that issue comes before us, we are going to work hard on the Democratic side to make sure that money does go into the pockets of consumers, but even with that, we cannot ensure it. Let us say they got every penny, that is $27 a year, and the deficit will go up. If it is made a permanent repeal, it will go up by $30 billion.

So how do the people view this Republican Congress when deficit reduction is supposed to be No. 1 and then we repeal a gas tax, which will probably go into the pockets of the oil companies, and then we are going to have to find out how we are going to make up that money? The latest plan is to do a one-time fee on banks. But the fact is, that fee on banks is supposed to be put aside in case there are bank or savings and

loan failures, not to be used up on a gas tax repeal.

What does that all have to do with the budget? I think in many ways it is symbolic of the kind of budgets we are going to see presented. One, in my view—and that is President Clinton's budget—really does put people first, and the other, the Republican budget, I do not think puts people first. Of course, it is up to the American people to decide.

I am going to just show the differences in the budget, as I see them. I will use a chart to do that, because I think it is one thing to talk about how we feel about the budget, which we all will do, it is another thing to put the numbers behind our statements.

So I have tried to highlight from my perspective as a Budget Committee member some of the most important differences in the two budgets. I want to talk about education and job training.

If people from another country were to ask me what makes our country great, I would say it is because we have a great middle class and everyone has a chance at the American dream.

And then if they asked, ''Why do people have a chance at the American dream,'' I would say, ''If I had to say one thing, it would be education.''

I happen to be a product of public schools, all the way from kindergarten through college. I was very fortunate to have a good education in public schools. In college, I went to the State university. It cost me $12 a semester. It was amazingly affordable. Of course, as I go around my State, the people who like me say, ''Look at that Senator, she's a product of public schools.'' Of course, the ones who do not say, ''See what public schools can do; look at that Senator.''

The fact of the matter is, it is education that is the key to the American dream, and today it is more than education, it is education and job training. As our President has said, many of us will have seven and eight jobs in a lifetime, and we need the constant retraining, the reeducation. I know people of my generation have had to learn how to use the computer. It is not that easy, but it can be done.

The fact is, if you look at the two budgets, the President's budget and the Republican budget, the President adds $56 billion more to education and training than does the Republican budget. That is a fact. Both budgets balance in the timeframe of 6 years. Both budgets balance. So we do not have to argue about that. That is resolved. The question is, what are your priorities? What do you want to invest in? And I think that this Democratic President is correct in saying we must invest in education.

What the Republicans do is actually, compared to 1996 levels, decrease by $3.2 billion over the next 6 years what is spent on education. I just have to say, if there were no other differences in this budget, no other differences than this first point, $56 billion more to education and job training in President Clinton's budget than in the Republican budget, if there was not one iota of difference other than that, I would say vote for President Clinton's budget, which is, of course, what I intend to do.

There are more important things as well—Environmental Protection Agency enforcement. I see the Senator from Arkansas is on the floor, and yesterday I thought he made a spectacular statement about the importance of clean air and clean water and an environment we can hand down to our children that is at least as beautiful as the one we inherited. You cannot do that without enforcement.

We had this argument in the 1970's when, under President Nixon, we set up the Environmental Protection Agency. That was bipartisan. What has happened to the environmental issue? We cannot find support for environmental protection on the Republican side of the aisle.

It takes inspectors to enforce the laws, to make sure that companies are not polluting and that when they do, they pay to clean it up. It takes dollars to clean up Superfund sites, most of which are very close to our populated cities.

I visited one of them in San Bernardino, CA. The cleanup was stopped because of the Government shutdown. We could not get the money to clean it up, and the pollution and the toxic waste was about to penetrate into the water table. Thank goodness we were able to get those funds after the Government reopened to begin cleaning up that site. That is just one small example of the problems that we have.

Years ago we did not know that some of these chemicals were very dangerous, that they could sink down into the water table. But we know it now, and if we do not pay the price now, we will pay it later. How wise it is to clean up those pollutants now before they get into the water table and people cannot drink the water, and if they do, they get sick. I just read a recent report that they have traced chemical pollution in the water supply to childhood leukemia.

The fact of the matter is, it is shortsighted to shortchange the Environmental Protection Agency, and that is a difference in our budget.

Let us get to the issue of Medicare. I thought we had the fight over Medicare in the sixties, and we decided it was shameful and morally reprehensible that half of our senior citizens had no health insurance.

We passed a good law, the Medicare law. It has worked. Do we have to make sure that the Medicare system is sound? Do we have to make corrections and reforms? We do. And the President does in his budget. He makes that fund safe until at least 2005.

But what does the Republican budget do? It cuts $50 billion more out of Medicare than does President Clinton's budget—$50 billion more. It is hard to imagine what $50 billion would look like. But taking $50 billion out of Medicare more than the President—more than the President—and saying that system can survive is simply not so. As I understand it, all of the costs would be put on to the hospitals in this particular plan, and hospitals will start closing; we will lose emergency rooms and we will be in big trouble. I think our senior citizens deserve better.

Republicans cut $18 billion more than the President out of Medicaid. I hope to have an amendment to talk about the Medicaid issue. Who is on Medicaid? The poor children, the poor families, and two-thirds of our senior citizens in nursing homes are on Medicaid, our grandmothers and our grandfathers.

What do you suppose is going to happen when you take $18 billion more than the President did out of Medicaid? Nothing good will happen, I can assure you. We have already had the scandals in the nursing homes in the 1980's. I do not want to live through that again. We cannot take these kinds of dollars out of Medicare and Medicaid and have a system that functions and a system that works. Then if you do the medical savings accounts on top of that, which is also, as I understand, assumed in this budget, the healthiest and the wealthiest will leave a lot of our plans, including Medicare, and it is going to make matters far worse when the healthiest and the wealthiest leave the big insurance pool.

The earned income tax credit. Republicans cut $12 billion more than the President in the earned income tax credit. What is the earned income tax credit? It is a credit given to those in our community who work very, very hard for very low wages. And the purpose of it is to ensure that they do not have to go on welfare. And it is really a very important, very important tax credit for those at the bottom of the scale who work so hard and do not want to be on welfare. Yet, the earned income tax credit, which was really praised highly by President Reagan, President Bush, bipartisan, is hurt deeply in the Republican budget.

However, there is one area where the Republicans spend more. Guess what it is? It is the Pentagon. They spend $11 billion more than the Department of Defense asked for. Let me repeat that. In this budget, if you vote for it, you are voting for $11 billion more than the Department of Defense, the admirals and the generals, asked for. I do not get it. I do not get it.

We have the strongest military in the world, and we should keep it that way. We spend more than any other nation. I am going to tell you exactly what we spend compared to other countries.

Here is a chart that shows that the U.S. military budget spends more than the next five countries combined. I want to thank Senator SIMON for sharing this chart with me. He had used it

in the Budget Committee. So here we see the United States, $264 billion; Russia, $98 billion; Japan, $54 billion; France, $41 billion; the United Kingdom, $35 billion; and Germany, $34 billion.

Let me make a point. Let us just say for purposes of this that Russia is not our friend. Of course, the cold war is over and she would like to join NATO. But for the purposes of this conversation, let us say Russia was not our friend, because there are elections coming up and we are nervous about it, I understand. All the other countries—Japan, France, the United Kingdom, and Germany—are our very close allies. So if you take what America spends, and you add what our best friends spend, I mean, we are up there in the stratosphere. We do not have to lose sleep at night about the size of our military budget.

And the fact of the matter is, the kinds of threats we now face are very different than the threats that we faced in the height of the cold war, when we worried about intercontinental ballistic missiles and we worried about nuclear weapons. Thank goodness times have changed. Are they risky times? Yes. Are they dangerous times? Yes. We can never not be vigilant. But the threats are different. And the costs should reflect the different types of threat.

We are far more threatened by terrorism, for example, than we are from an intercontinental ballistic missile. And you need different things to prepare for that than you do that type of a star wars threat that we used to feel in the cold war days. So with all of this information, the Republican budget adds yet another $11 billion.

I want to hearken back to what Dwight Eisenhower said, general and President, a Republican. He said, it is very important to educate our children; that the defense of our Nation is not only in the size of its arsenal, but how educated our children are. He is the one who brought to the Congress in the 1950's the National Defense Education Act. He called it the National Defense Education Act because he knew, if we are going to be strong, if we are to defend America and its principles and its democracy, it takes an intelligent country and it takes young people who are ready to learn.

I will tie that into a conversation I had with the entrepreneurs in the Silicon Valley. I am so proud to represent them here in the U.S. Senate. When I went to see them when I was running for the Senate back in 1992, I said, ''Tell me the one thing I could do for you if I become your Senator.'' I fully expected them to say something like, ''Well, cut our taxes.'' They did not say that. They said, ''If you become our Senator, get us an educated work force. Get us an educated work force.'' Today they are hiring foreign workers because they are not getting the skills here that they need. The answer lies in this budget.

That is why this debate is so exciting and so important. It can sound a little boring when you talk about technical terms such as ''real freezes'' and ''hard freezes'' and all the rest and technical assumptions, ''CBO'' and ''OMB,'' and all the things we talk about in our budget meetings.

But behind all those words is reality. The reality is, what do we believe in? What do we believe will make us great? If we can, in our budget, invest in those things that will make us great, in the context of a balanced budget, because we need to do that—we need to do that. We are wasting so much on interest payments on the debt. We have to get a handle on that. And we do in both of the budgets before us. The debate can now focus on these differences, these things.

So, Mr. President, it is indeed an honor for me to partake in the debate. I want to thank Senator EXON, our Democratic ranking member, for all the hard work that he has done and the staff has done. I want to thank the President of the United States for giving us a budget that I think we can be very proud to vote for. It is fiscally responsible. It makes the tough and hard choices. It comes to balance, but it does it in a way that makes the right investments: Education, environment, Medicare, Medicaid, the earned income tax credit, and a sensible number for defense.

You put that altogether, and I think you have a pretty good roadmap into the next century, one in which America will truly be the economic leader of the world, and also the moral leader of the world.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise today as a member of the Budget Committee in strong support of the 1997 balanced budget resolution. I want to commend the diligent work of our chairman on that committee in moving this legislation to the floor of the U.S. Senate.

As we begin our debate, I hope we will keep our Federal debt in perspective. As of today, the Federal Government is $5 trillion in debt, more than $19,000 for every man, woman, and child in America. The whole concept of $1 trillion is so difficult to understand. An analogy I use to explain how much a trillion is, I go back to a very simple way of thinking about it. That is, if you started a business on the day that Jesus Christ was born, almost 2,000 years ago, and on the day he was born you lost $1 million and you lost $1 million every day since the day he was born—$1 million every day—you still would not have lost $1 trillion.

We in this country have a $5 trillion debt. Looking at this problem from another angle, a child born today owes $187,000 just on interest on the debt over his or her lifetime. We clearly cannot sustain this course of unrestricted, unrestrained Federal spending. That is why we are here today to introduce a balanced budget which will protect those children and that opportunity for an American dream for those children.

It really boils down to the whole concept of long-term thinking. We, in this town, too often think in terms of 1 year or 2 years. It is time for all of us to come together and think in terms of that long term. In my own career of medicine, before coming to this body, you do an operation to possibly get through a short-term, acute problem, but you do it for the long-term quality of life for that individual. It is this long-term thinking that all of us need to engage, bring to the table in this budget debate.

Long-term thinking clearly means reducing spending and reforming entitlements, something that is tough to do—and this is a political year—really any year. All of us are dependent on reaching out to the public. Telling the public, broadly, that entitlements, or benefits established by law and paid to any eligible beneficiary—and we define that the eligibility requirements, regardless of cost, are what are driving this country to higher and higher debt and larger deficits over time —it is the result of the automatic-pilot spending that causes entitlements to be the largest and fastest growing portion of our Federal budget.

On this chart—and it is a familiar chart to many of us on the budget committee, but it is one that is worth imprinting in our minds because it shows the problem that we have, not just in 1996 and 1997, but on into the next century. The chart is very simple. It shows Federal spending; that is the height of each of the bars. It starts in 1970 and comes to where we are right now, 1990, then to the year 2000, and on into the next century, the year 2030.

The green line is the revenue that comes in to Washington, DC, the taxpayer dollars, the amount of money that is coming in. We can see, over time, as a percent of GDP—gross domestic product—that is constant. It has been constant for decades and will be for decades, right at 19 or 20 percent of GDP. We can see, of interest, that the income coming in, the revenues, matched in 1970—the last time it matched—Federal spending. Why? We have not had a balanced budget in almost three decades in this country.

We can see through the 1980's and the 1990's that the Federal spending outpaced the revenues. That is why we have the deficit each time. We add up each of the deficits, and we get the $5 trillion debt. In red are the entitlements. There are basically five entitlements—there are really more than that: Social Security, Medicare, Medicaid, pensions, and welfare spending.

Look at the dramatic increase, historically, over time, to where we are today, in the red, in entitlements. They are on autopilot. The interest is the amount of money, the interest on

the Federal debt. It is the amount of money that we are paying each year we have to pay on the $5 trillion debt that is out there. As the debts increase, the amount of increase over time has increased.

In the blue, looking at 1970, we have discretionary spending. Discretionary spending is that spending that is for the sorts of things that we just talked a little bit about earlier. That is our national parks, defense of this country, education, roads and infrastructure. Notice how, over time, the blue is getting smaller as the red gets larger on autopilot.

What is frightening—and the reason why I want to show this chart—is what happens in 4 years, 10 years, in the year 2000, 2010, and 2020. Revenues stay the same and there is a huge growth in overall Federal spending. Unless we do something, this is inevitable. This is agreed to in a bipartisan way. These are data that are generated by a number of sources that, again, both sides of the aisle accept. It is inevitable. The reason it is inevitable in some part is because of our aging population, because we had a baby boom back 30 years ago now which will be traveling through, which at the year 2010 will hit.

Now, 2010 sounds a long way away, but in truth it is 14 years away. You can see in the year 2010, 14 years away, that entitlements, in the red, and on the debt, in the yellow, consume all Federal revenues in 14 years unless we do something. The last year and a half we have not done anything. Unless we do something, we will have no money left over for the discretionary spending. This is education, national parks, research, science, and defense of this country. That is why we must come together and act in a reasonable way.

The growth of mandatory spending we can look at differently to drive home the problems that we have. That is really in this second chart. Mandatory spending—what we spend if we do nothing—on entitlements and interest on the debt are consuming an increasing portion of our Federal budget pie. This chart, I think, describes that and explains that very well. We have mandatory spending in 1965, overall spending in 1965; overall spending in 1995 is shown by the middle pie; and then looking on into the future. This is our overall budget. The red is entitlements; the yellow is interest on the debt; and the discretionary spending is in the light blue.

Look what happens between 1965 and 1995: Entitlements and interest on the debt in 1965 consumed about one-third of our overall budget; by 1995, the discretionary spending and the mandatory spending have flipped. We can see entitlements and interest on the debt now consume almost two-thirds of the overall budget, with the discretionary spending having consumed before two-thirds, now only one-third. We must act.

Again, why do we need to act today for the long term and not just the short term? Because if we look out again in 14 or 15 years, in the year 2012, the entire Federal budget will be spent for entitlements and interest on the debt, with absolutely no money left over for defense, medical research, roads, national park, and infrastructure. This is what happens if we do not act, if we do not act in this body, in a bipartisan coming-together, in a reasonable way.

Clearly, we face a monumental fiscal crisis if we do nothing. This 1997 balanced budget resolution, which came out of the Budget Committee, begins to solve this long-term problem by reducing spending growth and reforming entitlements. Over the next 6 years, our resolution will slow spending by $441 billion. More importantly, 85 percent of these spending reductions target mandatory programs, those automatic pilot entitlements that are driving us deeper and deeper into debt.

Our budget, unlike the President's budget, addresses this problem of growth in entitlements and interest over time, which ultimately eliminates discretionary spending. Now, long-term thinking also means strengthening and improving programs that are critical to the health care of our Nation.

Of the 400 entitlement programs in the budget, I want to briefly comment on two—Medicare and Medicaid. It is the long-term decisions that we make about these programs that are crucial because it is they that are the fastest growing entitlements, and it is they that provide the critical health care services that over 37 million senior citizens depend upon and over 30 million people below the poverty level. It is a little disappointing because I have been in this body about a year and a half to 2 years, and we have made absolutely no headway in saving, strengthening, and simplifying Medicare. Yet, the problem has been laid out for us now almost 2 years ago.

Politicians all too often have been negligent in telling people the truth about Medicare's really precarious financial situation. Let me say at the outset that, as a physician, I have taken care of thousands of Medicare patients personally, day in and day out. It is the world's largest insurance program. It is hugely popular among 37 million participating Americans. It is giving seniors and individuals with disabilities unprecedented access to the great health care system that we have today. It has prolonged and improved the lives of millions and millions of Americans. Thus, we must work together to strengthen and save this program.

The truth is depicted again in this chart, though. This is the Medicare hospital trust fund, the so-called part A trust fund. It started going broke last year. If I were to come into any small business and say, ''You are going broke right now,'' what would they do? They would react, go back and develop a strategic plan. They would react on that day. Yet, we sit in this body and have not yet done one thing to reverse Medicare going broke in a few short years.

This chart shows overall assets of the trust fund in billions of dollars. You can see that we were spending more than we were taking in beginning last year. This is 1994. In 1995, we went into the red in the Medicare trust fund spending, the actual cash flow going in and out. That deficit spending has increased this year, will increase this year, the year after that, and the year after that. Meanwhile, this trust fund is going down, down, and down, where in 4 to 5 years the trust fund will be bankrupt.

I should add that these projections have gotten worse over the last year. Last year, we said it is not going to start going bankrupt for a year and will not really go bankrupt until 2002. Well, over the last 14 months of doing nothing in the U.S. Congress, Medicare is going bankrupt more quickly.

This chart shows this whole concept. We sort of looked at cash flow in the last part, how much is coming in and going out. If we look at actual bankruptcy—I took a chart that we used last year, based on the Medicare trustees' report of last April, and updated that chart. This chart looks at, in billions of dollars, how much the trust fund has in assets. When it gets down to this line, Medicare is actually going bankrupt. This is 1985 to 1995. It projects out to the year 2004. The line that I used last year, which was in the Medicare trustees' report, was the blue line. From 1985 to 1995, as you can see, the Medicare part A trust fund looked better and better and better. However, we saw, beginning last year—not this year, and we saw it on the previous chart—we started deficit spending. This is what we projected last year. This is 1995. That is, Medicare would be bankrupt in the year 2002. I should add, when Medicare goes bankrupt, by law, no hospitals can be paid. So when it goes bankrupt, that means that care will actually be denied. That is inevitable, unless we act. Well, last year, we presented a plan to the President of the United States that would save Medicare, would change the course of this line on out into the future. Yet, it was vetoed by the President. Now we have yet another opportunity to salvage, to save and strengthen Medicare.

Look what has happened in the course of the last year and a half of doing nothing. That is where I have updated this chart. That is where the red line comes in. Based on the predictions by the Congressional Budget Office, we see that Medicare is not going to go bankrupt in the year 2002. But now it is going to be going bankrupt in the year 2000—and nothing else has changed—unless we act. In this balanced budget resolution, I will show you, shortly, how we will extend these lines out and preserve Medicare.

Surely, we must save and strengthen and simplify this program. We have to lay aside the politics and focus on protecting those Americans. I think of

those thousands of patients who I have taken care of myself, and who were treated for heart disease, lung disease, emphysema, and had lung cancers taken out, and who have gone through coronary bypass surgery. Those are the people I have seen and the people we have to be responsible to in preserving this program.

This chart shows the Medicare hospital insurance trust fund with what we have before us today in this balanced budget resolution, with what the President has proposed and will be talking about later today, and what we will discuss on this floor today and tomorrow. Under current law, again, this shows that Medicare will be going bankrupt in the year 2000 if we do nothing. That is the red line. Well, the President, in his proposal—once you get rid of the gimmicks of moving home health care and part A of the trust fund elsewhere, which is a gimmick—if you put that aside, you can see that under the President's proposal, in green on the chart, the hospital trust fund is extended for 1 year.

We have to get away from this short-term thinking and look on into the next century. The baby boom does not even hit until 2008. We have to be prepared for the year 2008 and extend solvency for 10 years. That is what our balanced budget proposal does. The balanced budget proposal—the one we will be debating and discussing—extends the life of the part A trust fund, which is the heart of Medicare, out for 10 years. That is an objective that the President said he would like to see out there. It is something I feel strongly about. Remember, out in the year 2006, we are going to have a whole new set of problems we have to address. In the proposal before us, we extend for 10 years the solvency. The President extends it only for 1 year. If we do nothing, it will be going bankrupt in the year 2000.

With regard to Medicaid, which is the second area I want to discuss, I think we have a historic opportunity to work together to preserve what has become and needs to be a real safety net for women, children, senior citizens, and our disabled population.

Let me, again, say that about 35 percent of the people who I have transplanted hearts into are below the poverty level and benefited by having Medicaid. So, again, my experience with this whole health care issue is pretty real in that 35 percent of all the people I have transplanted benefited by having Medicaid, which served them very well. The problem is that Medicaid, today, takes up 6 percent of total Federal spending and about one-fifth of State spending. Unless we act, we will see about a 155-percent increase in just 10 years.

This increase in Medicaid spending, if you look at it just from last year to this year, is more than we spent in whole on mass transit, on all criminal investigations, on pollution control and abatement, and on the National Science Foundation. That is just how much the increase has been. Unfortunately, Medicaid, with this inexorable growth, is bankrupting our State budgets, who have Medicaid being the largest single entity in the States' budgets, driving out spending on other very useful causes, like police, crime, and education.

Let me say at the outset that nothing in our balanced budget resolution constitutes a cut in Medicaid—absolutely nothing.

President Clinton and Republicans both attempted to rein in growth and spending and protect the eligible population. The differences are going to be hammered out in the committee. But let me just say what we started with.

We started with the bipartisan cooperation in working with the Nation's Governors, 48 of whom got together and passed out unanimously a proposal that we agree with. Their plan was designed to protect all current law eligibles and included in the umbrella a fund for emergencies.

To preserve the important safety net which must be there, Medicaid spending under our plan, our proposal, will increase 25 percent over the next 6 years. There are $54 billion more in our bill than in last year's budget resolution. It is not a cut. The program will continue to grow at a rate of about 6.5 percent under our proposal, which is important—two times the rate of inflation—and it will grow a total of 46 percent from 1996 to the year 2002.

Let me also add that as we strengthen Medicare, improve Medicare, and save Medicare for the future, and as we improve, simplify, and strengthen the Medicaid programs, we must also recognize that biomedical research must and will remain a priority for our Nation's long-term health care needs, again going back to the importance of thinking long term and not just short term. In this field of biomedical research, shortsightedness would only yield some quick remedies that would really, I think personally and based on my experience, potentially endanger lifesaving breakthroughs from continuing research.

The 1997 budget resolution allows us to maintain funding for the NIH, the National Institutes of Health, at the level of funding secured last year and an increase of 8.8 percent, or almost $1 billion, more per year than in last year's budget resolution. Their commitment will help to preserve our position as a world leader in biomedical research.

Finally, Mr. President, long-term thinking means avoiding budget gimmicks. Earlier I spoke very quickly about a gimmick that I find very troubling in the administration's budget of transferring home health care, which is growing at about 17 percent a year, from one part of Medicare to another to make us feel better about part A. Medicare is part A, the hospital trust fund we have talked about, and part B, which is physician services, we focused on a lot over the last year and a half.

Part A, the hospital trust fund, and the data that we just talked about, is the hospital part A trust fund. We cannot solve that problem without some fundamental reform. What the President has done, unfortunately, is take assets out of the part A trust fund, move them elsewhere and say, now the trust fund is going to be solved long term. It is just not right. It is just not true. That is a gimmick. We have to have fundamental structural reform if we are going to look at the long-term solvency of that part A trust fund.

I guess I want to comment lastly on the President's ''spend now, save later,'' proposals for discretionary spending. This chart looks just to the nondefense discretionary outlays, the spending that is out there. The red is the President's plan. The green is the Senate-reported plan that we have on the table now. It is $270 billion in overall spending, fiscal year 1996, where we are today, going out to the year 2002 over the next 6 years. The difference in this plan is very clear—increased spending in these early years by the President's plan in nondefense discretionary spending where we have real numbers coming in addressing the problem today, not focusing on just the first 2 years, but the long term.

The President has certain trigger proposals which will come into play these last few years, and I think they really defy common sense. The American people need to recognize these proposals as gimmicks that are antithetical to our efforts to balance the budget. No American family or individual would conduct their financial affairs in this manner, and their Government should not either. The problem is now. Let us address the problem now, not increase spending hoping, hoping, that it will be addressed in the future.

I look forward to offering a sense-of-the-Senate amendment on the floor that will oppose these discretionary triggers and support commonsense budgeting.

Our constituents deserve nothing less than a courageous forward thinking leadership here in Washington. All of us know that today they want us to balance the budget. Today they want us to save Medicare from bankruptcy, which is inevitable if we do not act. They want us to reform Medicaid to return welfare to workfare, to provide tax relief without resorting to budgetary gimmicks. We do need to transform Washington from that 2-year town that looks to the next election to a 20-year town that looks to the next generation.

We can start that today as we get this whole budget discussion underway this morning and in the afternoon, over the next 50 hours, by eventually passing this 1997 balanced budget resolution.

I would like to briefly yield time, if I might, out of my time to Senator GRAMS, my friend from Minnesota.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I would like to briefly respond to the remarks and comments of my friend and colleague from Tennessee.

Could I see that chart that he just had there about the trust fund going broke?

Mr. President, here is one of the things that I am most concerned about. I think we all recognize that we have a problem, and we all are trying to work together to solve it. I do not think it is particularly helpful for us to show on television charts that scare the devil out of the senior citizens of America.

The Medicare fund is not going to go broke. Everybody knows it is not going to go broke because the Congress, whatever it has to do, is going to step in and stop it. The fact of the matter is that while we keep criticizing what the President of the United States has done, as I demonstrated by charts earlier on today—listening to people on the floor of the U.S. Senate that have recently come into the Congress, you would think they are the only ones who have any expertise or knowledge on how to balance the Federal budget—as I showed vividly with charts this morning, it was the President of the United States, Bill Clinton, who has come on board and at the urging of some of us who have been fiscal conservatives for a long, long time and very much concerned about the skyrocketing budget deficits annualized at about $300 billion, Bill Clinton is the one who has reversed that course. For the first time since man's mind runneth to the contrary, we have seen a dramatic turnaround in the annual deficits of the United States of America.

I only say, once again, that all of these things that are being thrown around by those on that side of the aisle who fought without a single Republican vote against the deficit reduction proposal advanced by the President of the United States and supported by Democrats was the only time in 30 years that we have had a turnaround in the annual deficits.

When I see people talking about the trust fund going broke, unfortunately, I feel it is a means of scaring senior citizens. I tell the senior citizens that the fund is not going to go broke. Of all the criticisms that have been made about how bad and how gimmickry the President of the United States is with his proposal, I cite once again, and, if necessary, I will read it once again.

Let me repeat what June O'Neill said on May 9, 1996, in a letter to me after I made a request for her, June O'Neill, the Republican appointee as head of the Congressional Budget Office that we all look to as a guiding light today and the umpire, if you will, on disputes between the political parties. She said, ''Under the law, the trust fund is projected to become insolvent by 2002.''

So we agree with that part. But when we talk about going busted, that is something else—going bankrupt, projected to go bankrupt.

June O'Neill goes on to say that the Congressional Budget Office, which, I say again, is run by the Republicans—it has a director who makes these decisions after listening to staff that are Republicans—June O'Neill says in that May 9 letter to me, ''The Congressional Budget Office estimates that the administration's proposal would postpone this date,'' or the date when it could be in some trouble, ''to the year 2005.''

I simply say, Mr. President, it is not necessary for us to talk about this going broke and indicate that the Democrats and the President of the United States are doing nothing about it when that is not the case.

The Senator complains about backloading, about backloading in the President's budget. Take a look at the Republican budget. It is like the kettle calling the teapot black. There is little difference with regard to the backloading in either the Democratic plan or the Republican plan, and we should be honest about it and not mislead the American people. It seems to me you would have to agree that under my calculations, both budgets, both the Democratic budget of the President and the Republican budget, achieve exactly the same amount of deficit reduction—82 percent of it in the last 3 years.

Let me repeat that. You hear this talk about backloading. Backloading means that you do not make the cuts upfront now. You wait until the 6th and 7th year of the budget. So that is after Bill Clinton will have finished his second 4-year term as President of the United States or that is after our good friend, Senator BOB DOLE, would finish his first 4 years as President of the United States. But both are guilty of the same thing. And I wish to lay down the marker now, that when you hear about backloading, it is a plague on both of our houses.

Mr. President, 82 percent of the deficit reduction or savings in both the President's plan and the Republican plan is in the last 3 years. So I simply say that there is probably little to be gained if you want to talk honestly about who is the worst backloader.

I reserve the remainder of my time and yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Let me just very briefly respond because I know we have a number of colleagues here. I guess the one element that I would like to respond to is the scare tactics, because it has been a fascinating year for me. I have only been here for a year and a half, and I do not have all the answers to the budgetary problems that we have today, but if we look at the issue of scare tactics, the numbers that I showed you in terms of the chart and Medicare going bankrupt were given to us, given to this body, by the Medicare trustees, a bipartisan group, three members of President Clinton's Cabinet, and that is the chart that comes directly out of their numbers. They tell us that it is an urgent problem; it is going bankrupt—again, bipartisan.

The numbers that have been released recently are that things are getting worse, that part A—40 percent of the overall Medicare Program is part A—is going to be insolvent. We were told in 7 years. Now we know it is going to be 6 years, which, since it has been a year, is only 5 years from now. That is scary. That is scary.

But contrast that with the number of things you see on television. Every time I go back to Tennessee they say, ''What are you people trying to do with our budget and Medicare, trying to slow the growth from 7 percent to 6 percent,'' which is what we were trying to do last year and that is what we are trying to do this year.

That scares seniors. That scares seniors. If we do not do anything, that program is going broke. It is gone. The 70-year-old people who need heart surgery, who I operate on, are not going to get it.

I have not been around that long, but maybe by the year 2000 they will come in with some huge tax increase or strip back benefits in the year 2000, but that is the only thing that will save the program. Nothing else will do it because it is inevitable; it is going bankrupt, part A, the hospital part of the trust fund.

So we have seen a lot of scare tactics out there over the past year and a half. Those scare tactics have been on television, paid advertising. They scare every senior citizen. Every person over the age of 50 will come up, because they are scared, and say, ''Don't touch anything, because what we can see on the television ads, if you reform the system, we are not going to have a health care system at all.''

Those are the scare tactics I am afraid of. I have just presented the facts in terms of bankruptcy. I agree with Senator EXON. We need to work together. Clearly, both budgets have their real problems. These numbers came from CBO scoring, that right now, if you look at the hospital trust fund—these are CBO numbers, Congressional Budget Office numbers, that came from June O'Neill's staff to our staff that have been released and part of the record we talked about in the Budget Committee—it is going bankrupt in 5 years—the red line—if we do nothing.

Under the President's plan, if you remove the gimmickry of the $55 billion in home health care—it is just moved to the side—CBO said it extends the life of the trust fund for 1 year.

Our proposal, according to CBO, June O'Neill's group, says we have 10 years in our report. This, again, comes from the Congressional Budget Office.

I thank the Chair. I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

UNANIMOUS-CONSENT AGREEMENT

Mr. GRAMS. Mr. President, first, in business to come before the Senate, I ask unanimous consent that the Senate stand in recess today from the hours of 1:30 to 3:30 and that the time

during recess then be charged equally from the budget resolution. By the way, this does have the approval of the minority side as well.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. There is no objection on this side, Mr. President.

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

Mr. GRAMS. Thank you very much, Mr. President.

I rise today with great pride in supporting the budget resolution for fiscal year 1997, and I commend the distinguished chairman of the Senate Budget Committee, Senator DOMENICI, and my colleagues on the committee for drafting a piece of legislation of which every American can be proud.

This bill, more than anything else, is about promises, making promises and keeping them. The American people have every reason to be cynical about political promises. They hear so many of them, and they hear them repeated so often that it is easy to begin to tune them out. Yet, something resonated with the voters when we went to the people back in November of 1994 and we promised that we would take this country in a better direction if they elected a new majority to Congress.

Last year we redefined the role of the Federal Government when we laid out a plan for the Nation's future unlike anything that the people have seen over the last 40 years. Up until then, they had always been told that big Government was good Government; that we could keep spending as much as we wanted and never get stuck with the bill; that Washington knew best.

That was nothing more than a fairy tale. Our budget pointed toward a more realistic, more responsible path, and we passed that into law only to have it vetoed by a ''pie crust'' President whose promises are easily made and easily broken.

Now the second installment of our balanced budget promise is before us and we have a second opportunity to take our case to the people. Our budget recognizes that we do have a responsibility to guarantee our children a debt-free future and that balancing the budget without raising taxes must be a priority of this Congress.

Mr. President, it is ironic that we begin debate on the budget resolution today, May 15. Each year, the nonpartisan Tax Foundation calculates its tax freedom day, and that is the day on which Americans stop working just to pay their State, Federal, and local taxes and actually begin keeping their earnings for themselves.

Now let us go back to 1925. Tax freedom day arrived on February 6. But this year, Americans had to wait until May 7 before they were allowed to keep the first dime of their own money. Mr. President, 1996 marked the latest arrival ever for tax freedom day. In fact, tax freedom day has just jumped ahead an entire week since President Clinton took office because under Bill Clinton's watch the Government is taking more from the paychecks of middle-class Americans than ever before.

Let me repeat that. Despite all the claims you hear about Bill Clinton doing well with the budget and the deficit, tax freedom day is a week later under Bill Clinton than ever before because, under the watch of President Bill Clinton, he is taking more money out of the pockets of American taxpayers than ever before.

I also want to make a couple of notes on some of the charges or responses we have heard today from some of our Democratic colleagues, and I will just go back to Senator EXON and some of the comments he made, that Congress will step in to save Medicare. Senator FRIST of Tennessee is more of an expert on this than I am, and he has done a good job of laying it out and trying to explain what happens, but we know the President is using smoke and mirrors when he says he is going to take $55 billion out of Medicare and move it into the general fund so it will make it look like it is solvent. And when Mr. EXON says Government or Congress will step in to save it, what does he mean? The President has ignored the issue. How they would step in and save it would be to raise your taxes.

Let us not talk about it today, but if we get the opportunity we will come in and we will raise our taxes. Also, about the claims that they passed the 1993 budget plan without a single Republican vote, we are very proud of that, that we were not part of raising taxes in 1993.

My colleague from California, a few minutes ago, was talking about a smaller Government today under President Clinton than ever before, and a higher Government level under President Reagan in the 1980's. But I think that is when you take into consideration all military personnel as well. The truth is, under this administration we have more bureaucrats and more people working in Government outside of the military than at any time in history. So they have not shrunk the size of the Federal Government. They have shrunk the size of the military in order to come up with those numbers.

Then lower deficits, the reason we have lower deficits today is because of higher taxes. They are taking more money from the average taxpayer to offset the increase in spending. Also, we have enjoyed some lower interest rates over the last couple of years. But when we are talking about spending, it continues to grow out of control, so we have not reduced the size of the Government, we have not eased the spending burden on Americans, especially when you look again at the fact that tax freedom day comes 1 week later today than it did 3 years ago.

And then the gas tax. I tell you, some just cannot stand to let go of a tax no matter how small they try to make it look. They are saying the 4.3 cents is going to go into the pockets of oil companies. That is doubtful. When they reduced the excise tax on air fares, when the Government tax went off, that was immediately passed on to the consumer in a rebate. But no matter what that question might be, we do know one thing, the $5 billion in that increased gas taxes come out of the pockets of taxpayers and it has gone into the pockets of bigger Government.

When we talk about cutting and backloading our budgets, and we are charged we do not do any better than what the President has proposed in his budget—there are some very stark differences. Our budget, over the life of 7 years, begins to trim the size and scope of the Federal Government and we will enjoy compounded savings in the fourth, fifth, sixth, and seventh year of our budget. But the President's plan takes 100 percent of its backloading reductions in the last 2 years, and it takes it directly out of discretionary spending. I do not think there is one Member of this Congress who could stand up and tell the mayors and Governors of this country and others they are going to make that deep of a cut in the last 2 years. That will not happen.

So we do have some differences in how we achieve the balanced budget. It seems they always try to find some good out of a bad situation. On the farm you would call that trying to make a silk purse out of a sow's ear. But the news is more discouraging for taxpayers of Minnesota because national tax freedom day came and went 8 days ago, but Minnesotans do not keep their own dollars until today. That is, 136 days into 1996, because of higher State and local taxes, and the differences in the Federal tax burden, Minnesota is tied with Wisconsin in having the fourth latest tax freedom day in the Nation. Only the residents of Connecticut, New York, and New Jersey pay higher taxes than we do in Minnesota. That is nearly 20 weeks, over 800 hours on the job, just to pay Uncle Sam.

By imposing his record-breaking $255 billion tax increase in 1993, again, President Clinton bears the responsibility for ever-increasing tax burdens from singles to families to seniors to job providers. Every segment of society has felt the pinch. Motorists were hit especially hard by the President's gas tax increase, which again boosted the cost of gasoline by nearly $5 billion every year.

So, whatever you call it, the Clinton crunch or the middle-class squeeze, as long as taxes keep rising, the dollars Americans have left over to provide for their families will keep falling. It must be the goal of Congress to help Americans earn more money and keep more money so they can do more for themselves, their kids, their communities, and their churches.

The budget resolution we begin debating today will go a long way toward ensuring tax freedom day arrives earlier next year for all Americans. Mr. President, its cutting taxes provisions

could not come at a better time. Government has become a looming presence in the lives of the American people. Each year the people are asked to turn more responsibilities over to the Federal Government for Government regulation, for Government support. From the time they get up in the morning until they go to bed at night, there are very few aspects of American daily life that are not touched now by the hand of government.

So government has been forced to grow just to keep up. Consider that government spending at the Federal, State, and local level has jumped from 12 percent of the national income in 1930 to 42 percent today, and the burden for keeping these ever-ballooning bureaucracies in operation has fallen on the taxpayers, of course, through more and higher taxes.

The increase has been dramatic. Between 1934 and 1995, individual Federal income taxes as a percentage of gross domestic product rose 1,114 percent.

Today, the typical American family faces a tax burden from all levels of government of 38 percent, and most middle-class American families are turning more money over to the government than they are spending for their family's food, clothing, shelter, and transportation combined. Families with children are now the lowest after-tax income group in America, below elderly households, single persons and families without children.

A significant number of families are relying on a second job just to pull themselves above the poverty line and to meet their annual tax obligations. The majority of families who have reached a middle-class standard of living are families with two incomes. They are still trying to pursue the American dream, but the ever-increasing tax burden keeps pushing it out of reach.

According to the Gallup organization, 67 percent of the people say they are handing over too much of their own money to the Federal Government. They might feel differently if they were getting a fair return on the investment, but Americans see their hard-earned dollars being wasted by the Federal Government. They look at the services they are getting in return and they feel like they have been taken to the cleaners.

It has always been easy for past Congresses to be generous with somebody else's money. This Congress, however, is no longer willing to let the Government gamble away the taxpayers' hard-earned dollars. In fact, we are going to keep those dollars out of the Government's hands in the first place. The centerpiece of our balanced budget plan is the $500 per child tax credit, and I am proud this desperately needed provision remains at the heart of our legislation. The tax credit alone will allow 28 million taxpaying households to keep $23 billion of their own money each year.

In my home State of Minnesota, the tax credit would return $477 million every year to families who work hard, pay their bills, and struggle every day to care for their children without relying on the Government.

In addition another 3.5 million households nationwide will find the $500-per-child tax credit tax liability has eliminated their tax liability entirely; 3.5 million households. President Clinton has promised a middle-class tax cut of his own, but, again, it is virtually nonexistent in his 1997 budget. Let us look at what he calls for.

To qualify for the President's version of the child tax credit your child has to be under the age of 13—meaning that just about the time you need that tax relief the most, it would dry up. In addition, it would only be $300 per child for 3 of its 5 years, and then it would be abruptly terminated 2 years early. The $122 billion in tax relief Congress is offering in our budget resolution is real tax relief. It is not a paper gimmick.

The second plank of the legislation before us is the promise to balance the budget by the year 2002. Every year the Federal Government is spending billions and billions more than it takes in. Because of 4 decades of fiscal insanity, the national debt has today eclipsed $5 trillion and continues to rise. Just the interest alone on a debt that massive is accumulating at the rate of $4 million an hour. If our national debt were shared equally among all Americans, each of us would have to pay up $19,000 for every man, woman, and child in this country. Every child born today in the United States of America comes into the world already saddled with a debt of more than $19,000. The share for an average family is $75,000.

So the first, most important result of a balanced budget would be to free our children and grandchildren from the economic burden they will inherit from this generation, a burden they did not ask for and one they certainly do not deserve. Because we have been able to begin reining in spending over the past year, our budget reaches balance in 6 years, not 7 as we first proposed a year ago. By contrast, the President's 1997 budget plan never achieves balance. It achieves an annual budget deficit of $84 billion by the year 2002. Our plan achieves its goals without dramatic cuts of any kind—except in the deficit.

Spending on Medicare, Medicaid, Social Security, welfare programs, and the earned income tax credit will all continue to grow to meet this Nation's needs over the 6-year life of our budget.

Keeping promises may be considered out of style here in the Nation's Capital City, where promises are a dime a dozen among the professional politicians, but back in Minnesota a promise is something a person does not back down on, even if it was made by a politician.

With our budget resolution and its meaningful tax relief, its protections to ensure the solvency of the Medicare Program, its reform of the welfare system, its commitment to a balanced budget by the year 2002, this Congress is keeping the promises that we made to the American taxpayers.

Thank you very much, Mr. President, I yield the floor.

The PRESIDING OFFICER. If the Senator from Michigan will withhold.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, in consultation with the Democratic leader, pursuant to Public Law 102–246, appoints Julie Finley, of Washington, DC, as a member of the Library of Congress Trust Fund Board, effective June 30, 1996, vice Edwin L. Cox.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly during the second session of the 104th Congress, to be held in Vouliagmeni, Athens, Greece, May 16–20, 1996: the Senator from Colorado [Mr. BROWN]; and the Senator from Hawaii [Mr. AKAKA].

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94–201, appoints the following individuals as members of the Board of Trustees of the American Folklife Center: James F. Hoy, of Kansas, and Charles E. Trimble, of Nebraska.

CONCURRENT RESOLUTION ON THE BUDGET

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time, I yield to the Senator from Missouri such time as he may need, up to 15 minutes, to speak on the bill.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, my sincere thanks to the acting floor manager and to the Chair.

A comment was made a few minutes ago when I was on the floor that maybe some of the newer Members of the Senate did not really understand how we have to balance the budget in the Federal Government.

I am one who is not new around here, and I would like to say that I appreciate very much the interest and enthusiasm and commitment brought by the acting floor manager, the previous speaker, the Senator from Minnesota; the previous acting floor manager, the

Senator from Tennessee; and the occupant of the chair, a junior colleague from Missouri, all of whom have shown great dedication to the need to balance the budget and to come to this body without any preconceived notions that the old ways are the only way we can do it.

Frankly, we have broken new ground. I do a little bit of sowing of seeds, and I know how difficult it is to break new ground. If you have tried breaking up sod that has not been broken up before, you realize that is not an easy task. We have benefited a great deal by the fact that we brought in people and we have in this body new Members who represent their constituents and who believe, as our constituents overwhelmingly do, that there is no reason why the old way of spending more and more than the Federal Government takes in is good enough for the future.

Mr. President, we have put $5 trillion of debt on the backs of our children. Each year's deficit, if it is running $100 or $200 billion, adds to that debt. The interest rates build up, and our children are going to be looking at a time when they are working to pay tax dollars that could go almost exclusively to pay interest on the debt that our generation has run up because we are unable to balance the budget.

Today, we are involved in what I consider to be maybe not the most exciting but perhaps the most important series of discussions and debates we have had on this floor. How do we get our national budget back on track? How do we ensure that continuing deficits do not bankrupt the Federal Government, do not allow vital programs, like Medicare part A, to go broke and do not ruin the economy by bringing back high rates of inflation, stagflation, high unemployment, and stagnating wages?

It is very important that we be clear and that our colleagues and the people we serve understand what we are talking about.

My good friend from Nebraska, the ranking member on the Democratic side on the Budget Committee, has said that there is little difference between the numbers in the Senate committee-passed budget and the President's budget. He gave us the admonition, ''Let's be honest,'' and I agree with him. I do not agree on the numbers that he presents, but I agree with him on the need to be honest. We both agree on the need for the St. Louis Cardinals to improve their record, but that is for another day's discussion. We do have many things in common, just a different set of figures that we are using.

What we are working from are two different sets of numbers. I came to this floor yesterday with the very simple proposition that numbers do not lie. Or do they? It is the numbers that count. We heard in the 1992 campaign, ''It's the economy, stupid,'' but when you are talking about the budget, it is the numbers that count.

The President and his staff and the Office of Management and Budget have given us the numbers to work with. This is the budget supplement; this is the appendix. This has all the numbers the President is recommending. This puts forward the President's priorities. They are different from the priorities that have been included in the numbers in the budget passed by the Senate Budget Committee.

Even though some may say they are close, I think there are very significant differences. That is why we have these debates. We do have an independent scorekeeper to keep us honest. I well remember President Clinton's stirring call in 1993 at the State of the Union Message that we needed to find a way that we could agree on what our proposals did, and he said we should use the Congressional Budget Office as the independent, objective professional scorekeeper, and that is what we have done. In the budget proposal passed out of the Budget Committee under the direction of Chairman DOMENICI, we have produced a budget that reaches balance, according to CBO, in the year 2002.

The President sent us initially a budget which he obviously was not sure whether it was going to get to balance, because in his budget message, he included some fail-safe mechanisms. There is nothing wrong with fail-safe mechanisms, but when it comes to the point that you have to use these fail-safe mechanisms, it is important to recognize what they do.

In this book, ''Budget Supplement: A Vision for the Future,'' page 13, it says:

> In case the new assumptions produce a deficit in 2002, the President's budget proposes an immediate adjustment to the annual limits or caps on discretionary spending, lowering them enough to reach balance in 2002. The President is committed not only to proposing a budget that reaches balance according to CBO, but reaching an agreement with Congress to enact such a budget.

I think that is very forthright and that is good. The problem is that the numbers presented by the President to CBO do not really reach a balance in the year 2002. There are almost $77 billion in cuts or increases in revenue that have to be made in the final years to get to a balance.

So the CBO, in scoring the President's budget, has assumed what the President put into his budget, and that is, he will put a tax increase for families in it, as well as a $53 billion cut in discretionary spending outlays in the years 2001 and 2002.

Let us be very clear about it. The President's budget has said, if CBO does not score us as reaching balance, then here are the automatic steps that must be taken to get to balance. CBO found, in fact, the budget did not get to balance; therefore, CBO said, we will impose the cuts he proposed as an automatic offset to the deficit. That, Mr. President, is what we need to talk about.

Some of my colleagues earlier today on the other side have presented budget charts showing the spending initially proposed by the President. It does not look like much difference. But those are not the charts that reflect what happens when the CBO performs its duty under the President's budget to cut spending to bring it to a deficit of zero in 2002.

I remind my colleagues on this side and the other side that if we are talking about the President's budget, any time a colleague puts up a budget showing the President's number, if I am on the floor, I will ask if that budget reflects the CBO cuts as directed by the President in his budget message. For those of my colleagues who may be here, I invite them to do the same thing, because I think it is very, very important that we talk about apples and apples. If we are going to get to a balanced budget as the President says, then how we get there is the vitally important number that we have to consider as we go forth and vote on these competing proposals for the budget for the next 6 years.

These are the numbers the President has proposed. These are the numbers in these books. Mr. President, unless and until he sends up to this body and to the House another set of books and releases them to the press to say that they have come up with a new budget, then this is the budget we have to work with. These are the figures that he has presented to us.

Let me take my colleagues through a description of some of the things what the Clinton budget, as scored by CBO, would actually do and see how it measures up to some of the claims that are made for it in the text.

In the description of the budget plan, a little book called, ''A Citizen's Guide to the Federal Budget,'' this book says, ''The President's 1997 budget would reach balance over the next 7 years by cutting unnecessary and lower priority spending.'' Remember that; ''lower priority spending'' is going to be cut.

It goes on to say, at the bottom of page 31, or down in the lower part of it:

> The budget saves $297 billion in discretionary spending, cutting unnecessary and lower priority spending, but investing in education and training, the environment, science and technology, law enforcement and other priorities that will raise living standards and improve the quality of American life.

Mr. President, I also serve as chairman of the Senate appropriations subcommittee dealing with a number of these important areas. I think it might be well to take a look at some of these more interesting areas and also some of the areas funded in other budgets which are handled by other subcommittees on which I serve.

Let us start off with the Food and Drug Administration. It is vitally important for ensuring safety in the food supply and drugs. This green line across the top shows what the Senate Budget Committee reported out. Essentially that is a flat line. That is tough. That is holding their feet to the fire.

That is making them absorb inflationary increases, additional workload. That is tough, but that is doable.

But take a look at what happens to this spending when CBO implements its cuts. It drops from over $850 million down to just below $700 million, just above $650 million, by the year 2000. This is, I would say, about a 30 percent cut in the Food and Drug Administration. That is 25 percent. This is in the body that is supposed to keep our food supply safe and make sure we get good quality, reliable, efficacious drugs. That is something I challenge. Can we afford to cut the FDA that much? I do not think so.

Let us take another one. This one is very important. We are talking about the research that is done to deal with diseases and promoting cures for many of the diseases we have and the things that are of great concern to many people—the National Institutes of Health.

The President starts off with a nice little increase, but you can see by the year 2000, that has to fall off the table. That is almost a $2 billion cut in the budget of NIH to reach balance by the year 2002. Overall it is a 14 percent cut. Are we not going to need the research done by the National Institutes of Health in the year 2001 and 2002? I think we will. I am optimistic that we are going to discover cures. But I do not think we are going to make all the progress we can possibly make and then be able to shut down research at NIH. So I question the priority of slashing the NIH budget.

How about some of the other priorities? I have a responsibility for acting on, in our appropriations subcommittee, the budget for EPA. You all heard a great deal about the President and his support for EPA. Who would have believed just a few months ago that the President's budget would leave EPA with less money 6 years from now than it got from Congress last year, and well below the budget proposal we are presenting this year? As I have said many times over, numbers do not lie.

This is what happens to funding under our Senate-passed budget resolution. We hold EPA at a flat line. We want to work to improve the way that EPA does its business. We think that there are new ideas that are being developed both within EPA and by groups supporting EPA that can give us tremendous progress as we shift more responsibilities to State and local governments and maintain a vitally important monitoring function at the national level and using more flexible means of achieving goals.

The President said it well in his budget: ''If industry can come up with a better way, a cheaper way of doing it, let's do it the most effective way.'' We can live with it. But take a look at what happens to the President's budget under the numbers presented by the President and as scored by CBO. This EPA budget takes a very sharp drop from just above $7.2 billion to below $6.4 billion by the year 2002.

This is a tremendous slash for the environment. He said, I thought, in his message in here that one of his priorities is making sure we take care of the environment. I do not think his budget does that. He says, ''We need to invest in education, training, the environment, science and technology.'' I think our budget does a lot better job of doing that than his does.

Oh, yeah, by the way, science and technology. Our subcommittee also finances the National Science Foundation. We provide funding for it. Look what happens to the funding in the National Science Foundation. The Senate budget includes a slow but steady upward path. The President's budget gives us a little bump up here and then it drops off the table again because it has to. The President himself ordered that cuts be made to bring the budget in balance in the year 2002. Under CBO scoring that is the only way it is going to get to balance.

Finally, I addressed yesterday the budget of the Veterans' Administration, the agency which provides care to the medically indigent veterans and those veterans who have been injured in the service of their country, a very, very important group of people who depend solely on the Veterans' Administration.

These people would see the money devoted to their health care cut by almost 25 percent. The Clinton budget cuts $12.9 billion out of the VA budget by the year 2002. We maintain essentially level funding. That is a cut that the veterans of this country cannot live with, and we in good conscience cannot live with.

I mentioned to this body yesterday that the President's people have said, ''Don't believe these numbers.'' The Secretary of the Veterans' Administration, Jesse Brown, when he testified before my subcommittee, said, ''The President has assured me that these will not be the numbers. He is going to negotiate with us.'' A representative of the White House Office of Management and Budget was quoted in the papers in our home State saying these numbers that are being presented, we are misrepresenting, because we took the numbers out of the book and out of the CBO. He said, ''Those are just rough general guidelines. Don't believe them.''

So it is the official policy of the administration not to believe the official policy. Until they send us up new numbers, send us a new budget, that is what we have to work with. That is what the priorities are: Cutting veterans, cutting national science, EPA, NIH.

Mr. President, that is not the way to get to the balanced budget we need. We can do so by following the plan outlined by Chairman DOMENICI. I urge all my colleagues to look at the contrasting numbers and make up their mind. I hope they will support the budget supported by the Senate Budget Committee.

I thank the Chair. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 3:30 p.m.

Thereupon, the Senate, at 1:30 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KEMPTHORNE].

The PRESIDING OFFICER. The Democratic leader is recognized.

TRIBUTE TO SENATOR BOB DOLE

Mr. DASCHLE. Mr. President, I just had the opportunity to listen to the majority leader make his announcement of his future. I wanted to come to the floor this afternoon to salute BOB DOLE's 35 years of dedication to this institution and to his country. No one has given more, and no one has greater admiration in this body than does BOB DOLE.

I congratulate him on his decision. I believe it was the right one. Obviously, it is never easy to leave this institution. But he does so with our good wishes. While we will have the opportunity to serve with BOB DOLE for at least the next several weeks, we wish BOB, his wife Elizabeth, and his daughter, Robin, well as they pursue their future.

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

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. 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. EXON. Mr. President, as a matter of fairness, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATOR DOLE'S ANNOUNCEMENT

Mr. SIMON. Mr. President, I just watched Senator DOLE make his announcement. I want to join with Senator DASCHLE in his comments. I have worked with BOB DOLE from my days in the House and have come to have great respect for the huge contribution he has made here in the Senate and to our country. I think sometimes we get so partisan here that we forget the contributions that people are making.

Let me add one other thing, because media coverage is so negative all the

time on candidates and officeholders that I think one thing is ignored, which is that we have a good choice between two outstanding candidates for President in Bill Clinton and BOB DOLE. For philosophical reasons, because of who might be appointed to the U.S. Supreme Court, and that type of thing, I am supporting Bill Clinton. But I am not going to buy a one-way ticket to Canada if BOB DOLE gets elected. I think the American people have a choice between two very fine, substantial candidates. That is the way our system should work.

In all the negatives that people will hear between now and November 5, the American people should not lose sight of that.

Mr. President, I suggest the absence of a quorum and ask that the time be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCURRENT RESOLUTION ON THE BUDGET

The Senate continued with the consideration of the concurrent resolution.

Mr. EXON. Mr. President, I yield whatever time is needed off of our time to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I appreciate the courtesy of the chairman of the committee and of the ranking member of the committee. I just want to say at the outset what an outstanding job I think the distinguished Senator from Nebraska, Senator EXON, has done with respect to the budget that we are now considering. I was privileged to be very supportive of his position in the committee, and continue to be so. I want to thank him for the leadership that he provided on our side of the aisle.

Mr. President, I want to take just a moment or two to sound what may be an alarm bell in the night and take what is perceived as not the most popular position. But I want to talk a little bit about the 150 account—that is the international affairs account in this budget—and to simply sound a warning that I think we have been reducing that 150 account in successive years in such a way that we are now impeding upon our ability to perform as a great power in the world.

The budget that is before us and that has been brought out of committee would cut the international affairs portion of the budget by more than $1 billion from the President's request. The President requested $19.2 billion, and the bill reported from the committee cuts it to $18.1 billion.

The actual international affairs spending in this particular account in the budget, which covers all of our responsibilities abroad other than the military, was $20.8 billion in fiscal year 1994, and $20.1 billion in fiscal year 1995. It is estimated at $18.5 billion for fiscal year 1996. So we are making a very significant cut from historical levels.

In other words, international affairs spending has been brought down from $20.8 billion in fiscal year 1994 to $18.1 billion in fiscal year 1997, which is a cut of almost $3 billion just in that short period of time. That represents a cut of about 15 percent in the budget that we have to carry out our responsibilities internationally.

In fact, our international affairs budget has been reduced by 50 percent in real terms over the last decade. In other words, if you adjust for inflation and take a 10-year period, we, in effect, are cutting by 50 percent our ability to carry out programs in the international arena. We are in the process now of asking the international affairs budget to do more and are providing less with which it can be done.

During the 1980's, we did not have democratic, market-oriented regimes in Eastern Europe. At that time we were building nuclear weapons instead of trying to help the Russians destroy and dismantle them. We had one Embassy to cover a country, the Soviet Union, where we now have 15 separate countries. At that time neither Jordan nor the Palestinians recognized Israel's right to exist, so we had no stake in their economic vitality. We had economic sanctions against South Africa; now we are trying to help South Africa rebuild. All of these are new responsibilities and opportunities over the last few years.

So, in fact, our responsibilities increased rather than diminished, and particularly if the arena of competition or concern shifts from the military into the political and economic arena.

Only about 1 percent of the Federal budget is spent on foreign aid, and less than half of that goes to humanitarian and development programs. In fact, the United States ranks dead last among 21 industrialized members of the OECD in the percentage of GNP that we spend on development assistance. All of these other countries have made the judgment that they have an important interest in helping the rest of the world to develop; so much so that they are prepared to commit a larger percentage of their GNP than we are to development assistance.

I know these are not popular facts to bring before the country, but I think it is important for those of us who carry the responsibility which comes with being Members of the U.S. Senate to stop and consider it because we have to square the rhetoric about being the world's leader with the reality of how that is accomplished.

In fact, there is, apparently, a great deal of misconception across the country. A nationwide poll done last January by the University of Maryland found that a majority of Americans, when asked what percentage of the budget they think is spent on foreign assistance said 15 percent or higher. The majority said 15 percent or higher. When they were asked how much they thought should be spent, they said on average about 5 percent. In fact, we spend about 1 percent. There is a tremendous disparity in perception. The majority think we spend more than 15 percent of our budget for this purpose when we in fact spend about 1 percent.

I am very frank to say to my colleagues that if the United States is going to continue to be a great power, we have to commit the resources to carry out our responsibilities as a great power. This is particularly true in the post-cold-war era, when a range of complex problems faces us. That means coming up with adequate funding for the conduct of our foreign affairs. In my view, we have already cut well below the minimum level that is necessary to sustain American leadership in the world.

I really want to sound that warning. I am persuaded that over time, if this trend continues, it will become obvious to everyone what we have done to ourselves. But I think we need to apply some analysis and attention now in order to ascertain that situation, and I am frank to say I think we have crossed the danger point and are now in the zone where our leadership ability is being eroded and undermined.

The various cuts have very detrimental effects on our ability to conduct an effective foreign policy. It would be one thing if people were saying we want a little America, something with which I do not agree. But if they say we are going to have a little America and we are going to shrink back from the responsibilities and, therefore, we are going to shrink resources, that at least would be a consistent position.

But to articulate a rhetorical position in terms of America being the world leader and playing the first and foremost role in exercising international responsibilities, and then have a huge gap between that statement and the resources with which to carry out those responsibilities, is illogical and inconsistent.

The United States now is the largest debtor at the United Nations. As the Washington Post put it in a recent editorial, we are the "global deadbeat." We are so far behind in paying our assessments to some of the international financial institutions that our arrearages exceed our scheduled annual payments. We are, indeed, exasperating and disappointing our friends and allies who desire and support American leadership. They desire and support American leadership. But we continually dictate ever longer lists of demands and provide ever shorter resources with which to carry them out.

Aid to the poorest countries has been reduced by nearly 30 percent from last

year, jeopardizing the progress we have made in reversing environmental degradation, slowing population growth, preventing the spread of deadly disease, building economic self-sufficiency, promoting democracy, resolving conflicts peacefully, stemming the flow of illegal drugs and countering the threat of nuclear proliferation. All of these are very important objectives.

Consulates have been closed and embassy staffs reduced all over the world, making it impossible to provide the services that Americans abroad expect and deserve. We have closed 30 posts abroad since 1993, and 13 more are slated for closure this year.

Some of this scrubdown of posts needed to be done. But once again, I think we have gone beyond the point of diminishing returns and we now are really eroding our capacity to carry out an effective foreign policy.

While some question the importance of ambassadors and embassies in an era of CNN, supersonic travel, and instant global communication, I think this skepticism is misplaced. We need to have our ambassadors and their embassy teams on the ground, around the globe promoting human rights, conflict resolution, antiterrorism and counternarcotics cooperation, U.S. economic interests and U.S. exports, for example. Many of the embassies have significantly improved their performance by working with the American business community in a very significant and substantial way.

We need consular officers to assist U.S. visitors and business people, to issue visas, replace lost passports and cut through redtape when Americans run into difficulties abroad. We need them to spread good will, to exemplify American values and to deal with sensitive situations before they become full-blown emergencies. This experienced corps of professionals is the face of our Nation around the world.

Yet our diplomatic service is forced to rely on computer software, office equipment, buildings and services that are outmoded, unreliable, inefficient, and sometimes even unsafe. Diplomacy in the 1990's is being carried out on the technology of the 1960's and 1970's, and no relief is in sight.

These cuts are particularly troubling when juxtaposed to very large, unrequested increases in defense spending. The budget adds almost as much for defense, over and above the amount the Pentagon asked for, than is spent on the entire foreign aid budget for a year. In other words, we are cutting substantially the 150 account, our diplomacy account, our political and economic interest account, at the same time that we are increasing the military account over and above what the Pentagon sought.

It seems to me a matter of common sense that by investing a little bit in preventive diplomacy you may be able to address situations while they are amenable to economic and political solutions rather than wait until they become full-blown crises and require the presence of our military. By sacrificing investment in preventive political and economic measures, we will only be postponing and probably escalating the ultimate costs.

Of course, effective diplomacy is enhanced by a strong military and the readiness to apply it, but our military strength ought not to become our prime recourse for influencing situations in the international arena. In fact, I think the task of the next century will be to hone our diplomatic, economic, and political skills so that we can protect our interests without having to put our troops in harm's way.

It is increasingly clear that in the 21st century American interests in the world will be heavily economic and political. We need to ensure open markets and fair trade to promote American prosperity. We need to avert conflicts that will cause human suffering, refugee flows, environmental destruction, and economic dislocation. We must combat international terrorism and prevent the proliferation of weapons of mass destruction.

None of these goals can be achieved on a unilateral basis. None of them can be undertaken by military action alone. And none of them can be achieved without sufficient resources. The 150 account is important to meeting our responsibilities as a world leader. By not allocating adequate resources, we may indeed encounter disastrous consequences. Further cuts are not just ill-conceived; they are downright dangerous to our national security and to achieving American objectives around the world.

I urge my colleagues, although I know it runs against a perception of popular sentiment, to examine carefully what we are doing to our ability as a nation to carry out our responsibilities as a world leader. It cannot be done if we do not commit the resources with which to do it. And we now have reached the point where I think we have so drastically reduced our commitment in this area that we are markedly affecting our ability to act as a world leader.

Mr. President, I yield the floor, and I thank the distinguished ranking member for yielding me time.

Mr. EXON addressed the Chair.

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

Mr. DOMENICI. Did the Senator want to speak at this point?

Mr. EXON. No. I was just going to try and get embodied in an agreement what we had arranged for. The Senator from Delaware would like 3 or 4 minutes on another subject. I would like time likewise. Then we had general agreement that we would go to Senator GRASSLEY with his amendment. We have all agreed to that, and I would just like to suggest it.

Mr. DOMENICI. The Senator from Delaware wanted to 2 minutes.

Mr. EXON. OK. I will follow the Senator from Delaware.

Mr. DOMENICI. I will yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

THE RESIGNATION OF BOB DOLE

Mr. ROTH. Mr. President, the news by our esteemed majority leader that he will be resigning both his leadership post and his Senate seat is, indeed, bittersweet. I am sure I speak for all of my colleagues when I say that the Senate will miss BOB DOLE—his intelligence, his courage, his love for his country, and his unparalleled leadership skills. In Europe, 50 years ago, as a young lieutenant, BOB DOLE was willing to make the ultimate sacrifice for his country in war. And today for the sake of his country and the Congress, BOB DOLE is willing to leave the job he loves because he loves his country and Congress so much. This is a bold move by a man whose life has been the ultimate story of courage. America needs his courage, his moral compass, his leadership in the White House, and this move will enable him to focus much more on the road to the White House.

Because of BOB DOLE's leadership, the 104th Congress will be remembered as the Congress which finally said enough is enough. No more excuses. No more Washington gimmicks. Balance the budget. With BOB DOLE's leadership we have forever altered the debate. The question is no longer whether to balance the budget, but how; not whether to cut taxes, but how; not whether to reduce the size of the Federal bureaucracy, but how; not whether to reform welfare, but how; and not whether to return power to the States, but instead how.

Under BOB DOLE's leadership, the Congress for the first time in four decades passed legislation to balance the Federal budget. BOB DOLE's legacy of leadership in the Senate will only be surpassed by what he will do for America from the White House. I am proud to be a Member of the Dole team, and I will be even prouder to assist a Dole administration next year in carrying out BOB DOLE's agenda for America: lower, fairer, simpler taxes, less Government and a balanced budget.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, my few remarks about my friend BOB DOLE and his announcement today will be devoid of any political motivations whatsoever.

BOB DOLE has been a friend of mine ever since I came into the Senate. We have differed frequently on many issues, but we have been together on many issues. The announcement today that we heard about this morning came as a considerable shock to this Senator because whatever the future holds, the Senate in my view has lost a tremendously dedicated individual, a talented leader on the Republican side of the aisle, a man I never hesitated a moment in going to on any subject. He

has always been fair to this Senator. We have clashed from time to time on issues. But fairness and confidence and being a very capable Senator and a Senate leader has been the hallmark of BOB DOLE.

I simply say that we will miss him very much in the U.S. Senate, and I would have preferred that he not take the additional step that he announced today with regard to resigning from the Senate. I recognize that in running for President of the United States, it was most difficult to be here, to be a leader. However, I thought the announcement that I read in the papers this morning with regard to Senator DOLE, recognizing that he could not do justice to his Presidential race and be a full-time leader of the Senate and the suggestion that he turn this over to other Members of the Republican majority, seemed to make sense to me. But, for whatever reason, BOB DOLE has made the decision that I think he had to make. I only thank him for the friendship.

I will value the few remaining weeks, week or two or three, that I will have the privilege of serving together with him in the U.S. Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not want Senator GRASSLEY to think we are procrastinating and trying to put his amendment off. He is going to have to be absent for just a few minutes.

Mr. President, I will use just a few minutes here as in morning business. I ask my remarks be as in morning business.

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

THE RESIGNATION OF BOB DOLE

Mr. DOMENICI. Mr. President, the last 3 or 4 hours have been a time of very mixed emotions for many of us. A while ago when we were crammed, all of us Republican Senators, in BOB DOLE's office, when he told us of his desires and wishes, I can say that was a room where grown men, more than one, had a few tears in their eyes, including our distinguished majority leader.

I, for one, will miss him very, very much here in the Senate. But I think when we finally take stock of the U.S. Senate—we are now 208 years old, but if we were to take stock, now, of the 208 years of the U.S. Senate, looking for the giants of the Senate, I am not the least bit reluctant to say that whatever short list one chooses as part of history, BOB DOLE will be among the giants and the real leaders of the U.S. Senate. There is no doubt in my mind, if you take just the last 100 years, that BOB DOLE would once again show up in the top three, four, five U.S. Senators of this entire modern century.

So, obviously, you cannot take somebody like that out of here and not have a big void. We will clearly miss his leadership and his marvelous ability to tell funny stories and get us off guard and get things done. But essentially his life has been one of real sacrifice for the country. Most Americans do not know that. They have to find out.

BOB DOLE dedicated weeks and months and years to getting his body in the position where he could conduct business and be a Senator after his tragic World War II accident on the front lines. In that, he learned about determination and about fortitude and about strength, and how much strength he really had. He has been giving since then, giving and giving and giving—not to the Senate, but to the American people. And, since he has made the decision that he wants to be President, I, this Senator, wholeheartedly support what he has chosen to do. I hope it is everything he plans it to be, and I think it will be.

He will go to the American people not as the majority leader or Senator, but as a man from Kansas who has sacrificed more than once for this country and will try to do it one more time. I have nothing but great admiration and respect.

My comments to him today are: The very best to you, BOB DOLE. Hopefully, this decision will take you to the White House. If it does, it will be the greatest decision you ever made, and a great decision for America.

But, indeed, there is no question the American people are going to get to find out who BOB DOLE is and what he is all about. And if that is done, it will be a fair election. For if he cannot do that, if the people do not get to know him as he is, it will not be a fair election, not one where he will have the right kind of chance to be President.

So those are my few remarks for today. In time I will say more about him, recalling some of the things we have done together.

With that, I yield to Senator GRASSLEY for his amendment.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Iowa.

CONCURRENT RESOLUTION ON THE BUDGET

The Senate continued with the consideration of the concurrent resolution.

Mr. GRASSLEY. I yield myself as much time as I might consume, but I would like the Chair to notify me when I have 15 minutes left because I want to make sure my cosponsors get ample time to speak on the amendment as well.

Did the Senator from Nebraska want the floor?

Mr. EXON. Mr. President, could I pose a question now so we could establish this? This is the first amendment that is being offered. Do we have time agreements on amendments?

I remember in the opening remarks, the chairman of the committee indicated some time limits on the amendments. For the information of this Senator and the Senate as a whole, will the Chair please indicate how much time is allotted to the amendment, the first degree? I assume that timeframe would continue unless we get unanimous consent at some future time to change it. What is the agreement on time limits?

The PRESIDING OFFICER. On the Budget Act, there are 2 hours equally divided on first-degree amendments, 1 hour equally divided on second-degree amendments.

Mr. EXON. So there are 2 hours, and 1 hour, half an hour a side, on any amendments to it. Is that correct?

The PRESIDING OFFICER. Second-degree. The Senator is correct.

Mr. EXON. I thank the Chair, and I thank my friend from Iowa.

Mr. GRASSLEY. I assume that my time is starting right now.

The PRESIDING OFFICER. The Senator has not called up his amendment. We will not proceed until the amendment is at the desk.

AMENDMENT NO. 3963

(Purpose: To reduce defense spending)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. EXON, Mr. KOHL, Mr. KERRY, Mr. FEINGOLD, and Mr. HARKIN, proposes an amendment numbered 3963.

Mr. GRASSLEY. 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:

On page 4, line 8, decrease the amount by $8,300,000,000.

On page 4, line 17, decrease the amount by $2,300,000,000.

On page 8, line 3, decrease the amount by $8,300,000,000.

On page 8, line 4, decrease the amount by $2,300,000,000.

On page 52, line 11, decrease the amount by $8,300,000,000.

On page 52, line 12, decrease the amount by $2,300,000,000.

On page 59, at the end of line 2, insert ''This section shall not apply to defense discretionary budget authority and budget outlays caps for fiscal year 1997.''

Mr. GRASSLEY. I yield myself 15 minutes, Mr. President, off of my time.

For those on the Budget Committee, this amendment attempts to do almost exactly what I did in the Budget Committee, somewhat lower numbers, but also the numbers are not fenced in the truest sense of the word because, under the budget resolution, that would be subject to a point of order, and we wanted to make sure the amendment was germane.

So to the Budget Committee members, we are still trying to reduce the deficit by the amount we are saving on defense. For the rest of the Senate, I want to say my approach is the same, the same goal, lower numbers. We are

speaking about reducing the defense numbers, and we are speaking about reducing the deficit when we save money on defense. The exception to that would be the President of the United States capability of declaring that he needs more money for defense and having that be considered, in an emergency, and not having to have offsetting numbers.

It strikes a balance, I believe, between administration proposals for defense spending and that proposed in the budget resolution.

The amendment would reduce the budget authority for defense for fiscal year 1997 by $8.3 billion below the budget resolution. Outlays for defense in fiscal year 1997 would be reduced by $2.3 billion. The savings are earmarked for deficit reduction.

Some of my friends might be concerned that down the road, we will need more funds for national security. In that case, this amendment allows the President to propose emergency spending for defense without requiring offsets.

I am pleased to be joined on this amendment as my main cosponsor by Senator EXON, a member of the Armed Services Committee and ranking Democrat on the Budget Committee, as well as Senators KOHL, KERRY, FEINGOLD, and my colleague from Iowa, Senator HARKIN. I should note this amendment is supported by the National Taxpayers Union, one of the top deficit hawk groups in Washington, DC, and I ask unanimous consent to print that letter in the RECORD.

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

NATIONAL TAXPAYERS UNION,
Alexandria, VA, May 15, 1996.

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

DEAR SENATOR GRASSLEY: Thank you for contacting the National Taxpayers Union (NTU) regarding the amendment you plan to offer to the FY 1997 Budget Resolution in an effort to control defense spending.

Your amendment would ''fence'' $11.3 billion in budget authority and $2.9 billion in outlays (the difference between the President's proposal and the Committee's mark for FY 1997), making the additional funding contingent upon the President's certification that the funds are necessary for national security. If the President fails to make that certification the funds would be used to reduce the deficit.

America's taxpayers deserve a more fiscally responsible and cost effective federal government, as well as the lower taxes that should result from spending reductions.

Your legislation will be helpful in that regard, and therefore NTU is pleased to endorse it and urge your colleagues to support it.

Sincerely,

AL CORS, Jr.,
Director, Government Relations.

Mr. GRASSLEY. Mr. President, just so everyone understands the history behind this amendment, let me call your attention to this chart. I want to call your attention to this chart because with the budget authority side of the chart, it lays out the history of where we are and where budget resolutions take us and where the President is.

Last year, the Senate budget resolution proposed that in fiscal year 1997, we should have this figure of $253.4 billion. What is important and significant about what we did last year and this year is that we had 60 Senators on a very bipartisan vote last year reject an amendment that would have increased the dollar amount of $253.4 billion, a bipartisan vote in the Senate not to go above $253.4 billion.

Now we have this budget resolution which has disregarded the Senate's action last year and disregarded last year's vote, practically the same membership in this body, and has proposed $265.6 billion for defense. That is the number in the resolution that is before us, $265.6 billion.

Simple arithmetic. That is $11.3 billion more than the President's mark. The President's mark is this middle figure. What he proposed to us in his budget this February, $254.3 billion. You can see the difference, $11 billion; $11.3 billion, to be exact.

It is also $12.2 billion more than the level voted by 60 Members of this body last year.

What the amendment offered by this Senator and my colleagues would do is provide a compromise by allowing defense to increase $3 billion above the President's mark and nearly $4 billion above the level voted by the Senate last year. That would be $4 billion above this figure of $253.4 billion.

So I hope that you realize that we are trying to do a compromise approach here, not just one of these take it or leave it, we want everything or we don't want anything approach.

It is a good compromise, I believe, that will address the concerns of those who want to ensure adequate spending for defense and also ensure that defense spending does not grow out of control.

I want to give some background and rationale for this amendment. It probably does not differ from the background and rationale that I would give for similar amendments I have offered over the many years that I have been in the Senate.

Every so often, since the 5th century B.C., some bright scholar states the obvious. The most recognized statement was by philosopher George Santayana when he said, and we have all heard it so many times:

> Those who cannot remember the past are condemned to repeat it.

He goes on to say some very crucial and insightful things about learning from our experience. He says:

> Progress . . . depends on retentiveness . . . [W]hen experience is not retained, as among savages, infancy is perpetual.

Mr. President, this body, the U.S. Senate, is coming dangerously close to what George Santayana described. We are close to acting like children. I know that might shock the public. At issue is whether the Senate is condemned to repeat the mistakes of the 1980's; specifically, whether we will pump up the defense budget with no justification and with no control over it and, in the process, we would be getting less defense than planned.

Last year during conference discussions—that is ironing out the differences between the House and the Senate on the budget resolution—we were promised Defense Department reforms. We were forced to support higher defense numbers, but the quid was that we would get reforms this year. We were told that there would be complete top-to-bottom reform of the Pentagon, so much so that it would change the Pentagon into a triangle.

Mr. President, I drive by the Pentagon each night that I go to my house that I occupy here in Washington—not my home, but my house. My home is in Iowa. Each night since last June 28 when we heard that in that conference—that is when we voted that conference report—I watched and waited. As of last night on my drive home, it is still a pentagon, it is not a triangle.

The justification for my amendment is to stop the raping and pillaging of the Treasury under the guise of national security. There is a very sophisticated con job going on with this defense budget, and I would like to describe it so that the taxpayers know exactly how it works, how the defense industrial military complex picks their pockets.

There are two facets of this con job. The first is bureaucratic; the second is congressional. Congress collaborates with defense bureaucrats in an extortion of the taxpayers who think they are paying for national security. Instead, they are paying for pork for Members of Congress.

The game the bureaucrats play is the most sophisticated. It took me a couple of years to figure this one out. First, the bureaucrats deliberately underestimate the cost of everything in the budget. That way, everything they want gets squeezed in. Nothing gets turned down. You can have it all, just like you can have your cake and eat it, too, almost. ''Just get all the programs approved,'' the bureaucrat says, ''we'll worry about the money later on.''

You see, once a program gets started, programs hardly ever end. You might say they never end. Too many jobs and too many careers are at risk. When the actual bills come in, they say, ''Oops, we've underestimated the costs. By gosh, we've got to do something about that. We need more money to buy all this stuff that we've committed.''

That creates then constant pressure to raise the defense budget, but it does something else as well: there is not enough money to cover all the cost overruns, so we buy fewer quantities. This drives up the prices even further. Over time, because of bad management, we buy less for much more. This hurts our ability to defend our country. That is the bureaucrats' game.

Here is how it is handled when it gets to the Hill. We saw it last year, and we are seeing it again this year:

The Armed Services Committee collaborates with the Budget Committee. They find a nice fat defense number that can accommodate everyone's insatiable appetite for pork. The numbers start to move through the Budget Committee. Meanwhile, the Armed Services Committee starts to cram all their pet programs into the budget, all the way to the brim. There is even some overflowing, Mr. President.

The budget resolution then goes to the Budget Committee; from the Budget Committee to the floor. That is where we are today.

Some Senators offered amendments to squeeze the defense budget, to rid it of pork and waste, just like the Grassley amendment. But such an amendment is put at a great political disadvantage. The taxpayers are unaware of this, but members of leadership and members of the committees are busy behind the scenes twisting the arms of undecided Senators. They confront undecided Senators with a newly drafted defense bill crammed in with all the pet programs.

The undeciders are told, ''If you vote to squeeze the defense budget, as Mr. GRASSLEY wants to do, we'll take program A, B, or C out of the bill. Your State will suffer. You'll lose jobs.'' Of course, that is intimidation. And some people are intimidated and vote then for fatter defense numbers.

What Senator wants to lose potential jobs in his or her State? These Senators might be intimidated, but for taxpayers it is extortion. They are really getting the shaft. The same thing happened last year. This year the Senate committee wised up and did the same thing as was done in the House last year. The bottom line is, bureaucratic and political games are wreaking havoc with the taxpayers' bottom line, all in the name of national security. They are conspiring against the taxpayers' interests, pure and simple.

I remind my colleagues of the promise accompanying last year's budget conference report, with the bloated defense budgets that I pointed out here—$265.6 billion. They said, you will get reforms next year. The reforms were supposed to be of infrastructure and base closures. The savings would then be used for modernization. This was the specific promise of the Secretary of Defense as well.

But we have the General Accounting Office out there, that nonpartisan group of people that are to make sure that we use honest numbers in Government. The General Accounting Office just completed a review of the infrastructure savings. The GAO's findings are truly amazing.

Despite four rounds of base closures since 1988, there are no savings. And now, despite very dramatic cuts in our force structure, there are no savings. DOD infrastructure costs are going up, not down.

On April 25, I spoke about this in detail on this floor, Mr. President, laying out all the facts. The promise was that we would have savings. The reality, Mr. President—there are no savings. It is not that there were not modest savings, the problem is, it has all been spent. It has been spent on new infrastructure projects like public affairs and headquarters and, in other words, creating more spin and fattening up headquarters. Overhead—that does not come very cheap. It soaked up all of the savings.

So as the force structure of our armed services gets smaller and smaller and smaller, headquarters gets bigger and bigger. It is still then a pentagon; it is not a triangle.

Once again, Mr. President, the Pentagon is proving that it cannot allocate money sensibly. Once again it is proving it cannot save money even with such golden opportunities given by base closures. That means that we will not have the money promised for the modernization so that we can meet the needs of our national security in this new budget environment we are in to balance the budget.

The question is, do we reward this bad management with even more money or do we hold the Department of Defense's feet to the fire? Do we support the defense budget in this resolution or do we put a meaningful constraint around it so that it will be managed better?

The PRESIDING OFFICER. The Senator has used his 15 minutes.

Mr. GRASSLEY. I yield myself 1½ more minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRASSLEY. That is the essence then of my amendment. It is an attempt to better manage the Pentagon's resources, because enough is enough. Promised reforms are not the same as real reforms. We shovel billions into the defense budget on the promise of reforms. Historically the reforms have failed to materialize, yet we still throw good money after bad.

If we fail to learn the lessons of the past, as George Santayana preaches to us, ''We're doomed to repeat them ad nauseam.'' If we do that again this year, Mr. President, we will be falling into the familiar trap once again expressed by the great philosopher Georg Hegel. He said, ''We learn from history that we learn nothing from history.''

So I urge my colleagues to avoid repeating the mistakes of the past. I ask them to vote for the bipartisan amendment, the Grassley-Exon amendment. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my colleague and friend from Iowa for yielding me time. I simply say that there undoubtedly will be opposition to this Grassley-Exon amendment. I certainly do not think it is proper for me to be managing the time in opposition to an amendment that I am a cosponsor of. So I just alert Senators who are likely opposed to this amendment that they should come here, and someone should assume the responsibility for managing the time against the amendment.

First, Mr. President, I am reminded of a couple years ago when the Democrats were the majority party in the Senate. And I teamed up with Senator GRASSLEY for an Exon-Grassley amendment at that time that proposed to cut $26 billion in outlays and $42 billion in budget authority over a 5-year period. We were working on a 5-year proposition then.

Do you remember the wailings at the time? The Secretary of Defense, who is still the Secretary of Defense, the Assistant Secretary of Defense, who is now Director of the CIA, and others, moaned and groaned, and the wailing went on about how Exon-Grassley was devastating our defense budget.

Well, they did not have the horses. Exon-Grassley at that time passed. And it was a modest step at that time dedicated to reducing the deficit.

This year, with the Republicans in the majority in the Senate, I was very pleased when my friend and colleague from the neighboring State of Iowa came and asked me my advice on this amendment. It is true that Senator GRASSLEY offered in the Budget Committee on which I serve an amendment that eliminated the $11.3 billion increase over the President's budget. And I supported that in the Budget Committee. And it lost on a 12-to-12 vote.

When we conferred upon the proper course of action here, we agreed that—I think, and I think a near majority of the U.S. Senate feels, that the amount authorized over the President's budget for defense, which was $12.9 billion, $12.9 billion, I say, in the Armed Services Committee, and $11.3 billion over the President's budget, as it came out of the Budget Committee, is more than we need to spend, because it is more than the President requested; it is more than the Pentagon requested; it is more than the Chairman of the Joint Chiefs has requested. So I simply say that I think that the Grassley amendment, and others, this time is in good form and proper taste.

I suggested to my friend from Iowa, in our conversation about this, that probably rather than duplicating the effort in the Budget Committee by eliminating all of the $11.3 billion increase, that we would possibly recognize that maybe we would garner some support if we would not cut the whole $11.3 billion, but allow for a modest $3 billion increase to the President's numbers.

I have no definite word on this from the White House, but I am quite confident that the President would accept a modest $3 billion increase that we are suggesting over the recommendations that he has made. I do not know whether he would veto the defense authorization bill if faced with an $11.3 billion

increase, which I think may be veto bait. I do not think this slight increase would be veto bait, and I appreciate the fact that the Senator agreed and thought that was the right figure to go with.

Certainly, I simply say the amendment, in technical terms, reduces the defense numbers in the Republican mark by $8.3 billion in budget authority and $2.3 billion in outlays. This still represents an increase, once again, of $3 billion over the President's budget request and the budget authority and $600 million additional in outlays. It seems to me this Grassley-Exon amendment has something in it for almost everyone because it is the ultimate in reality, I believe, at this time.

Let me summarize this amendment, although the Senator from Iowa has basically gone through it. This amendment does two things. First, it reduces defense numbers by $8.3 billion in budget authority and $2.3 billion in outlays. Second, it revises the budget resolution language that eliminates designating appropriations as emergency by creating an exception for defense. This allows the President and the Congress to approve increased defense funding over and above Grassley-Exon by the use of an emergency designation.

I think the Senator from Iowa stipulated what this is about. This is simply saying in another fashion that with the $3 billion over and above the defense numbers suggested by the President and the Pentagon, there is a means in the case of an emergency, if that should occur, for the President and the Congress to go up to the $11 billion figure, if such an emergency occurs.

Is that the right interpretation of this, I ask the Senator from Iowa?

Mr. GRASSLEY. Yes.

Mr. EXON. The Republican defense budget for 1997 is excessive in a time when we are desperately trying and seeking to balance the budget.

This amendment would scale back the Republican overzealous $11.3 billion increase to the President's request but still provide a modest $3 billion increase to try to satisfy some, if not all, of the priorities that have been expressed in the Congress on both sides of the Hill. At a time when we are trying to balance the budget, such an exorbitant increase of $11-plus billion is uncalled for. We cannot return to an era of just throwing money at the defense problem at will, especially when the experts in the administration and the Pentagon have not requested it.

This action recently taken by the defense authorizing committees, I think, demonstrates the point that I am trying to make. In the House National Security Committee and the Senate Armed Services Committee, the majority added $4 billion in procurement and R&D accounts that was neither in the Pentagon's 1997 request nor in the Pentagon's 5-year future years defense plan. That means that the authorizing committees approved $4 billion for programs that the Pentagon would never have bought even if it had had the money.

The real issue, Mr. President, is not how much to give defense but how to distribute it over a 6-year timeframe. Both the Republican budget resolution and the President's request propose to spend $1.6 trillion—that is $1.6 trillion on defense between 1997 through the year 2002.

The real allocation for defense differs by only $11 billion. The Republican plan increases defense dramatically in the first few years and then flattens it out in the outyears. How we will pay for the associated rise in operation and support costs and still balance the budget is a mystery. The present budget at least increases the outyears to reflect defense budget realities to the point that it is $11 billion more than the GOP plan in the year 2002. And the President still balances the budget by the year 2002, as certified by the Congressional Budget Office, as I said earlier today.

This amendment leaves open the possibility to increase defense spending, as I have outlined and as Senator GRASSLEY has outlined, if necessary. By reinstating the ability to declare supplemental appropriations of defense budget by emergency, a simple majority in Congress with the approval of the President will still be able to increase the defense budget if it truly is an emergency and truly in the national interest.

Mr. President, I have just received a letter from Director Alice Rivlin that the administration states its position on the defense numbers in the resolution that Senator GRASSLEY and I are trying to reduce. In that letter from the Office of Management and Budget, Director Alice Rivlin states: ''The resolution provides $11 billion more in the defense budget than the President's budget in 1997 which commits historically high levels of resources through readiness as measured in funding for the troops. Further, in the critical years of defense modernization at the turn of the century, the resolution does not provide enough budget authority compared to the President's defense program.''

Mr. President, I urge adoption of the Grassley amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time have I used or has been used in opposition to the amendment?

The PRESIDING OFFICER. None at this point.

Mr. DOMENICI. I will speak for a few moments. The word should go out there are a number of Senators on our side who want to speak against the amendment. We have plenty of time, but we do not want to be here in quorum calls. We have sought not to do that once we go to work on the resolution. I hope they will come to the floor and be heard.

Mr. President and fellow Senators, let me first indicate unequivocally that Senator GRASSLEY is consistent. He has consistently called for reduced spending and he has consistently been concerned about whether or not the spending on defense is being done in the most efficient manner. In many ways, he has been successful. We have consistently reduced defense spending since 1987. Since 1987, defense spending has declined 34 percent after inflation.

On the other hand, since 1987, the rest of the discretionary programs of America have increased by 31 percent. For those who say, in the last few years, domestic spending has been cut, the truth of the matter is—and these are in constant dollars in this chart behind me—1987, this red bar is defense discretionary; domestic discretionary is the green bar; the big, big expenditure, sort of the blockbuster is the purple bar, which is entitlements.

Moving over a decade we will find in real dollars defense is down 34 percent; domestic discretionary is up 31 percent, and, of course, the entitlement programs are a 41 percent increase. So that is the story of spending as it relates to defense and domestic in the United States.

So, in a very real sense, Senator GRASSLEY's concern about getting spending down has not fallen on deaf ears. Obviously, some big events occurred in the world, but many, many things have happened for the better in the Defense Department in terms of efficiency, in terms of better contracts, less waste, less loopholes, less opportunities to take advantage of the taxpayer.

This budget resolution reduced defense spending from last year's assumption over the next 6 years by $14.3 billion. That is, over the next 6 years we have reduced defense over what we assumed last year as we produced a 7-year trend line—reduced it by $14.3 billion.

Senator GRASSLEY would reduce defense spending next year from that number that we have by $8.3 billion. That will be the 12th straight year of decline.

Now, I agree with Senator GRASSLEY in one important way. He has said in the Budget Committee—and while I was not here for his entire speech, I believe it is fair to say that the Clinton administration has played politics with this year's national security budget, the defense budget. The President has proposed a significant reduction in defense spending this year, despite his 1995 State of the Union Address that drew a line on further defense cuts.

Now, it is interesting, and the President will probably say, along with those who defend his budget, that looking out over the next 6 years, the President lets defense grow a little bit. Well, this is so typical of the budgets coming out of the White House. For domestic spending, which he wants to say he is not cutting, those go up in the first few years and then come tumbling off the wall in years 4, 5, and 6 from now. On defense, we turn it the other

way and say, do not worry, we are going to cut it this year, but it is going to go up. We think both of those approaches are inconsistent with what is good for the men and women who are in the armed services, the operation and maintenance, and seeing to it that they have good equipment, as modern as possible.

Now, cut defense spending so you can show big add-ons in the nondefense budget, but then send your military chiefs of staff to the Hill. They come to the Hill and they ask for more money. In fact, our adding up of what the chiefs—the Chief of the Air Force, a four-star general; the Chief of the Marines; and the head admiral of the Navy—they have come up here and said, ''Yes, we are a part of the President's budget, but we sure would like some more money, because we need it.'' They asked for $15 billion. We could not do that. We gave them less.

So, in a sense, I agree with the distinguished Senator, except I do not have enough confidence in trusting the President to ask for money, from now until the election, if they need it. One of my friend's—Senator GRASSLEY—ideas is let us give him his budget, and let him have to come up here and ask for more. Frankly, I do not think that will happen until after November, even if we did. I do not want to take that risk.

I figure we can just as well go ahead and analyze the requests made in the committees. The authorizing committee of the U.S. Senate, the Senate Armed Services Committee—I believe Senator EXON is a member, and if my recollection is wrong, and he can correct me—voted 20–0 to report out a Defense authorization bill that is consistent with the Republican mark and the Republican budget, not the mark or the dollar numbers the President asks for in his budget.

So maybe some would like us not to bail out the President, but I believe it is not bailing out the President. If that happens to be a side-effect of doing what is right by the Defense Department, and by the men and women of the military, who need our help—incidentally, Mr. President, when we voted in the all-volunteer military—the All-Volunteer Army and Navy and Air Force and Marines, during the Nixon era, we said we were going to pay them the equivalent wage of what they would make in the civilian sector. I am very pleased that we are having a very powerful commission evaluate this to see if we are really doing that. I merely make the point that I am quite convinced that they are going to tell us we have to pay our men and women more.

I make that rather bold pronouncement because I feel confident it is going to happen. I am not interested in seeing more than the 12,000 military men and women who are already on food stamps. In fact, I am hopeful they will tell us how to get them off of food stamps and pay them what they are entitled to. That is not a large number, you will be told, and our laws are strange on Medicaid and food stamps. But I believe that is not consistent with the pledge made when we decided to have an All-Volunteer Army. Just on its face, it is not consistent.

I also comment that many of the vehicles that the Air Force is operating under are extremely old. You recall, much is being made in the news today of a plane that is 27 years old. I think the plane that crashed was 27 or 29 years old. Many are suggesting that we better be careful when they get up there at that age.

Well, fighter aircraft, at this point, are as follows: In 2001, the Air Force pilots will be flying aircraft 15 years old, on average. This means that some of those aircraft will be 30 years old. I do not know what that means, but I have been led to believe that is getting pretty close to critical time. If it is critical on the civilian side, and if we do not want to have 30-year-old planes on the civilian side, I do not think we want a lot of our men and women in the military flying 30-year-old aircraft. We do not have any big money in this budget, nor did the President put any in, to have a systematic approach to ameliorating that situation.

I could go on. Squadrons of airplanes are shrinking. They used to be 24, and we are down to 15, in many cases, and even 12. So we have more sites for them but fewer airplanes. I understand we do not want to close down installations, but, obviously, the cost of maintaining and operating smaller units like that is very, very high in comparison to larger units. Ultimately, something will be done about that.

Now, I want to close with this. Once again, so there will be no misunderstanding, I have nothing but the highest respect for the distinguished Senator from Iowa, Senator Charles GRASSLEY. He is consistent. He believes what he says, and he works at it. He believes firmly in this position. I understand how he feels and what he is thinking. But I believe that in this case it is too risky; it is too risky for our men and women and our national defense to allow this amendment to pass. And I hope it does not.

Mr. EXON. Will the Senator yield for a question?

Mr. DOMENICI. Of course.

Mr. EXON. Mr. President, I would like to ask the chairman one thing about the chart that is up here. The 1987 that he referenced there is some kind of a benchmark. Is it not true that in 1987 there existed such a thing as a very powerful and threatening Soviet Union and a Warsaw Pact that is not here today?

Mr. DOMENICI. Absolutely.

Mr. EXON. I thank the Senator.

Mr. DOMENICI. I did not say we cut it just to eliminate waste. I said it has been cut. For those who say it is always increasing while domestic is not, I just want to say it has been coming down for 1 decade. That is all.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I want to yield 5 minutes to the Senator from Illinois.

He also would like to be added as a cosponsor of my amendment.

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

Mr. DOMENICI. Mr. President, might I inquire? Can I then ask that following in sequence Senator HUTCHISON from Texas have 5 minutes and Senator COHEN from Maine have 10 minutes in that order?

Will the Senator have additional speakers?

Mr. EXON. We will have additional speakers.

Mr. DOMENICI. Senator KYL and Senator INHOFE.

How much time does the Senator desire?

Mr. INHOFE. Four minutes.

Mr. DOMENICI. Can we agree on 5 minutes for Senator INHOFE?

Will Senator HUTCHISON control time for me for the next 15 minutes?

Mrs. HUTCHISON. Yes.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I first want to commend my colleague from Iowa. As Senator DOMENICI said, through the years we have to be more prudent in defense spending.

I am for this amendment for two reasons: One is it reduces the deficit.

Some of us on this floor right now are members of the Budget Committee. Let me tell you without a constitutional amendment to require a balanced budget the 7 years that both sides are talking about will not result in a balanced budget. We put all the tough decisions off to the end. Not all of them but most of them. So we are not going to achieve a balanced budget without a constitutional amendment, and this at least moves in the direction of reducing the deficit.

Second, I am for it because the budget as it is constituted has an imbalance. What the Grassley amendment does is gives the Defense Department $3 billion more than they requested.

Frankly, if I were to put the budget together—for example, in yesterday's New York Times is a story, ''U.N. Says North Korea Will Face Famine as Early as This Summer.'' And in today's Washington Post it says ''No Help Set for N. Korea.''

I do not think that we ought to be using hunger as a political tool. I think we would be much smarter saying we want to help feed people who are hungry whether they are Communists, anarchists, or what their background.

Mr. President, I ask unanimous consent to put these two items in the RECORD.

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

[From the Washington Post, May 15, 1996]

NO HELP SET FOR N. KOREA

(By Mary Jordan) Washington Post Foreign Service

TOKYO.—Reclusive North Korea will not receive any immediate new shipments of rice or other food from the United States, Japan or South Korea despite new reports of widespread malnutrition there.

''With respect to food aid and [the easing of economic] sanctions, we have no plans at this time to go forward,'' said U.S. Assistant Secretary of State Winston Lord, concluding two days of talks with top Japanese and South Korea officials over what policy to adopt toward the deteriorating north. ''We will keep the situation under review.''

The three countries issued a joint statement saying they agreed to continue efforts to persuade the North to accept four-nation peace talks proposed by Washington and Seoul last month.

The three-nation talks, held on the South Korean island of Cheju, again pointed out the difficulty these three allies have maintaining a united front to deal with the Communist regime in Pyongyang. The issue of food aid is seen as critical because some experts believe an increasingly hungry North Korea could opt to use its 1.2 million-man army to end its crisis in a hail of missiles and bullets.

Others argue that offering help only rewards the missile-exporting nation, Senate Majority Leader Robert J. Dole and others have criticized President Clinton for ''coddling'' this Stalinist regime whose military threat keeps 37,000 U.S. troops on its border.

Generally, the United States has favored sending food aid to ward off an immediate crisis. Even in the last few days, U.S. Ambassador James Laney and State Department spokesman Nicholas Burns indicated that the United States was considering new aid and easing sanctions.

U.N. food aid officials Monday issued fresh alerts that ''food stocks are critically low,'' that there is ''no further food assistance in the pipeline'' and that peasants' rations are being cut in half.

The United States has enforced economic sanctions against North Korea since the end of the Korean War in 1953. But it has also donated more than $2.2 million in aid since floods last summer exacerbated the food crisis in the crumbling state, which lacks heat for homes and cash for imports.

South Korea, whose capital city, Seoul, lies minutes away from the missiles that North Korea has aimed at it, sees the situation differently. South Korean officials oppose food aid because they say the military will likely divert the food for its own stockpiles. They also doubt the severity of the hunger. An official in Cheju today said that although the food shortage is serious, he did not think it would lead to an ''African-style famine.''

The chief Japanese delegate, Deputy Foreign Minister Shunji Yanai, told reporters at the end of the talks that at the moment Japan had ''no plans to extend food assistance.'' It had earlier sent 500,000 tons of rice. But Japanese officials have also indicated they might pursue a more independent dialogue with their unpredictable neighbor.

Lord stressed the need for talks involving the two Koreas, the United States and China to hammer out a formal peace treaty to replace the armistice that ended the 1950-53 Korean War.

Lord, Chung and Yanai agreed that such talks had the best chance of achieving stability on the Korean peninsula.

Beijing has not committed itself to the proposal, first suggested last month by President Clinton and South Korean President Kim Young Sam, but has indicated it would back the move once North Korea accepted.

North Korea, which until now has refused to discuss a peace treaty except in bilateral talks with Washington, a condition rejected by Washington and Seoul, has not agreed to the proposal.

Shortly after a similar conference among the three nations held in Hawaii earlier this year, the United States gave $2 million in food assistance to North Korea. Since then, there have been some encouraging signs in the U.S.-North Korean diplomatic relationship.

Just in the past few days, the two countries reached a breakthrough agreement that will allow the first joint effort to recover the remains of U.S. soldiers unaccounted for since the Korean War. More than 8,100 servicemen are still missing, and many of them are believed to be buried in North Korea. The recovery effort could begin before the end of the year.

[From the New York Times, May 14, 1996]

U.N. SAYS NORTH KOREA WILL FACE FAMINE AS EARLY AS THIS SUMMER

(By Nicholas D. Kristof)

TOKYO—Hunger in North Korea is growing more intense as the country's economy continues to deteriorate, so that malnutrition could become widespread in the coming months, some experts say.

In the latest sign of the country's crisis, the World Food Program and the Food and Agriculture Organization of the United Nations warned today that ''the food supply is becoming increasingly desperate'' in North Korea, and that without emergency food imports, ''the consequences are likely to be devastating for large segments of the population.''

In their statement, the two agencies said that the situation had deteriorated just in the last few months and that the shortages were likely to grow worse this summer.

''There are some cases of malnutrition, but it is not widespread at this time, as far as we can tell,'' Trevor Page, the country director for the World Food Program, said by telephone for the organization's office in Pyongyang, the North Korean capital. ''However, with levels of rations that are now being distributed, malnutrition will develop and become widespread in the coming months unless there are substantial food aid shipments.''

North Korea, with the world's last Stalinist government, remains virtually sealed off from the rest of the world, and few foreigners are allowed to visit. But many Western diplomats, business executives, academic experts and visitors to the country say there are growing signs that the economy is deteriorating.

Even in Pyongyang, which has by far the best standard of living in the country, visitors say that power outages are now routine and that water is often cut off for much of the day.

Some Western diplomats and military officials worry that North Korea's economic crisis could make it unpredictable or even lead it to attack South Korea and the American forces stationed there.

North Korea, with a population of about 24 million, was the better-endowed part of the Korean Peninsula when Japan ended its occupation in 1945. The North has a wealth of minerals and other natural resources, but it has been hobbled by its rigid Communist model, by huge spending on its 1.2 million-member armed forces, and by the collapse of trading partners in the former Communist world. Now many North Korean factories are idled by lack of oil and electricity, and collective farms are returning to draft animals because there is no fuel for tractors.

The American Ambassador to South Korea, James T. Laney, warned in a speech on Saturday of ''serious risks,'' including the possibility that ''the North may look for other ways of using the only remaining asset it possesses which commands international respect—its military might.''

In a speech that seemed to signal a shifting direction in American policy, Mr. Laney suggested that the old approach of simply emphasizing deterrence against North Korean attack was no longer sufficient. Now, he said, deterrence must be augmented by inducements to get North Korea to cooperate with the West.

Senior officials from the United States, Japan and South Korea are now meeting in South Korea to discuss policy toward the North. Diplomats say that they are expected to agree on an assistance plan on condition that the North agrees to President Clinton's proposal last month for four-party peace talks involving both Koreas, the United States and China.

North Korea's economy has been deteriorating for years and was further devastated by widespread flooding last year. Rations have already been halved, and experts say that some peasants are eating bitter wild grasses and roots that have not been part of the diet since 1951, during the Korean War.

But one such emergency food, a grass called naengi, stops growing this month and so will be unavailable in the crucial summer months, until the next grain harvest is ready in the fall. This year's harvest is also expected to be poor, because bad weather delayed planting by about two weeks.

Experts say there are other signs of economic desperation, including the sale by peasants of anything they have—even human hair—to China in exchange for wheat flour. Russia is said to have cut freight train service for lack of payment of bills, and that may complicate North Korea's trade picture.

Most staple foods are distributed in North Korea by the Government, but the alert today said that this system ''is perilously close to collapse.'' Moreover, foreign assistance—which eased the shortages over the winter—is coming to an end.

Foreign shipments averaged about 50,000 tons of grain a month since late last year, but plunged to 12,200 last month and an anticipated 9,300 this month. Next month, 2,500 tons are anticipated, and the nothing is in the pipeline.

Some North Korea watchers have suggested that the hunger could lead to a revolt or to the disintegration of the system, and there have indeed been a growing number of North Koreans who risk being shot by sneaking across the border into China. But visitors say they have seen no sign of political unrest in North Korea, perhaps the most tightly controlled society in the world.

''Although food shortages are all over, there are no signs that this will cause the political collapse of the country,'' Mr. Page of the world food Program said.

The food shortage in North Korea may become perennial, experts say, unless the rigid Communist economic system changes dramatically. The Government appears to be bending its rules a bit by turning a blind eye as peasants plant larger private plots than they are allowed or sell food in informal markets in some parts of the country. Likewise, in the cities some residents are planting crops on spare bits of land or raising chickens on their balconies. But North Korea has given no indication that it is contemplating any major opening.

Another problem for North Korea may be declining cash transfusions from ethnic Koreans living in Japan. Nicholas Eberstadt, a

scholar at the American Enterprise Institute in Washington, has concluded that the transfusions were never as great as widely believed and have plunged since the late 1980's.

Mr. SIMON. Mr. President, let me point out what is happening in defense spending.

Here is the United States. Here are the next five countries in defense spending: Russia, Japan, France, the United Kingdom, and Germany. We are spending more on defense than the next five countries combined. The cold war is over, as Senator EXON just pointed out.

Let me take you back to the year when Senator GRASSLEY and I came to Congress, fiscal year 1975. Do you know what the defense budget was then adjusted for inflation? It was $234 billion, $32 billion less than we are requesting here. Then we faced the nuclear confrontation with the Soviets. We had a war in Vietnam, as my friend from Iowa will remember. We had all kinds of challenges. Today we do not need to spend anywhere near this amount.

If we were to cut the defense budget in half—and I do not advocate that—but if we were to do that, we would still be spending appreciably more than any other country on the face of the Earth. A little prudence as this amendment suggests is just common sense.

I hope the Senate will listen to our friend from Iowa with his amendment. I am proud to be a cosponsor of it. I think it makes sense fiscally. I think it makes sense from the viewpoint of what we ought to be doing in the defense area.

So, Mr. President, I rise in strong support of the Grassley amendment, and I hope there will be enough Senators who say let us look at our real needs. Let us look at our deficit situation. The Grassley amendment logically ought to be overwhelmingly supported. I know that is not going to be the case. If we win it will be by a narrow vote. But we ought to vote for the people of this Nation on this next vote. And I think that is a vote for the Grassley amendment.

I yield back the balance of the time to Senator GRASSLEY.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I respect Senator GRASSLEY very much. I respect Senator SIMON, and Senator EXON. But I serve on the Armed Services Committee, and I think they are wrong on this issue.

In fact, let us cut to the chase. We are not talking about allowing the President to come back in and certify that he needs more money. The President has said that he does not want the money. His budget came in $11 billion lower this year in real terms than it was last year, and that was after telling the American people in his State of the Union Message that he did not think we should cut defense spending any more.

Mr. President, we have had testimony before the Armed Services Committee from every single high ranking military and civilian official in this administration; the President's own administration. Every chief of every service has said we cannot continue to train our forces and modernize our forces if we do not have the money to do it. This is the 12th straight year of declining defense spending; the 12th straight year. Weapons procurement is down 70 percent since 1985.

It is proper after the cold war that we would draw down our military spending. But, Mr. President, we have gone far enough. If we maintain keeping the funding level that Senator GRASSLEY is suggesting that we cut, the $8.3 billion, what would it take away from our Armed Forces? What would it do to us?

First, it would stop the increasing modernization that we must have as we are drawing down our force numbers. It is essential that we have the modernization, equipment, and technology to make up for the smaller numbers of people that we will have in the field. That is what the drawdown requires if we are going to be able to fight and win two simultaneous major regional conflicts. We must have the technology and the equipment to do it.

It will pay for an improved quality of life for the men and women who risk their lives to serve our country. We are asking for a 3-percent pay raise for our military; 3 percent. These are the young men and women who volunteer to fight for the freedom and independence of our country. We must assure that they have a better quality of life that demonstrates to them that they have the complete support of the American people.

We will also not be able to increase our commitment to counter the ballistic missile threats; the threat of ballistic missiles launched at our country. The Secretary of Defense testified that we do not have a defense to ballistic missiles fired at the United States. He said that this year. The Secretary of Defense, himself, thinks that we need to go forward with the technology for a ballistic missile defense for our country. At least 30 countries throughout the world have ballistic missile technology and capabilities. Many of those have nuclear, biological and chemical weapons capability as well. So, of course, we ought to be able to defend our shores, or any of our troops in the field against incoming ballistic missiles. Yet, if you cut $8 billion that Senator GRASSLEY wants to cut, we will not be able to go forward in that technology.

Mr. President, we should have learned a lesson from our experiences in previous wars. That is what history is for—to teach us lessons. We should learn the lesson of the Korean war. We should not forget the lessons of Task Force Smith, when we had drawn down our forces after World War II, and we did not have the equipment and the training going into the Korean war, and Task Force Smith was a unit that was rushed into combat in the early days of the Korean war and were obliterated by the North Koreans. They were brave soldiers who fought courageously but because they were not equipped with up-to-date equipment and their training was woefully short they suffered terrible casualties. We cannot forget the sacrifice of those who died in Task Force Smith and now once again repeat those same mistakes today by undercutting the ability of our troops in the field to have the equipment and the training and the technology they need to do the job when they signed up to protect our freedom.

We saw in Desert Storm an almost perfectly executed war, but we had almost 6 months to prepare for that war. Our enemies will not always give us 6 months to prepare for a war. They saw what happened to Saddam Hussein when he did that. So when you talk about cutting $8 billion out of our defense budget, you are talking not about fat; you are talking about muscle and bone. You are talking about cutting the critical support for our military that we must continue to provide if we are going to maintain the strength of our military.

As President Reagan once said, we got peace through strength. Being weak and unprepared and technologically inadequate is not what America is about. If we are going to have the greatest nation on Earth and the last superpower status on Earth, we must have the equipment and the technology and the upgrading to do the job. So cutting our military budget to the level that the President asked for is certainly not going to do that.

I implore my colleagues to look at the big picture and to remember the lessons of Task Force Smith. Let us not let the deaths of those brave men go unheeded. Let us keep our freedom and our strength, and let us keep our commitment to our troops in the field for a quality of life and let us have a ballistic missile defense for our country going into the 21st century.

Now, Mr. President, according to the previous order, I yield 10 minutes to Senator COHEN.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I was interested in listening to the comments of my colleague from Illinois when he held up several press accounts that the North Koreans may be heading for starvation, and so the solution, I suppose, is to send food.

Mr. President, the North Koreans would not be headed for starvation if they were spending less on weapons, less on putting half a million people right on the DMZ, having 1.2 million under arms, and doing more to grow food.

So the word ought to be to the North Koreans, ''Make food, not war.'' Yet we are being called upon here for us to

now feed the North Korean Army, because that is where the food is going, it is not going to feed the general population.

Let me suggest to my friends who now would adopt the policy of send food and not prepare for defending South Korea that the North Koreans have not been responsive to date to these sorts of gestures. We have been sending them fuel oil so they would not go forward and build a nuclear weapons capability, and now we are being told they are on the verge of starving, so, therefore, we must cut back, we must in fact trim our procurement needs in order to accommodate the needs of the North Korean people whose military regime continues to spend them into bankruptcy.

It was also suggested with a chart over there that there are some five countries that we spend more in defense than the total of these five countries. Well, which countries are they? Is it Russia? Is it China? Can anyone on the Senate floor tell me how much China spends on their military? Can you tell me how much Russia spends for its military? If any of you can even establish that in nominal terms?

Would you like to compare what it costs the United States taxpayer to acquire a fighter aircraft from McDonnell Douglas versus the Chinese Government?

Mr. President, there is no sense in trying to compare our expenditures to those of five countries when we cannot even identify the true costs of what those countries are spending. Assuming that you could, are we going to take the position in the Senate that we now would like to see the Japanese, for example, increase their defense spending so they can assume a greater responsibility in the field of seapower, and extend their seapower capabilities throughout that region?

Do we want to see Germany, for example, have a much greater expenditure in defense to adopt much greater responsibility than they currently have? Are we willing to see that our stabilizing presence throughout the world should be diminished with all the consequences we have seen during the history of warfare during the 20th century; that every single time the United States has cut back and cut back and cut back we have seen the seeds of future wars sewn?

Mr. President, it has been talked about here of how the peak of spending has gone down over the past 10 years. I have a chart here as well that can show very clearly how it has dropped significantly since 1985—70 percent.

We think back to our capability in World War II. I ask this question frequently: How many ships did we have during World War II? Take a wild guess. Five thousand warships. How many are we headed for today? Three hundred forty-six.

Bismarck indicated that there are only two things that do not change in life. One is history and the other is geography.

We still are required to sail the same seas. We still are required to defend this country's interests globally. That has not changed. So we now are required to cover the globe with our sea power capability with 346 ships, not 5,000. Indeed, these 346 ships are more capable than those 5,000 we had in World War II, but we have to continue to modernize them.

The fact is we are operating them at a greater operational tempo. They are wearing out faster. So what we are asking our young men and women to do is to sail in ships that are operating at a higher tempo, that are wearing out faster, that need replacement, need repairs, and we put their lives in jeopardy because we are cutting back and cutting back.

We are doing so in contradiction to what the President promised. This is what is most ironic. For years, the administration has been telling us that the procurement budget is going to turn around. Just wait until next year. It is sort of like us in New England; we keep saying about the Red Sox: Next year we are going to get the pennant. Just wait one more year.

That is precisely what has been said about the defense budget: Next year it is coming. We know it is going to an all-time low. It has to come up because we are sacrificing our qualitative edge here, folks, so it has to come up. Two years ago, Secretary Perry testified, and I am going to quote:

> We cannot sustain these low levels of procurement for long, and we are projecting an increase beginning next year, fiscal 1996.

Mr. President, it did not happen. Last year, the Clinton administration said that the upturn in the procurement budget will begin next year, in 1996. Now they say that it is not going to happen. Last year, the administration said it was going to be requesting $44 billion in fiscal 1997 for procurement. We got the budget, and it was 38.9 for procurement. Now here we go again. The administration says the procurement upturn is going to start next year, fiscal 1998. So we were promised in 1996. They broke the promise. We were promised in 1997. They broke the promise. Now they say wait, just hold on; if we can just get to 1998, it will start to upturn.

Mr. President, when is that going to happen? The reason we are here, the reason we have added this funding for our defense capability is that we cannot rely upon empty promises. We have had military adviser after military adviser come forward and say, ''Yes, we support the President's budget,'' but when pressed, ''Yes, we could use a little bit more.''

Let me just quote something else for you. Last fall, General Shalikashvili, Chairman of the Joint Chiefs of Staff, began banging the drum pretty loudly for a ramp up in procurement, saying we need to get the procurement budget up from this year's $42 billion to $60 billion by fiscal 1998.

If you started reading the trade press accounts in the last couple of months, you would have seen a series of articles quoting General Shalikashvili and other senior officials saying maintaining our military edge depends on achieving $60 billion in procurement by fiscal 1998. Yet, the President's budget calls for procurement spending in 1998 essentially unchanged from this year and not reaching the $60 billion mark until after the turn of the century.

So, all told, this year's budget calls for $26 billion less for procurement over the next 5 years than the Department of Defense said just last year that it needed.

So, Mr. President, the reason we are here in opposition to this amendment is that we cannot afford to take the chance, we cannot afford to put the lives of our young men and women on the line with equipment that is wearing out, wearing down, and needs to be replaced. That equipment needs to be kept up to the best level that we can possibly maintain it.

When the call comes to go to Bosnia, we are the ones who have to go over there with the best equipment. When the call came to send two aircraft carrier battle groups over to Taiwan, when the Chinese were threatening with missiles headed toward Taiwan's territory, we were the ones who sent two aircraft carrier groups over. Every time there is an emergency that affects our interests or that of our allies, we are the ones who are called upon. Do we send our people over with deficient equipment or marginal equipment? No, we say we send them with the best. We are not going to put our people in harm's way under circumstances that put them at a great disadvantage.

Mr. President, we are asking that we reject this amendment. We think it is necessary to begin the procurement, not next year and not in fiscal 1998, but now. This is a commitment that was made by the Clinton administration 2 years ago. It was not kept. It was made again last year. It was not kept. This year we intend to see that the commitment is adhered to.

Mr. President, I ask our colleagues to reject this amendment and that we do so with an overwhelming vote.

I yield the floor.

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

Mr. COHEN. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator for yielding. I also rise to oppose this amendment. I have to ask the question, what is this obsession that we seem to have around this place for cutting the military, for putting ourselves in a defenseless posture?

I am just shocked every time this discussion comes up, and hardly a day comes by when there is not talk about this. It is interesting that a President who ran on a balanced budget, ran on a strong national defense, ran on all of these things, wants to cut only defense. He has increased spending in every

other program. The only area where he has suggested, in his budget, he wants dramatic cuts is in defense.

When he promised, prior to the 1994 budget, that he was going to ask for $62 billion, he ended up asking for $48 billion. For the 1995 budget, he promised he would ask for $55 billion and he only asked for $46 billion.

The Senator from Maine talked about the various missions that are taking place around the world today. I opposed it even back during the Republican administration, in December 1992, when we sent troops to Somalia, even though they sent them over for 90 days and they did not come back until after 18 of our troops were murdered and their corpses were dragged through the streets of Mogadishu. I opposed sending troops there then. I opposed sending troops to Bosnia. I opposed sending troops to Haiti. Not because I am not compassionate, not because I am not concerned for the plight of these people all around the world, it is just we do not have the military assets to go out and take care of all these social problems around the world and be able to defend ourselves.

So I think we have a twofold problem here. We are dramatically reducing, year after year after year, our military budget, and at the same time we are taking on additional responsibilities. Currently, we have more troops deployed around the world than we have had at any other time that is supposedly nonwartime, and we have taken huge cuts in our defenses. Since 1985—this is 12 years—for 12 consecutive years we have taken cuts in our Nation's defense.

What makes it even worse, it was pointed out by the Senator from Maine, our defense spending has fallen 41 percent since 1985. It is really worse than that, because procurement has dropped 72 percent since 1985. So, if overall defense spending has dropped 41 percent, procurement 72 percent, that is where the modernization is, that is where the new equipment is, that is where the accounts are that make us competitive. We have watched, year after year—1985, $405 billion using 1997 dollars, down to roughly $250 billion. We cannot afford any more cuts.

One of the things that has been stated is that the Pentagon did not make these requests. It is interesting, I heard not more than a month ago when we had testimony before the Senate Armed Services Committee—it was also before the House committee—that we had the four Chiefs all in agreement that we have to have an additional $20 billion in our readiness account in order to be competitive. Yet, that is the first time I can remember in my recollection of American history when the Chiefs themselves came out and said, ''No, the President is wrong. We are sorry. He is the Ccommander in Chief, but we are the ones responsible for protecting America, and we are not able to do it.''

Look what has happened. You want to talk about administrations? During the Democratic administration of 1961, President Kennedy, in the percentage of the total budget, 50 percent was for defense, 16 percent for social spending. Now it is just reversed: 17 percent for national defense, 60 percent for social spending.

The areas where we are going to be suffering are the very areas that affect our troops that are in combat situations, preparing for combat situations—quality of life, black boxes for aircraft. Time and time again I get in 141's and 130's and I look down there—I have been a commercial pilot for 40 years, and I look down and see they actually have equipment I have not seen in 20 years. We are sending our people out without GPS's, a very inexpensive piece of equipment. It is because we are cutting down those procurement accounts to a level that we are not going to adequately take care of those individuals who are in the field.

I would just make one more comment about what has been said over and over again on the floor. It was said most recently by the very distinguished Senator from Illinois, that this amendment is still $3 billion more than the Pentagon requested. All I can say is, I hope all of America knows—certainly we know in this body here—that the President speaks for the Pentagon. He is the one, and they carry out his orders. But when you stop and ask the Joint Chiefs of Staff, or the Chiefs of the services—I will quote right here, ''Unless we recapitalize''—I ask unanimous consent for 2 additional minutes.

Mr. DOMENICI. Could the Senator use 2 more minutes? I yield 2 more minutes to the Senator.

Mr. INHOFE. ''Unless we recapitalize, we are not going to be ready to meet the threats of the future.'' That is the Chief of Staff of the Air Force, Ron Fogelman, March 14, 1996.

In the same meeting: ''If we do not modernize, we ultimately place future readiness at risk.'' That was Adm. Michael Boorda, same meeting.

''Further deferral of modernization will incur significant risks to future readiness.'' This is Gen. Dennis Reimer of the U.S. Army, March 13, 1996.

It is there. The Senator from Texas talked about another great problem, and that is the problem that we have cut back, as a result of the veto of the DOD bill last year, on our ability to defend ourselves from a national missile attack. We do not have a National Missile Defense System in place. Most of the people in America believe we have one, and when they find out we do not have one, it scares them to death. Why are they scared? Because such great people as Jim Woolsey, who was the CIA Director under two Democrat Presidents, said that currently we have a great threat out there. We know of 25 nations that have or are in the final stages of completion of a weapon of mass destruction, either biological, chemical, or nuclear, and are developing the missile means of delivering it.

So we are imperiled, Mr. President. We have a great deal to do to rebuild our defenses, to go back and take us out of the posture we were in in 1980 when we could not afford spare parts. What we are doing today is trying to get ourselves into a position where we have adequate spare parts, adequate procurement, so that our troops out there can be competitive with the others.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 30 seconds, and then I will change with Senator BUMPERS.

Mr. President, I say to Senator INHOFE that I just want to congratulate him on his remarks and on his steadfastness on the Armed Services Committee. I want to compliment you for the learning that has taken place in a very short period of time. Many Senators look to you for information on the Defense Department.

My accolades go out to you because I think it is clear that you are genuinely interested, and it shows. I want to just tell you we all understand it and appreciate it very much.

I do not know what the arrangement was. Would you like Senator BUMPERS to go next? We have had two or three of ours.

Mr. BUMPERS. Just for 5 minutes if the Senator from Iowa will yield to me.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Arkansas.

Mr. DOMENICI. Mr. President, so that we will have things lined up, after his 5 minutes, could we go 10 minutes for Senator KYL and Senator STEVENS wants 10 minutes?

Mr. STEVENS. But I will be happy to wait for someone on the other side.

Mr. DOMENICI. If there are no Democrats, they can go in between and then we can go to Senator STEVENS. I ask that be the unanimous-consent request.

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

Mr. BUMPERS. Mr. President I want to congratulate my distinguished colleague from Iowa for a very sensible amendment, one that ought to receive the unanimous approval of this body.

This budget contains just over $500 billion in discretionary spending. I want my colleagues to think about this for a moment. We are looking at a total budget of between $1.6 trillion and $1.7 trillion and only a bit over $500 billion of that is for discretionary spending. Under this budget, about $265 billion of that is for defense. That does not leave much for programs that go to the very heart of the values of the country and the things that really make this Nation strong, like education and transportation. I can tell you that the number of explosions you can set off with weaponry is not necessarily related to the real strength of this Nation. I am always nonplused and puzzled when so many people jump

under their desks every time somebody mentions cutting defense. You can savage education, which this budget does, you can savage the environment, which this budget does, you can savage the programs that people depend on for their very livelihood, earned-income tax credits, and on and on it goes, you can deal with those programs and you can ask for a whopping tax increase for the wealthiest among us, but if you ask defense to take one single dollar less, everybody goes berserk.

Now, there are some politics in this. But I want you to remember that the amendment of the Senator from Iowa is well above the administration's request. There is not any reason why Republicans ought to join in lockstep to vote against this. It is well above what the President has requested for the Pentagon, it is well above what the Defense Department says it needs.

I heard the distinguished Senator from Texas a moment ago, a woman whom I admire and respect, saying that we just simply cannot weaken our defenses. I want to ask my colleagues this: Who are the enemies you are going to spend this money for? Who are they?

Mr. DOMENICI. I did not hear the question.

Mr. BUMPERS. Pardon?

Mr. DOMENICI. What was the question?

Mr. BUMPERS. The question is, who are the enemies against whom we must spend $265 billion? Who are the enemies that we feel constrained to spend over $1.6 trillion over the next 6 years to defend against? The Senator from Illinois, [Mr. SIMON], said a moment ago that we spend as much on defense in this Nation as the top five possible adversaries, including China and Russia. It is worse than that. We spend as much as the top 10, and if you add NATO, we spend almost twice as much as the top 10 and there is not an enemy in sight.

Mr. STEVENS. Do you want to yield on that?

Mr. BUMPERS. No, I am not going to yield until I finish.

Mr. STEVENS. All right.

Mr. BUMPERS. Then the Senator from Texas proceeded to talk about how weak we could become. I will tell you how you get weak. You get weak by paying interest on a national debt that we incurred during the 1980's when defense spending went from $150 billion to $300 billion in 8 years. If we had not been so foolish, we would not be fighting about a balanced budget these days. It is because of the interest on that staggering debt increase that we cannot balance the budget.

There is not anybody here that I will yield to on supporting our defense needs. I served 3 years in the Marine Corps during World War II, and I learned a little bit about defense first hand, and now I sit on a defense appropriations subcommittee. I know how it all works, and I know how it happens. But I can tell you, this amendment will save the taxpayers of this Nation billions.

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

Mr. BUMPERS. Thirty seconds.

Mr. GRASSLEY. I yield 30 seconds.

Mr. BUMPERS. I have to admit that over the period of this budget resolution, there is a sum total of $11 billion difference between the Republican budget proposal and this amendment—$11 billion.

Mr. STEVENS. Will the Senator yield on my time?

Mr. BUMPERS. The President cuts back on defense spending now and the budget resolution cuts back on it later.

The PRESIDING OFFICER. The Senator's time has expired. Under the previous order, the Senator from Arizona is recognized for 10 minutes.

Mr. KYL. Thank you, Mr. President. I would like to respond to some of the challenges just raised by the Senator from Arkansas. They are good questions. They deserve a response, and I think we have the response.

Before doing that, though, let me pay a compliment to the Senator from Iowa for raising this amendment, even though I strongly oppose it. The Senator from Iowa cares very much about the spending of taxpayer dollars in this country, and he knows that there are some places in the defense budget where we could make savings, and he is right in that. But I believe it is also the case that if that money were to be cut, we would not make the savings in the places where they ought to be made, but rather would continue to cut on important research and development, on readiness and on procurement, on the things that we have to spend more money on, and that is why I will end up opposing the amendment of the Senator from Iowa.

I would like the attention of the Senator from Arkansas because he raised some important questions a moment ago. He said, ''Who is our enemy?'' Mr. President, the United States of America is now the only superpower in the world. We are the country to whom everyone else in the world looks to for protection, not only of themselves but for the democratic ideals that animate many countries' pretensions to become a part of the civilized world.

I just returned from a conference in Prague, the Czech Republic, in which Central European nations said to the United States, ''Please continue to assist us to help bring us into the European Community, because we have the same basic ideals that you do.'' We cannot do that if we do not have a strong defense.

Who are our enemies? Well, it all depends. If we want to come to the defense of Kuwait, then our enemy in that situation is Iraq. If we want to protect Taiwan, then our enemy might be China. If we want to protect South Korea, then our enemy is North Korea. If we want to stand up to Qadhafi, then our enemy is Libya. If we want to stop the terrorism from coming from Teheran, then Iran may be our enemy.

The point is, there is not any other country in the world that everybody looks to to stop this kind of aggression than the United States of America.

Mr. President, I will never forget what Dick Cheney said when everyone was patting him on the back for winning the gulf war. Secretary of Defense Dick Cheney at that time said, ''It wasn't Dick Cheney who won the war. It wasn't George Bush. It wasn't Norman Schwarzkopf.'' He said, ''As great as they were, it wasn't even just our great troops that won this war. We won the gulf war because of decisions that were made by courageous members of previous administrations and previous Congresses 10 and 12 and 15 years ago to give us the weapons, the high-tech weaponry and to provide for the training of our troops,'' so that we would be prepared to win a conflict that nobody could have even predicted back then, could not even have predicted just a few weeks before the invasion of Kuwait, in fact, apparently was not predicted by anybody until the invasion occurred.

So the point is, Mr. President, you cannot say that until we have identified a specific enemy, in the sense that we have been attacked, we should not be spending money on defense. That argument is absolutely wrong. Dick Cheney was absolutely right. What he said is, ''I hope that the decisions that I'm making as Secretary of Defense today will enable my successor's successor, maybe 10 or 12 years from now, to win a conflict that nobody today can predict but which, as surely as we're sitting here, will occur.''

Mr. President, that is the challenge of all of us sitting in this body today. We cannot predict who the enemy is. But we have an obligation to provide for that basic research, that readiness, that procurement that we know will win the next conflict wherever it is. To those who say we are savaging education, savaging the environment, spending overall on those accounts has not gone down, has not gone up much, but it has not gone down.

Defense spending has gone down now for 12 straight years, the only department of Government where that has occurred. As a matter of fact, defense spending last year and this year will be less than we spent before Pearl Harbor. Either as a percentage of the Federal budget or as a percentage of gross national product, we will be spending less on defense than we did the year before Pearl Harbor.

Now we are the only acknowledged superpower in the world. We are the country that everybody else turns to. Before my time is out, Mr. President, let me simply note that there are numerous reports, statements, pieces of testimony from representatives of the administration who say that we are already spending too little. If we were to cut the Republican committee request even further, as our friend from Iowa is suggesting that we do here, we would be setting our procurement program

back by years and we would not be in a position to win that kind of conflict of which I spoke.

One of the people who I think we should rely upon here is the Chairman of the Joint Chiefs of Staff, General Shalikashvili. He stated in his 1996 Force Readiness Assessment report a little bit earlier this year:

> As overall defense spending has been reduced, permanent accounts have been the bill payer for other readiness-related spending. We can no longer afford to push procurement into the outyears.

Specifically with regard to the spending and the amounts, General Shalikashvili summarized the situation this way:

> We are now fast approaching the time when we will no longer be able to rely on what we built in the 1980's, and so we must commit ourselves to a sufficient procurement goal, a goal I assess to be approximately $60 billion annually, if our force is to remain as ready tomorrow as it is today.

Mr. President, despite General Shalikashvili's assessment, the administration's 1997 request devotes less than $40 billion to procurement spending, less than at any time since the Korean war. What that means is, we are still going to be $20 billion short. Now the committee has added $11 billion back. That is still $9 billion short just with regard to procurement. If we were to adopt the amendment of the Senator from Iowa, we would be back to the point where we are at least $20 billion short just in the area of procurement, according to the Chairman of the Joint Chiefs of Staff.

Without reading the statements made by other members of the Joint Chiefs and other representatives in the military, let me just summarize it this way. There is not anybody in the military who does not believe we could make good use of the money that the Armed Services Committee has put back in. There is a list here presented by each of the services that spends more than that amount of money. They would like to have it if they could.

They are good soldiers, following the Commander in Chief, who sent his budget up and said, we are not going to spend any more than the amount requested. But if you ask them, they will give you the list of things they say they need.

That is why I conclude again by answering the question of the Senator from Arkansas. We know who our potential enemies are. We know who we have to be prepared to defend against. What we are doing, in as best a way as we can, in the budget of the Armed Services Committee, in the authorization from the Armed Services Committee, is to request the minimal amount that we think we are going to need to sustain those requirements.

To go back to what Secretary Cheney said when he was Secretary of Defense: If we have the courage today to make the kind of decisions that people 10 and 15 years ago did that permitted us to be able to win the cold war, and win the first hot war since then in Iraq, then we will be able to say that at the time that it counted we stood up and we did the right thing. We had the foresight, we had the courage, and we were willing to defend the position to spend the money necessary to fulfill the first and most important obligation of the U.S. Government, of the Federal Government, and that is to defend the people of the United States.

That is why at the end of the day I support the distinguished chairman of the Senate Armed Services Committee, Senator THURMOND, and the work of his committee in bringing forth their requests and respectfully oppose the amendment of our good friend from Iowa, Senator GRASSLEY.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is now recognized for 10 minutes.

Mr. THURMOND addressed the Chair.

Mr. DOMENICI. Mr. President, I say to Senator THURMOND, the previous order has Senator STEVENS to speak for 10 minutes and then the Senator from South Carolina.

Mr. STEVENS. I am happy to defer to the chairman of the Armed Services Committee, if he wishes.

Mr. THURMOND. Go ahead.

Mr. STEVENS. Mr. President, I listened with interest to the proponents of this amendment. I spent this morning, as chairman of the Defense Appropriations Committee, in a classified session, meeting with members of the Department of Defense, uniformed members, considering what we do about replacing our fighter force. The F–15 will be 30 years old in 2003, Mr. President. We have a situation where, after the turn of the century, the C–141's and the C–5's will be retired. They will be retired. They also will be about 30 years old, one of them 30-plus years old. We have to find a way to replace them, too.

I find it interesting to listen to people who propose this amendment, because they are unwilling to take the step that would be necessary to accomplish what they want to do, and that is restore the draft. Over 60 percent of our money spent for defense, sometimes almost 70 percent, depending upon the year involved, goes to pay for the Volunteer Force, the best force in the world. It is the force of a superpower, but it is an expensive force. The remainder of the money goes for research and development, for acquisition of new systems.

What this amendment will mean is the people that have come to our committee already and said they want add-ons for this budget, they want things changed in the President's budget, they will not only be denied, but a series of things that are in the budget have to be taken out because the President's budget is not an honest budget.

It does not fund for contingencies, just as last year he did not fund for Bosnia at all. We have to find $5 to $6 to $7 billion every year to pay for things this President has ordered that he spends out of the money that we provide for defense under his power as Commander in Chief.

But what we are doing right now is ignoring our duty as Members of Congress if we do not follow the Constitution, which says we must provide for the common defense. To provide for the common defense of this country requires that we make the investment now to be assured that in the next century we will be as successful as we were in the Persian Gulf war.

That Persian Gulf war demonstrated, as was just said by the Senator from Arizona, the wisdom of the decisions that were made in the 1970's and in the 1980's to acquire the F–15, to finance the Tomahawk, to produce the Stealth 117. All of those were possible because of the discretionary spending that was available then.

If the amendment of the Senator from Iowa is adopted, we lose our advantage, we lose our capability to invest in the future, to invest in the research and development that is necessary, or we have to go to a draft, we have to start drafting people. I joined Senator Goldwater in opposing the draft in peacetime. We brought about the end of the draft in peacetime.

We do not believe in drafting our people in peacetime. I hope we will never be forced to do it. But we certainly will be forced to do it if we adopt this amendment, because the testimony I heard this morning, as I said, in a classified session, demonstrates that we must have the money to invest in the systems that are being researched now, some of them in a development stage, so that we can have the systems to keep our country in a position of being No. 1 in terms of capability out into the next century.

Now, I do not know any way to do it if we constantly have erosion on this budget, as mentioned by the Senator from Arizona. There has been an erosion on the budget every year. When Jack Kennedy was President of the United States, 51 percent of the budget of the United States went to defense. It is nowhere near that because of the growth of entitlements, the growth in interest rates. We get a portion of the controllable expenses for defense. It is a sizable portion, but nowhere near what we need.

In terms of need, if we really defined need and came in here and asked for the replacement of all the systems that are aging, this budget would be much higher. It cannot go down, as was projected by the President, and maintain the defense of this country into the next century. We are not talking now. People ask, who is the enemy now? The enemy will be met with the investments we made in the 1970's and 1980's. For the next century, it will be the investments of the balance of this decade. To cut the investments means we weaken the United States in its ability to make commitments around the

world to protect our interests. I cannot get more worked up about anything than the continued demand that we try to defend this budget in terms of what is the threat now.

Look at Iraq. We had sitting Members of the Senate visiting Saddam Hussein about 5 months before he moved into Kuwait. Would anyone have come to the floor and when asked to define the threat, come up with Iraq, as we debated the bill, the year before that trip? I cannot define who is going to be the next country that we have to call an enemy.

I can say to the Senate that if this amendment is adopted—I can see the Senator from Massachusetts here—I can tell you the money will not be there for Patriot. It will not be there for Patriot, which is being upgraded to a new, better system than that which we had at the time of the Persian Gulf war. It will not be there for improving the Aegis system, which will provide area defense for our Navy.

I went with the Senator from Hawaii during the last recess to Hawaii and looked at some of the systems that are being tested now. They are just being tested, Mr. President. They are not capable of going into production yet. We went to classified bases and saw some of the things they are doing. They are very good. We have to have those systems to combat what is out there now.

Russia is selling arms to the world. So is France. Many of our people are selling arms out there. We talked about this problem that happened in the Persian Gulf war when we found systems our allies were using were in the hands of Iraq at the same time.

We have to design and produce and deploy systems that are capable of meeting any challenge that you can conceive now, in the next century. The difficulty is, some of the challenges we face we might not be able to conceive. So we continue our research. We continue our basic research to develop new systems to defend this country's interests.

I think if we do not have the money called for in this budget—and I congratulate the Senator from New Mexico for his wisdom in putting it out—we will face a series of reductions in our effort before the turn of the century.

The Senator from Arkansas says, ''Look at the budget. The President's budget is just $11 billion different from the budget that the Senator from New Mexico has presented over the 6-year period.'' That is true. That is true. But if you want to look at it in terms of defense, it declines continually until the year 2000. What is the year 2000? The end of the next Presidential term.

What happens in 2001 and 2002? Mysteriously, substantial funds are ready for defense; more money than cut in the last 5 years is ready for the Presidency, starting in 2001. Is that not a miracle? A real miracle. Whoever is President in 2001 will have to have a new monetary system to finance what is proposed in the President's budget for defense. It is a false, phony budget. We need to correct that now.

We cannot have a decline in defense over a period of 4 more years and expect in 2 years, magically, after the turn of the century, we will have an enormous increase in spending. That is false. It is fake. You cannot rely on it. You cannot rely on it in terms of the defense of this country and our interests well into the next century.

I will say in terms of the comments made by the Senator from Arkansas, we have some very basic differences even when we look out into the future, because I want systems that will be capable of meeting those threats that we can project now through analyzing what we know other countries are doing.

My area of Alaska is adjacent to the north Pacific. Six of the seven largest armies of the world are active in the Pacific region today, Mr. President. If you look at the national intelligence estimate, it says the continental United States does not have any threat for missiles for 15 years. Senator INOUYE and I say: What about Alaska and Hawaii? Well, that is another thing. North Korea and Iran have missiles that can reach our States now, and the President wants to ignore the missile defense systems of this country.

I say defeat this amendment and get back to the business of restoring the capability of our military well into the next century. That is what this amendment is all about.

Mr. WARNER. Will the Senator yield?

Mr. STEVENS. I have no time.

The PRESIDING OFFICER. The Senator from New Mexico has control of the time.

Mr. DOMENICI. Have we agreed on the order of any others?

The PRESIDING OFFICER. No. The unanimous consent has expired.

Mr. DOMENICI. Let me say to Senators, any Senator that wants to speak on the defense amendment on our side, and I think I am speaking for your side, we want to try to vote here early in the evening, not late in the evening. If they could let us know if they want to debate so we can start allocating enough time.

Senator EXON is here and is willing to take that up with his side. Senator GRASSLEY has 20 minutes left.

Mr. GRASSLEY. I promised the Senator from Massachusetts I would give him 4 minutes, but while I am standing here and have the floor, I will say I hope that if you are going to take time off of your bill, that Senator EXON would take time so we could have equal time on my amendment—if there is time coming off the bill after our time runs out.

Mr. EXON. The Senator from Iowa made a point that I would like to make. Everyone wants to know when we will vote. We have 21 minutes left on the allotted time.

Mr. GRASSLEY. I was not planning on going over.

Mr. EXON. It all depends on how much time you continue to yield in excess of the amount that was allotted to your side of the debate. We are not going to sit here and let you keep yielding time and then beat us over the head because you do not have a vote. We have 21 minutes left under the original agreement by the Senator from Iowa. I hope we intend to use that time, but no more. I will yield time off if you are going to continue to yield 10 and 15 minutes to people to speak against it. All I am asking for is fairness.

Mr. DOMENICI. Senator, it may be fair. If we need more time, you can have more time. That is fairness. We have Senators that want to speak on this amendment. We will accommodate them. There is a lot of time on this budget resolution. We will accommodate you. How much time has the majority used in opposition to the Grassley amendment?

The PRESIDING OFFICER. The majority has used 62 minutes.

Mr. DOMENICI. I have three additional speakers on our side. The chairman of the Armed Services Committee, how much time did you want?

Mr. THURMOND. Mr. President, 7 or 8 minutes.

Mr. WARNER. Mr. President, 5 minutes.

Mr. DOMENICI. Mr. President, 5 for the Senator from New Mexico, so we need 20 additional minutes. Also, Senator COHEN wants 6 minutes, so we will need 30 minutes on our side.

Senator EXON, however you want to handle it, if you want to use 30 more minutes.

Mr. EXON. If we are not going to go over that, we would allow you to continue, but it is we who are trying to expedite the matter. If Senator GRASSLEY controls the time, and, as I understand it he has 21 minutes left, if we have now reached an agreement on how much time you are going to continue to yield, I say to the chairman of the committee, then we might be able to hold to our side to 21 minutes, which I point out gives your side considerably more time in opposition to the amendment than the time we are using in support of it.

Mr. DOMENICI. Maybe, for the benefit of all the Senators, not just those on the floor, we can reach an agreement. If we need 30 minutes and the Senator has 20, if we extend that to 30, that would be an hour. Could we plan to vote at 7 o'clock? I think your side desires that. Or maybe we can make it 6:50. That is an hour. You get half an hour and we get half an hour.

Mr. KERRY. Reserving the right to object, and I will not object, I would like to inquire. Was there an order of speaking being asked for, or might we have an alternative process here, seeking proponents and opponents?

Mr. DOMENICI. We are going to work it out as fairly as we can. We do not intend to keep anybody here. Other Senators have been waiting a long time. If

we can get the hour locked in, a half hour each, Senator EXON and I can work out the order.

I ask unanimous consent that there be 1 hour, equally divided, on the GRASSLEY amendment, after which we vote on or in relation to that amendment, and that we control 30 minutes, and Senator GRASSLEY and EXON control the other 30 minutes.

Mr. EXON. Does that include the 21 minutes Senator GRASSLEY has remaining?

Mr. DOMENICI. Yes; a total of 1 hour, and at 6:50 we would vote.

Mr. EXON. What the Senator is saying is that although you have used more time than we have, you want to divide the remainder of the time equally?

Mr. DOMENICI. Yes.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa, [Mr. GRASSLEY], is recognized.

Mr. GRASSLEY. Mr. President, I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. DOMENICI. Will the Senator from Massachusetts yield me 10 seconds?

Mr. KERRY. Yes.

Mr. DOMENICI. Mr. President, I ask unanimous consent that following the Senator from Massachusetts, the distinguished Chairman of the Armed Services Committee be recognized to speak for up to 10 minutes.

Mr. WARNER. Reserving the right to object, I request that I follow the distinguished Senator from South Carolina with 4 minutes.

Mr. DOMENICI. I so request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Following the Senator from Massachusetts, the Senator from South Carolina will be recognized for 10 minutes, followed by the Senator from Virginia for up to 5 minutes.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I rise to support the amendment of the Senator from Iowa, as a cosponsor thereof. I begin my comments by saying that, like most of us here, we all care enormously about the ability of the United States to carry out its responsibilities and to have a military that is second to nobody in the world. I believe we have that military, and I think that it is vital in the post-cold-war period to begin to make a tougher set of judgments about how we are spending money, what our priorities are within the military, to guarantee that the reforms that we are promised are delivered on, and to guarantee that we are making choices about technology that are totally connected to the nature and definition of threat. I agree with the Senator from Alaska that nobody can say with specificity exactly which country will emerge, but we can make some pretty good judgments about what is happening in the world.

I have a chart here, and, regrettably, it is not blown up, but it does not take very much vision to see that there is only one significant bar on the entire graph. All of the others are very, very small compared to the expenditure of the United States in the $260-billion-plus mark.

China is the next largest expenditure in the world, with somewhere in the vicinity—it is hard to figure out exactly—of $30 billion-plus. So we have $30 billion or so in China. The People's Liberation Army today is engaged in making CD's and engaged in pirating intellectual property in order to support the military. We know that their modernization program is not, by most intelligence analysts' determination, geared for expansionism. It is geared toward modernization. Most military intelligence analyst experts do not suggest that there is, at this moment, some enormous threat. We are supplying arms to Taiwan, and I think our combined threat with respect to Taiwan is fairly significant.

China is the first of those sort of potential adversaries—if we wanted to put them in that category—that comes even close in terms of the next expenditures. But before China, the next highest expenditures in the world are Russia, now an ally; France, an ally; Japan, an ally; Germany, an ally; Britain, an ally. After China, you go to Italy, an ally; Saudi Arabia, an ally; South Korea, an ally; Taiwan, an ally; Canada, an ally; India, an ally; Spain, an ally; Australia, an ally; Turkey, an ally; Netherlands, an ally; Brazil, an ally; Israel, an ally; Sweden, an ally; and finally you get to North Korea.

So you can look at all the potential threats of the world, and when you add the expenditures of all of our allies to the United States of America, you have to stop and say to yourself, ''What is it that we are really preparing for in a post-cold-war world?''

Mr. President, if you look at the potential weapons of most of these potential threats, you look at Syria, or North Korea, or China. The relative difference between Iraq, prewar, and those countries' weapons today is not really that enormous. Iraq, prewar, had 338 combat aircraft and 700 tanks. Iran, today, has less aircraft and marginally more tanks. North Korea has significantly less aircraft and maybe 3 times as many tanks. But we saw what the military of the United States was able to do in a matter of hours, let alone days, let alone weeks. The notion that we have to be proceeding to invest at a rate that is commensurate with the pre-cold-war period is simply irrational.

So, Mr. President, I suggest that all the talk about the United States' military capacity being threatened by this amendment is just talk. It has no relationship to the reality of the threat or to what is happening in the world. We in the U.S. Senate ought to make a tougher set of judgments about our military expenditures.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, prior to my remarks on this bill, I commend the able Senator from New Mexico for the fine job he does on the Budget Committee, and especially his attitude and what he has done for defense.

I rise to oppose the Grassley amendment, which would reduce defense spending from the $265.6 billion of the proposed budget resolution to $257.3 billion. I understand that the amendment would, however, make additional funds available to the President if he certifies a requirement for such additional funds. This is an unprecedented approach and an unnecessary and inappropriate transfer of power and authority from the legislative branch to the executive branch.

Let me be clear, Mr. President. The amendment of the Senator from Iowa is really a nullification of 75 percent of the Budget Committee's recommended increase to the President's budget request. Why would the President, who has already submitted his budget request, certify to the Congress that he needs additional funds for quality of life, modernization or readiness programs? Further, if he did request additional funds, those funds would likely be for programs that have not been directed by the Congress. We must all remember that the Constitution gives the Congress, not the President, the power to ''raise and support armies,'' and ''to provide and maintain a navy.''

Mr. President, I believe that the Budget Committee has acted wisely and prudently in recommdending an increase to the President's inadequate request for defense.

In order to buy the same level of national security in 1997 as we did in 1996, we would have to spend $273 billion. The President's request is $18.6 billion below this. The budget resolution proposes to increase the budget for defense by $11.2 billion; therefore, we are still $7.4 billion below the fiscal year 1996 level of funding in real terms. Does the Senator from Iowa believe that our Armed Forces will be asked to do less in fiscal year 1997 than they did in fiscal year 1996? I ask him to answer that.

The question we should be asking, therefore, is not whether we should increase the President's inadequate budget request by a minimal amount; rather the question should be: What risks are we taking by not adding more? Our Nation's top military leaders answer that question.

General Shalikashvili, Chairman of the Joint Chiefs, says he is ''very concerned that our procurement accounts are not where they ought to be.''

General Reimer, Army Chief of Staff, says that ''further deferral of modernization will incur significant risk to future readiness.''

Admiral Boorda, Chief of Naval Operations, says ''If we do not modernize, we ultimately place future readiness at risk.''

General Fogleman, Air Force Chief of Staff, says that ''Unless we recapitalize, we are not going to be ready to meet the threats of the future.''

And General Krulak, Marine Corps Commandant, says that ''The Marine Corps * * * cannot absorb further reductions without sacrificing critical core capabilities.''

These statements of our top military officers were made in open committee hearings. If they were free from political concerns, one could expect an even more candid, and dire, assessment. Even Secretary of Defense Perry has acknowledged that ''we have to start increasing the modernization program or, we will start to have a real problem of obsolescence in the field.'' The Clinton administration has certainly achieved consensus among the services and the Department of Defense, but in a way that the Goldwater-Nichols Act never envisioned.

Our defense needs are underfunded, from both a historical and operational point of view. We are at the lowest level of defense spending since 1950. Procurement has been reduced by 70 percent since 1985, and by more than 40 percent under the Clinton administration. Programs to support our servicemen and women's quality of life are inadequate. Our ability to protect our soldiers from ballistic missile attacks suffers from lack of funding and commitment. Our military research and development is anemic. If anything, we should be considering amendments which provide floors—not ceilings—on defense funding.

I realize that our great Nation has numerous domestic and international obligations. But none—I repeat none—of these obligations rises to the level of our responsibility to provide for the common defense. Protection of our Nation's citizens is the Federal Government's first order of business. Without meeting this paramount obligation, the basic guarantees of ''life, liberty and the pursuit of happiness'' can easily become empty promises.

Defense spending is now at its lowest level in the second half of this century. This half century has been the era of American superpower status. Our superpower status is not something we can maintain cheaply. We won the cold war through our steadfastness and robust military capabilities. Yet, we are asked by the administration and supporters of this amendment to continue undermining our military capabilities.

I hope the Members of the Senate will agree with me that we cannot afford for our Nation to be less vigilant, less capable, and less ready. I strongly urge the Senate to vote against the Grassley amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is now recognized for up to 5 minutes.

Mr. WARNER. Thank you, Mr. President.

Mr. President, I would like to follow on the statements of the chairman of the Armed Services Committee when he said the modernization for the 1996 fiscal year decline represents the 40-year low since 1950. So I went back and I looked at a chart which shows exactly what we bought just 10 years ago. To give you an example, 10 years ago, in 1986, the number of tanks we purchased in the field was 840. This year we purchased zero tanks. In 1986, tactical aircraft, 399 tactical aircraft; this year, 1997, 34. Most alarming of all, Mr. President, is the purchase of naval ships. In 1986, we purchased 40; in 1997, a mere 6. That is a clear indication, Mr. President, of the decline in the equipment.

When the members of the Joint Chiefs came before our committee, I, together with other Senators, asked each this question: First, what is the condition, say, of the Navy today? And the answer very proudly given by the Chiefs is it is in the best condition, it is ready, and it is well equipped. Then we asked with this level of procurement, what will your successor be able to say 10 years hence? And it is 10 years from the drawing board to the operational status of most of your major weapons systems, ships, aircraft, tanks, and the like. Each and every one of those Chiefs looked at the members of the committee, and you could read their faces. ''We cannot give you an answer as to what our successor a decade hence with this level of procurement would be able to testify today with respect to the Armed Forces of the United States.''

Mr. President, I am quite puzzled over this amendment because it is so clear that we need these forces. We need this money.

But I went back and looked at some polling data as to how the United States say 10, or 15 years ago viewed our defense situation. And clearly about half of the people ranked up there at No. 1, or No. 2, in their concerns about the security of the United States and how that appears in polling data today. Mr. President, the top item is the balanced budget, 26 percent; morale, 14 percent; crime, 11; taxes, 10; welfare, 10; jobs, 8; national defense—only 4 percent of the people are concerned; that low level of people, directly in conflict with the information that has been discussed on this floor about the threat that is poised against the United States.

The Defense Intelligence Agency looked back 10 years and found but maybe 30 different spots of the world which we termed as ''hot spots'' into which our troops might be called. That was 10 years ago. Today, that is number is 60 areas of the world into which our troops might be called to defend freedom, or the security interests of the United States.

So, Mr. President, while the public may think that we are safe and secure today, the reality is this is a very troubled world. I think it is our obligation to ensure that today, tomorrow, and in the years to come we are buying adequate numbers of ships, aircraft, and other items such that the men and women of the Armed Forces will remain as they are today—the best equipped in the world. We owe no less obligation to those who volunteer to proudly wear the uniform of the United States.

This amendment would cut $8.3 billion from the defense budget number reported out by the Budget Committee, and bring us almost back down to the inadequate level of defense spending requested by the President.

We have heard a lot during this debate about the increase in the defense budget contained in the budget resolution. There is no increase. What the Budget Committee has done is simply slow the rate of decline.

But even with the defense number reported out of the Budget Committee—$265.6 billion—the defense budget will decrease in real terms from the fiscal year 1996 level by $7.4 billion. This year will mark the 12th straight year of declining defense budgets—even without the additional cuts proposed in this amendment. Enough is enough.

U.S. troops are currently deployed in 10 separate military operations overseas. From Bosnia to the Persian Gulf, from the Adriatic Sea to the Taiwan Strait, we are calling on the men and women of the Armed Forces at an ever-increasing rate. The end of the cold war did not bring peace and harmony to the world.

It is our responsibility to provide our troops with adequate resources so they can effectively and safely perform their missions. We must not condemn them to enter the battlefield ill-prepared, with outdated equipment. As Army Chief of Staff Reimer told the Armed Services Committee in March, ''In the event of a conflict, a lack of modern equipment will cost the lives of brave soldiers.''

In testimony this year before the Armed Services Committee, our military leaders were candid about their assessment of funding requirements, and their concerns with the level of funding proposed by the President.

They recognize that today's military is second to none as a result of actions taken 10 years ago. I told all of the service chiefs that their challenge today is to ensure that the military leaders 10 years hence have the forces and equipment they will need to protect our Nation's interest. It was clear from their testimony that the budget submitted by the President would not provide for that capability.

Because of the Armed Services Committee's concerns with the low level of funding contained in the President's request, the committee requested each

of the services to provide a list of urgent requirements that were unfunded in the administration's request. These lists totaled over $20 billion, and were used as a guide by the committee in adding $12.9 billion during our recent markup.

I was particularly concerned that the Clinton budget would continue the precipitous decline in the procurement accounts—or as Admiral Owens has called it, the crisis in procurement.

Despite promises last year from Administration officials that the modernization ramp up would begin in fiscal year 1997, the decline continues. We are now at a 40-year low—not since the start of the Korean war have we spent so little on purchasing new weapons for our troops.

To give just a few examples—in fiscal year 1986, we purchased 840 new tanks, this year, no new tanks were requested; in fiscal year 1986, we purchased almost 400 new tactical aircraft, this year, 34 new tactical aircraft were requested; and in fiscal year 1986, we purchased 40 new ships this year, only 6 new ships were requested.

Even though the Joint Chiefs of Staff unanimously recommended a procurement budget of $60 billion as soon as possible, the administration proposed a budget of only $38.9 billion for procurement in fiscal year 1997. Ten years ago, the procurement budget was over $100 billion in 1997 dollars. If the administration has its way, the $60 billion procurement budget recommended by the Joint Chiefs will not be seen until fiscal year 2001.

We cannot afford to further delay the recapitalization and modernization of our military equipment. Our troops in the field a decade hence will inherit outdated, obsolete equipment if we allow this procurement decline to continue.

During markup, the Armed Services Committee added almost $8 billion to these vital procurement accounts. This will not solve the problem, but it is a step in the right direction. We must not backslide now from our determination to adequately modernize the force.

I share my colleagues' desire for deficit reduction. But placing at risk the security of this Nation and the lives of our troops is not the way to achieve a balanced budget.

Our defense budget is already at its lowest level—in real terms—since 1950. We cannot afford to go any lower.

I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, did we not have any other agreements?

The PRESIDING OFFICER. Under the order that was the last speaker, the Senator from Virginia.

Mr. STEVENS. I am perfectly willing to wait for the Senator from Iowa, if he wants to use some of the time.

Mr. DOMENICI. That is fine.

Mr. GRASSLEY. I will be glad to do so.

Mr. President, I yield myself 10 minutes.

How much time do I have?

The PRESIDING OFFICER. Seventeen minutes.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, first of all, we have been hearing from a lot of very competent Senators who are members of Defense Appropriations, who are members of the Senate Armed Services Committee, who have the responsibility to make sure that we meet our defense needs.

I compliment them for doing that. We have people on the Armed Services Committee who are using budget arguments rather than national security arguments. I think if they want more money for defense, they have to be able to justify it on national security grounds. While I have these good friends of mine who are members of this committee saying why we ought to spend more, one of the reasons I feel very good about having Senator EXON as a cosponsor of my amendment is because he brings good judgment to this issue because he sits both as a senior member of the Senate Armed Services Committee and he is also the senior Democrat on the Budget Committee. So I believe that Senator EXON as well has a point of view that he can bring to this, and I thank him for doing that, but I hope that my colleagues on this side of the aisle who oppose what I am doing know that we have taken both the national security argument and the budget argument into consideration.

Senator STEVENS has suggested that the defense budget should not be defined and sized to the threat as we know it today. There may be some unknown threat out there, I would have to admit, but we do not know about it. But that is not how it is done. We always determine the size of the budget by the threat that we see today and in the future. What we see is a dramatic decrease in the threat, so why should the budget go up? The budget should not go up. That is why I have my amendment here.

I say to my good friend from New Mexico, the remarks that he made in the opening of the debate against my amendment are macrobudget arguments, not national security arguments. The fact is the Soviet threat is history. In constant dollars, we are still very close to the cold war spending average. What is more, this budget is not based on a valid national security strategy. It is based on an outdated strategy. It is a cold war strategy.

Furthermore, history shows more money does not mean defense if reforms are not made. And they have not been made despite the promises. The Secretary of Defense has said modernization would be paid for through reform savings. That would take care of the concerns of the Senator from New Mexico. But we have not seen the savings. The responsible way is to force the savings to occur so we will have the money for modernization. Otherwise, we are just throwing good money after bad.

When will we learn, I ask my colleagues, that it is not the proper way to do things, that it just encourages more abuse of the taxpayers' dollars. I guess I would beg my colleagues, particularly those on this side of the aisle, to consider the same sort of intense look at spending that you do when you look at domestic programs. You always want to make the other side of the aisle understand that throwing money at a problem does not solve the problem. We tell them, the liberals of this body, that it is how you spend the money, not how much you spend.

When are we going to learn that that same principle which fiscal conservatives use against the liberals of this town on domestic social programs also applies to the defense budget?

Those arguments that are made by my colleagues are more budget arguments than they are national security arguments, and I think that is why they miss the point. Many of my colleagues then want to keep pumping up the defense budget. I say it makes no sense at all. Not only does it make no sense; it defies reason. It defies understanding.

Threats to our national security, that is the engine that is supposed to drive the defense budget, but in this debate we do not see it driving. It is strictly a budget argument: More dollars are going to accomplish more defense. Not so. That point was brought home nicely in Colin Powell's book, ''My American Journey.'' This is what General Powell said he learned during a tour of duty with the National Security Council, and I quote from page 340:

> Overarching all other concerns was our relationship with the Soviet Union. Our defense strategy and budget were almost wholly a reflection of Soviet capabilities and intentions as we read them. The size and the state of the Red Army were the measures against which we built our forces.

So for Senator COHEN, who raised the question of, do we know about the Soviet threat, well, Colin Powell says we know about that threat. We made our judgments based on that threat. That is the word from the last Chairman of the Joint Chiefs of Staff.

The military power of the Soviet Union was a principal driver behind our defense budget. Well, the Soviet Union is history. Russia might not be history, but things are changing there. The threat is gone. We all agree the cold war is over. Using General Powell's ruler as a guide, the defense budget should be coming down, not going up. When the Soviet Union went down, our defense budget should have come down.

Now, I know we still live in a dangerous, unstable world. I admit that. I know we have vital interests overseas that we want to be able to give direction to, and the military is one way of doing that. I suppose I have to realize the live fire maneuvers of Communist China over the Taiwan Strait is a

harsh reminder of that. We need a strong defense. We can have a strong defense, but that defense has to be defined within the concept of our budget needs. It has to be defined in a way that is attainable. It is different now than it was before the fall of the Soviet Union. I think President Clinton is providing one.

For those of you who have some doubt, I have given you the benefit of that doubt. In fact, the numbers in this amendment are dictated through our cooperation with Senator EXON because, sitting on the committee, he felt that there should be maybe some leeway. I am willing to give that leeway based upon the judgment of a member of the Senate Armed Services Committee.

President Clinton has the defense budget on the right track. He has it on the right glidepath. A smaller threat requires a smaller defense budget. President Clinton's $254.3 billion request for fiscal year 1997 reflects that change in threat. His budget addresses our real defense needs in the post cold war. There is just one problem, though, with his budget. The bureaucratic machine at the Pentagon is still running on cold war inertia. Pentagon bureaucrats are trying to craft a cold war program with a post-cold-war budget. That is going to lead us to trouble. It is going to lead us to another hollow force like we had in the 1970's. The cold war warriors will have to rob the readiness account to pay for all their cold war programs. They have to rob the readiness account because the cold war programs are all underfunded. They are all underfunded because their outrageous price tags cannot be justified without a Soviet threat.

I yield the floor and reserve the remainder of my time.

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

Mr. DOMENICI. Mr. President, Senator COHEN desired some additional time. How much did the Senator want?

Mr. COHEN. How much time does the Senator have?

Mr. DOMENICI. Five minutes. Does Senator STEVENS want 5 minutes.

Mr. STEVENS. I will have 5 minutes.

Mr. DOMENICI. Five minutes each, all right, in that order.

Mr. COHEN. Mr. President, it is curious, and I should say ''curiouser,'' as I sit in the Chamber and listen to this debate. My colleague from Iowa says we are going to throw good money after bad.

Are you saying that we are throwing bad money at our systems? Is that what we tell the American people? Is that what we tell the men and women in the service, that we have been throwing bad money at them? Was it bad money that we spent on the stealth fighter aircraft that were able to take out the Iraqi defense in a matter of a few hours? Was it bad money that we spent on cruise missiles that we used to take out their weapon storage facilities? Was it wasted money we spent on Aegis destroyers, one of the most sophisticated systems that we have?

General Powell did not fight the Soviets. He fought the Iraqis in 4 days. He fought them in 4 days because we had the strategy and the capability to take down their army in that period of time with limited loss of life. I daresay, if we want to quote from pages other than page 320 of General Powell's book —we should not engage in selective quotation because a quote taken out of context can be used as a pretext. I doubt very much whether General Powell is saying that the President's budget is adequate to meet the threats of the future.

I have page after page of statements coming from our service Chiefs. The Chairman of the Joint Chiefs, ''I am very concerned our procurement accounts are not where I think they ought to be * * * [We] must commit ourselves to a sufficient procurement goal, a goal I judge to be approximately $60 billion annually.''

Chief of Staff of the Air Force: ''Unless we recapitalize, we are not going to be ready to meet the threats of the future.''

Chief of Staff of the Army, General Dennis Reimer: ''Further deferral of modernization will incur significant risk to future readiness.''

Adm. William Owens, Vice Chairman of the Joint Chiefs, ''I want to talk about procurement because I believe it is the crisis in the defense budget today,'' and on and on, page after page. These are the people who are seeking to throw good money after bad?

Mr. President, it is really ironic, this whole debate. Last year we had the same thing, the same sort of approach. We have people coming up, supporting an amendment such as this—the same people who get on the floor here and vote to cut back on defense spending because they think it is too much, and yet they send us letters. I will not take the time or embarrass the Members who have sent these letters. Here is the compilation of all the letters Members sent to us, ''Please, we need more money for defense.''

I have talked to my colleague from Alaska. Mr. President, 60 percent of the people who wrote these letters here to the Defense Authorization Committee and the Appropriations Committee —their requests were complied with— they come on the floor and they vote against the spending. And they say, ''By the way, do you think you can help us out, we think we need more assistance in these systems?'' So the same people who are cutting the defense budget request here end up getting the systems funded so they can stand proudly on the floor and say, ''I am for lower defense but, my God, please help spend some more money for our projects.''

I think it is time we put an end to that. I think it is time we put an end to Members saying ''We need more for defense'' who then come to the floor and posture, saying, ''We are for lower defense spending, the cold war is over.''

I do not think there is anybody on the floor who can tell you what the threats are going to be in the future, 5 or 10 years out. We have to start procuring today to meet those threats as best we can. You cannot wait until the threat occurs and then decide you want to build more submarines or cruise missiles or aircraft or tanks. We have to start the procurement now.

The President of the United States said we were going to increase procurement 2 years ago, in 1996. He did not do it. He broke that promise. He said wait until next year, 1997. He broke that promise, too. Now we are told just give us until 1998 and once again procurement will go on the upswing.

It is our responsibility to listen to the service Chiefs, the Joint Chiefs of Staff, the ones who are writing us saying, ''We can use more. Yes, we can live with this budget the President has submitted if we have to. We are on the ragged edge right now. We do not know what tomorrow will bring. You have to give us more assistance here. We need more assistance if you can give it to us.''

That is what they have been saying. For the first time this year, as compared to all other years where they have previously said we can live within the budget, now they are saying we could use a little bit more. They have been honest about it. They have come to us.

I have a list some two pages long totaling $21.1 billion that the service Chiefs have indicated to us they could use for modernization and procurement accounts, funding that is needed to meet the future threats. Yet, sure, they will come up and swear, take an oath, and say, ''We can live with it if we have to. But we are telling you we need more.''

The Members who write to us saying give us more, they ought not come to the floor today and vote for this amendment and say we are going to vote to cut defense and then come back later and say we want our systems funded.

Mr. President, I can tell you from this Member's point of view, I am going to see to it that all of those requests are denied and deleted, if that is the case, because they cannot have it both ways. You cannot say you want more for defense privately and get on the floor and say we are going to cut it publicly.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have a chart here that shows the situation in the last 10 years. We have three basic types of spending: Defense discretionary, domestic discretionary, mandatory spending. In 1987, in terms of 1997 dollars, we had almost $375 billion in defense money. The discretionary spending was considerably less than that, and this the entitlement, the mandatory spending in this year. In our budget it is down 34 percent from

1987 for defense. It is up 31 percent in terms of discretionary spending, domestic discretionary. And it is up 41 percent in terms of mandatory spending. We have, in fact, as the Senator from Iowa demanded, reduced spending. We have reduced spending by 71 percent in terms of procurement in defense. Our money for defense is 71 percent less than it was before. We have reduced manpower down. Even though it is voluntary, we still have reduced manpower by 33 percent.

I have the same comment that the Senator from Maine has made. I have here the list of last year, the requests from Members that came to the defense appropriations subcommittee, for Members' add-ons. About 20 percent of them were actually mentioned in the President's budget, but even those, most of them, the request was to increase the President's budget. This is the book of all the letters that we received from Members. We accommodated, as the Senator from Maine said, approximately 60 percent, almost every request we got from Members and, I might say, about 60 percent to the Armed Services or the Appropriations Committee were added on.

There you are, the Members who want to see how they succeeded last year in adding money to the budget, there it is. The reason we are able to do that is because we won the battle with the President. We added money last year.

This time the President has come down from even the amount that he agreed to for 1995. In any event, we are going to be cutting from the 1995 level for next year.

I agree with the Senator from Maine, there is no way that we can accept the concept of having people vote to cut the money and then come in and tell us their State absolutely needs additions to even the budget prepared by the Budget Committee. We did that. We even added to the levels of the Armed Services Committee in the appropriations process, and Members will remember that argument on the floor.

But this is unconscionable. When you look at it—just take the C–17. Right after the turn of the century the only airlift we will have to take our Armed Forces overseas will be the C–17. We originally were going to order 240 of them. The President's request comes down to 120. Mind you, that will be the only transport beyond the year 2006. I do not understand people when they say you have to cut that even further. The President's level will take it to 120. There is no way we can project our capability to defend this country with these continued changes.

The Senator from Virginia was here. He mentioned to us about the time four of us here, Senator INOUYE, myself, Senator WARNER, and Senator NUNN, sat in Israel when we awaited the incoming Scud, the missile that was shot at Tel Aviv while we were there. Thank God there was a Patriot there and thank God it did glance off that Scud and the four of us are here because of that.

But the President's budget cuts missile defense and 77 percent of the people think we now have the capability of defending this country against missiles, which is not true. Not unless we spend some of the money that is absolutely necessary.

Mr. COHEN. Will the Senator yield?

Mr. STEVENS. Did the Senator want to ask a question?

Mr. COHEN. I was just going to ask, my understanding was that the President went to California and said we needed more C–17's, not fewer. So we have people going out to the local districts, or States which are politically populous, and appealing for votes in the fall, saying, ''Gee, how can we help you? Can we keep that base open? We are not going to shut down a facility in Texas or California, we are going to keep it open,'' in order to purchase votes. I think the time has come for us to listen to what the service Chiefs and the Chairman of the Joint Chiefs are saying, I say to my colleague from Alaska: They need more not less.

The President submitted a budget, and that budget has defined the national security needs. What the military people are really saying is, ''We're at the edge. We have to start ramping up on procurement. We should have done it 2 years ago. We don't need it next year; we need it now.''

I support what the Senator from Alaska is saying. We cannot afford to continue to do this. When my colleague from Massachusetts says what happens when we are spending more money than our friends from Germany, Japan, Italy, or all of our allies, when the 911 call goes out, are we going to send the British fleet to Taiwan? Are we going to send the Italian fleet or the German fleet?

The fact of the matter is, we are the superpower. If we can change that, we can say, ''We don't want to be a stabilizing force in Europe or Asia.'' If that is the case, let us make that determination, but we ought not to do what we are doing now, and that is, constantly rob procurement in order to keep ready and then keep ready by overutilizing the ever-diminishing inventory that we have.

We have to make procurement changes. The President is unwilling to do so in an election year, saying, ''Wait until next year; wait until I get by 1996; wait until 1997 or 1998.'' We cannot afford to do that unless we are willing to place our men and women in jeopardy.

Mr. STEVENS. Beyond that, I wonder how many people drive to work in the Senate in 30-year-old vehicles. The people who are flying our planes are flying planes made 30 years ago. By the turn of the century, every plane we have in the inventory will be 30 years old, except for the B–2 and F–117.

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

Mr. STEVENS. I thank the Senator from New Mexico. I have finished my comments. I urge the defeat of this amendment.

The PRESIDING OFFICER. The Senator from Iowa has 7 minutes.

Mr. GRASSLEY. I yield myself 5 minutes.

Mr. President, you just heard the last two arguments. The basis of those arguments is blue smoke. The savings promised—now I am talking about savings promised—by the Defense Department through infrastructure reforms should have occurred regardless of all these letters that have been referenced here, all the letters that my friends are referring to.

The money was supposed to go toward modernization, but it did not materialize. I will not tolerate throwing good money after bad, and that is why I am offering this amendment.

I want to elaborate just a little bit on savings promised that never materialized. I want to say that there is another good colleague of ours, Senator JOHN MCCAIN, who is a member of the Armed Services Committee. He put out a white paper entitled ''Ready Tomorrow: Defending America's Interest in the 21st Century.'' On page 23, he had this to say:

> We must, therefore, look for ways to do more with less, and we must make the hard choices to ensure the best military force within the limited resources available for defense.

That is the essence of my amendment. I am not saying Senator MCCAIN is for my amendment. I am just saying Senator MCCAIN is a member of the Armed Services Committee and in that one sentence and throughout his entire paper lays out a basis to end this belief that we have around here, particularly on this side of the aisle, that all you have to do is throw more money at defense and you get more defense.

If I thought that the Defense Department was trying to save money, I might feel differently about adding $11.3 billion to the defense budget. The extra $11.3 billion would be used primarily for modernization.

The weapons and equipment that the military purchased over the past 20 years obviously is starting to age. If we are to maintain our military edge in the future, then we must begin to replace all this stuff at some point. I agree, but my Republican colleagues want the extra $11.3 billion to get the ball rolling, and I do not think that ball is ever going to roll.

From day one, senior defense officials, like Secretary Perry, have been making an important promise: New weapons would be bought with savings from lower infrastructure costs.

Mr. President, all the evidence indicates that the promised savings are nowhere on the horizon. The General Accounting Office has just completed a review of the defense infrastructure costs. Infrastructure dollars are spent to maintain the bases, facilities, and activities that house and sustain the armed services. They are support costs.

In a nutshell, this is what the GAO found:

Despite four rounds of base closures and dramatic and continuing cuts in force structure, there are no savings.

Defense infrastructure costs are going up, not down. The driving force behind the base closure effort was to save money by reducing overhead. Our base structure exceeded the needs of our sinking force structure. The whole idea was to close excess bases and to save money.

Once again, savings promised by the Pentagon have evaporated into thin air. Here was a golden opportunity to save money, and the Pentagon blew it.

I know base closings require upfront costs, in some cases substantial. But upfront costs are supposed to be followed by downstream savings. That is Mr. Perry's promise; that is Mr. Perry's testimony before the committee. He has identified $10 billion in savings. Mr. Perry promised the money would be used for the modernization that my colleagues are calling for here.

That is fine and dandy, but where is the $10 billion in savings? The GAO cannot find the money. It has audited the books and finds infrastructure costs will rise significantly in the outyears.

It is true, base closings did, in fact, produce some real savings, but underscore ''did,'' which is past tense. Unfortunately, as soon as those savings popped up on the radar screen, Pentagon bureaucrats grabbed the money and spent it. The money is not being plowed into modernization and readiness, as Mr. Perry promised. Those savings are being diverted into new infrastructure projects, like new headquarters.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. GRASSLEY. Mr. President, I give myself 1 more minute, and the last minute I give to the Senator from Nebraska to close.

If we do not hold the Defense Department's feet to the fire, the savings will be frittered away on pork projects. Base closures and continued shrinkage in the force structure should have one inescapable result: lower infrastructure costs. I hope my colleagues on the Armed Services Committee will make sure that that happens.

I have referred to Senator MCCAIN's white paper. Right at the top of Senator MCCAIN's list of places to save money are infrastructure requirements. This is what he has to say:

Infrastructure and military force structure need to be brought back into balance. Elimination of excess infrastructure would reduce operating costs and free up funds to maintain force readiness and to modernize our smaller force.

I agree with my friend from Arizona 100 percent. I only hope that when we get to the defense authorization bill, he will help me find an enforcement mechanism. We need an enforcement mechanism.

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

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend for yielding. Everybody wants to know about when we are going to vote. As far as I am concerned, it looks like we can vote shortly after or about 6:45. I am going to take 5 or 6 minutes, whatever additional time I need, after the 1 minute allotted to me by my friend from Iowa, and I yield myself the time off the bill.

I have been listening in total amazement to the statements that have been made here. First, I want to say in answer to the statement that had been made by the chairman of the committee early on that the committee of jurisdiction for authorization, the Armed Services Committee, already voted 21 to 0 for the change that we are suggesting here now. I speak for myself and several other members of the Armed Services Committee who voted 21 to 0 for the bill, because we thought basically it was a pretty good bill, but just before that vote was taken, this Senator and others indicated that they would be offering some amendments on the floor, including amendments with regard to the level of funding over the President's mark. That is what I am doing now.

I have heard in total amazement here General Shalikashvili, the Chairman of the Joint Chiefs of Staff, who put his seal of approval on the President's budget, being quoted tonight as if you would think General Shalikashvili was for the increase. He is not. He is not for the increase.

These Senators that have been up on the floor saying, ''Well, the military says they need it.'' You show me a military man worth his salt, and you go to him and say, ''You know, what more could you use?'' I would be shocked and disappointed if such a military man would not say, ''Well, I want this and this and this and this.''

The facts are, the President's budget has the stamp of approval of General Shalikashvili, the other members of the Joint Chiefs, and the Commander in Chief, the President of the United States. All of these comments that I have heard on the floor would lead one to believe that this is a group of people who were trying to destroy our national defense.

The amendment that I am cosponsoring with my friend from Iowa is being attacked exactly as was the EXON-GRASSLEY AMENDMENT 2 YEARS AGO. THE SAME TYPE OF PHRASEOLOGY, THE SAME TYPE OF WORDING—''DEVASTATING NATIONAL DEFENSE.'' I SIMPLY SAY THAT IF YOU BELIEVE THE PRESIDENT OF THE UNITED STATES, THE CHAIRMAN OF THE JOINT CHIEFS, AND THE JOINT CHIEFS THEMSELVES, AND THE PENTAGON WOULD PUT THEIR STAMP OF APPROVAL ON A LEVEL OF DEFENSE SPENDING OUTLINED IN THE PRESIDENT'S BUDGET THAT WAS NOT SUFFICIENT, THEN YOU ARE INDIRECTLY ACCUSING THEM OF DESTROYING THE NATIONAL DEFENSE OF THE UNITED STATES OF AMERICA, IF YOU LISTEN TO SOME OF THESE PEOPLE ON THE FLOOR TONIGHT.

I think too much of the Chairman of the Joint Chiefs and the Joint Chiefs to think they would put their stamp of approval on something just to kowtow to the President of the United States. I think they are better, I think they are bigger men than that.

I simply say, any time you want to spend more money for defense and call in some military people and say, ''If you had more money, how would you use it?'' of course, they would come up with something. I would be surprised if they did not.

I simply say, also, that you would think that Senator GRASSLEY's amendment, cosponsored by myself and others, was a further cut in defense. It is an increase of $3 billion. It is an increase of $3 billion over what was recommended by the Pentagon. But you have people on this floor who are so expert, who have sacrificed themselves to be in Israel and were saved by a Patriot missile. You know, it is a little too much for this Senator, who has stood stalwart for defense spending ever since I have been here.

So what we are doing with the Grassley amendment is to provide $3 billion more than the Pentagon and the President said was needed. These people who are criticizing this amendment have decided on their own that they are the experts, that they are the ones who know how much money we should spend for defense, regardless of what the Pentagon and the Commander in Chief says. They want an $11 billion increase.

The Grassley amendment says, ''All right. We don't think that much is necessary. Some of us would like to go down to what the Pentagon says is needed, but we'll go along with the $3 billion increase.'' But that is not enough, evidently, by what I have heard here tonight.

I also heard statements—the Senator from Texas, for example, complained that if the Grassley amendment is adopted, military personnel would not get their 3 percent pay increase, as I understand it. The fact of the matter is, that is not accurate. The facts are that the 3 percent increase to the military personnel is included in the President's budget. The Grassley amendment provides $3 billion over and above that.

I simply say that I never have been very much impressed by a group of Senators getting together saying they know more about everything, the needs of the national defense, than even the Pentagon. I want to make it clear once again that the Pentagon agreed to and gave a stamp of approval to the President's budget. It is only these people, who I know are well-intentioned—and I know of their good intentions—that have said, ''No. That's terribly wrong. It will destroy our national defense. So arbitrarily we have come up with $11 billion more that we need for this.'' I would rather trust the real military

leaders and experts in the Pentagon. But I am willing to say, OK, let us add $3 billion.

I have heard here tonight that if the Grassley amendment is not defeated, it will end all of the work that is being done on Star Wars or a version of it. I would simply point out that all of the Star Wars technology that has been paraded out here in speeches tonight would lead one to believe that Star Wars, or a version of it, would not go ahead if the Grassley amendment is adopted. But the increases that the Senate Armed Services Committee and the House National Security Committee approved above the President's request were only $300 million and $330 million, respectively.

Senator GRASSLEY and I are adding $3 billion. So everything that these people who are out here attacking the Grassley amendment as ending the star wars research is not true. We can do everything they want to do because their requests are only about $300 million in 1997 above the President's request. We could do all of what they want to do, have all the Patriots we need to protect Senators who are in Israel with the $3 billion. We could spend the $300 million that they want for Star Wars for this year and still have $2.7 billion on top of that.

I simply say, Mr. President, there is room for argument on all of these things. But there is not room, I do not think, to conclude that others are in bad faith. It is wrong to say that General Shalikashvili does not support this budget, because he does. Senator GRASSLEY and Senator EXON are saying, ''OK, we give you some leeway. We'll add $3 billion on top of what the Pentagon said is needed. That should be enough.'' I urge the support of the Grassley amendment.

I am prepared to yield back the remainder of our time if we have any left and proceed to go to a vote.

Mr. MCCAIN. Mr. President, I listened with great interest the comments made by the senior Senator from Iowa—especially those that referenced my defense white paper. For the record, I strongly oppose the Grassley amendment. And while I am flattered that he choose to quote from my paper, the report makes the clear case that funding for our Nation's military is far too little to fully meet our vital national security needs.

Even though we are seeking to add $11 billion to secure our national defense, these limited resources are being stretched to the limit. I intend to insert into the RECORD a more complete statement to rebut all of the comments made by my friend from Iowa.

In closing, let me again emphasize my strong opposition to the Grassley amendment and urge my colleagues to vote against the amendment.

Mr. KOHL. Mr. President, I join today with Senator GRASSLEY to urge my colleagues to support this very simple amendment to put some restraint in our defense budget.

In effect, our amendment accepts the higher defense spending levels for fiscal year 1997 currently in the budget resolution. However, it places a fence around $8.3 billion in budget authority and $2.3 billion in outlays. If the President certifies that, in fact, these additional funds, are required for our national security, the funds will be released. If the President does not make this certification, the funds will go toward deficit reduction.

This is a reasonable amendment. It gives the President every opportunity to use these funds for defense should there truly be a need to do so.

Last year, when the Senate passed its version of the fiscal year 1996 budget resolution, the Senate endorsed the administration's defense spending level for fiscal year 1997. When proponents of more defense spending tried to increase defense spending over the next 5 years, the Senate rebuffed that effort.

The vote last year gives me confidence that our amendment will succeed today, for there is bipartisan support for maintaining defense spending at reasonable levels. On May 23, 1995, in a strong bipartisan vote, the Senate defeated an amendment to last year's budget resolution which would have increased defense spending above the level requested by the administration. Sixty Senators voted against that amendment to increase defense spending not only for fiscal year 1996 but for fiscal year 1997 too. Unless they have changed their minds, the same 60 Senators should support this amendment. It offers another chance for the Senate to support reasonable defense spending levels.

Let us review some of the numbers for a minute, in case anyone is concerned that the proposed level of defense spending in our amendment is anything less than robust. Our amendment does not reject the $266.4 billion in budget authority and $264.6 billion in outlays as called for in the budget resolution reported out by the Budget Committee. Should the President determine that the money we fence is not needed for defense then, eventually, $8.3 billion in budget authority and $2.3 billion in outlays will be returned to the Treasury, a mere 1-percent reduction in the spending level endorsed by the Budget Committee.

Let me say a few words about inflation adjustments. Senators should realize that thanks to adjustments in the cost of doing business for the Pentagon we are really talking about an increase that surpasses the $11.3 billion added by the Budget Committee in terms of buying power.

Earlier this year, Secretary Perry announced that the Defense Department had discovered $45.7 billion in inflation savings after reestimating the defense budget for FY1997–2001 using lower inflation rates from the Bureau of Economic Analyses. The administration gave the Defense Department the green light to plow $30.5 billion of these funds back into the defense budget even though the additional buying power provided by these funds was not anticipated by the Defense Department nor was it requested. $4.3 billion of these inflation savings are built into the administration's fiscal year 1997 defense budget.

I am concerned that in the rush to increase defense spending, we have ignored the fact that in terms of buying power, the administration has already proposed significant increases which we are now building into our own numbers without any acknowledgment or discussion. Senator GRASSLEY, Senator BRADLEY, and I raised this issue with the Budget Committee earlier this year and I ask unanimous consent that a letter on this subject be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KOHL. If we are serious about reducing the deficit and achieving a balanced budget, we cannot increase spending when favorable economic conditions bring down the costs of Federal programs. We must use these savings to help pay off our burgeoning debt. Yet, here we are turning around and giving the Defense Department even more.

And with all due respect to my colleagues, there never seems to be a specific goal here: It is always just more defense spending. Two years ago, we had a readiness crisis, now we have a so-called modernization crisis. Unfortunately, the only crisis we have here is a crisis of hemorrhaging tax dollars.

No one has made an effective case as to why we must be spending even more on defense. After more than four decades of building up a defense infrastructure to respond to the menace of the Soviet Union and its Eastern bloc allies, we are now pumping even more money into this same infrastructure without any real effort to reassess the basic assumptions underlying our national security posture. Is our defense spending relevant to the threats of the future? We cannot possible answer that question for the real conundrum is that we have no idea what these threats are. And, we are having a hard enough time articulating what we need to face the current threats.

Frankly, we are facing no major threats today. When the American people talk today about insecurity, they are talking about job security, personal security, and perhaps moral security. Even the threats to our national security posed by episodes of regional instability and conflict are less likely to be resolved with military force and more likely to be resolved through political or diplomatic intervention. To be sure, we need a strong defense. We need to develop a strategy and maintain a force structure to protect and advance our interests in the new global environment. If we could start over again and create a new force structure from scratch to meet the new challenges of this era, I am confident that

we would have a leaner, more mobile and more efficient force at far less cost.

I must confess, I am perplexed by arguments made that we must provide additional funds to the military because the service chiefs have said they want these funds. Of course they do. Are there any Federal agencies, when asked if they want additional funds, that would say no? I am certain that if we asked each Cabinet Secretary to lay out his or her unmet requirements we would have equally impressive shopping lists to compete with those sent over by the services.

I am also puzzled by arguments that we must front load defense spending in the early years of a 7-year plan because spending in the out years cannot be relied upon. Mr. President, the spending we vote for today—much of it devoted to new procurement and new research and development projects—lays the groundwork for increased spending down the road. Frankly, the spending proposed today ensures that reductions proposed for the out years will not occur.

If we allow this tremendous increase in defense spending to stand, we are reinforcing a disturbing trend. Last year, for the first time in 14 years, Congress ultimately increased defense spending well above the level identified by the Defense Department as necessary for our natonal security. During consideration of last year's Defense authorization bill, Senator GRASSLEY and I attempted to bring defense spending back to the level in the Senate's budget resolution by cutting $7 billion. Our amendment was endorsed by a variety of groups focussed on deficit reduction and included in the annual scores generated by the Council for a Livable World and the Concord Coalition.

Although the amendment received bipartisan support, it was narrowly defeated.

I should note that this year the National Taxpayers Union and Taxpayers for Common Sense have already endorsed our efforts. I ask unanimous consent that a letter from the Taxpayers for Common Sense be printed at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. KOHL. Mr. President, no one has explained to me how we can maintain these high levels of defense spending and reduce the deficit. We cannot continue to spare the Defense Department from the deep regimen of cuts we are asking the rest of our society to absorb. If we are committed to reducing the deficit and balancing our budget, we must make the hard votes.

I know for some this will be a hard vote. However, I urge my colleagues to vote for this responsible approach to defense spending.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 18, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express our strong concern about the Defense Department proposal to spend some $30.5 billion dollars in ''inflation savings'' realized because of lower inflation estimates over the next five years. We urge you to raise this issue during your hearings on the FY 97 budget and to direct these funds toward deficit reduction.

Inflation estimates used by the Defense Department over the years have been grossly inaccurate. In the 1980's, overestimates of inflation resulted in a $50 billion windfall. That money disappeared. Then two years ago, the Defense Department told Congress that it had underestimated inflation and needed another $20 billion to execute future defense programs. Now, just two years later, the Defense Department is telling us that it has once again overestimated inflation—this time to the tune of $45.7 billion. This history undermines the credibility of the Defense Department's financial estimates.

In its FY 97 budget submission, the Defense Department is proposing to use $30.5 billion of these inflation savings to buy more weapons systems.

We are troubled by the notion that any agency should be able to keep such a large windfall and increase its total spending because inflation estimates were inaccurate. Responsible budgeting demands that these funds be returned to the Treasury and that the Defense Department not be rewarded for changes in economic conditions.

Furthermore, purchasing more programs with inflation windfalls creates tremendous instability in program management.

If we truly intend to reduce the deficit, no area of the budget should be exempt from cuts. Cuts must be shared by all segments of our society. The Defense Department is no exception as long as threats to our national security continue to decline. In fact, given that the defense budget constitutes as much as 18 percent of the federal budget, we cannot afford to make the Defense Department an exception. And, we certainly cannot afford to give the Defense Department an unexpected $30.5 billion.

We urge you to direct these funds toward deficit reduction before the Budget Committee finalizes its FY 1997 budget.

Sincerely,

HERB KOHL,
BILL BRADLEY,
CHARLES E. GRASSLEY.

EXHIBIT 2

TAXPAYERS FOR COMMON SENSE,
May 15, 1996.

Taxpayers Say Support Grassley-Kohl Amendment on Defense Spending

DEAR SENATORS GRASSLEY AND KOHL: Taxpayers for Common Sense is pleased to support your amendment to the FY97 Budget Resolution to ''put the brakes'' on the Pentagon's budget. In particular, we support your amendment that would fence the Budget Committee's $11.3 billion increase to the Administration's request. We understand that the fence would apply to the FY 1997 request only.

We understand that your amendment provides that the funds would be released only if the President certified that the additional amount was necessary for national security. If that certification is not made, the funds would go to help reduce the national deficit.

According to a recent GAO report, there have been no savings in the DoD infrastructure despite several base closures and significant cuts in force structure. At this crucial time, with our nation struggling to balance its budget all government agencies must share the burden of cost cutting.

We would urge the Senate to approve your amendment.

Sincerely,

JILL LANCELOT,
Legislative Director.

Mr. FEINGOLD. Mr. President, I thank my colleague from Iowa, Mr. GRASSLEY, for offering an amendment to the fiscal year 1997 budget resolution which seeks to reign in some of the excess defense spending in the Senate budget resolution and bring a little common sense to our Nation's defense budget.

The Grassley amendment seeks to reduce $8.3 billion in new budget authority and $2.3 billion in budget outlays of the Senate Budget Committee's markup for the Department of Defense for fiscal year 1997, unless the President certifies that these additional funds are needed to ensure the national security of the United States.

Mr. President, while I feel this amendment does not go far enough in cutting all of the $11.3 billion added by the Senate Budget Committee over and above the President's fiscal year 1997 request for defense spending, I feel it is a necessary first step in beginning to bring some sanity to our Nation's defense spending. As every other budget account is on a glidepath to reduction, the largest budget of them all—the defense budget—is reversing course and moving to return to its artificially high levels. The budget resolution funds the Defense Department at a level of more than $11 billion over the Clinton Administration's fiscal year 1997 request. The Pentagon is seeking $254.3 billion in fiscal year 1997 budget authority and $260.8 billion in budget outlays in defense spending, while the Senate Budget Committee has recommended $265.6 billion and $263.7 billion, respectively. Already our military budget is more than 3 times that of Russia's; 17 times larger than the combined budgets of North Korea, Iraq, Iran, Cuba, Libya, and Syria who are most often identified as our most likely enemies; and is above the level spent by Germany, France, England, Russia, China, South Korea, India, Japan, and Australia combined.

Mr. President, this budget plan for the Department of Defense is a recipe for fiscal havoc, and the Senate should insist upon more rationality. We simply cannot afford to continue spending at current or increased rates for defense, as this budget resolution seeks to do to a tune of $11.3 billion. Nor can we afford to insulate any department, including the Defense Department, from scrutiny as we seek to reduce the Federal debt. In a year when we are cutting programs and fighting for deficit reduction, increasing the defense budget is simply irresponsible. We cannot achieve a balanced budget by bloating defense spending. Deficit reduction requires that we make very hard

choices and defense programs cannot be insulated in this manner.

For these reasons, I have cosponsored Senator GRASSLEY's amendment to the budget resolution, supported by the National Taxpayers Union, which seeks to begin to bring our fiscal house in order and to budget a little more wisely for the future. We simply cannot afford to jeopardize our country's economic health and to mortgage our future by spending tens of billions of dollars in additional funding beyond that which the Pentagon and the Clinton administration have requested.

I urge my colleagues to support the Grassley amendment, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to speak in opposition to the Grassley amendment to the fiscal year 1997 budget request.

The budget provides the Congress with a framework in which it must work. By overly restricting the margins of that framework, we eliminate our ability to make the broad budget decisions necessary to meet our future defense needs. Senate Concurrent Resolution 57 preserves the Senate's flexibility to consider funding for those programs in the defense budget that should be eliminated and to make increases based on military evaluations and needs for the future.

The level of funding the President requested this year has been questioned by many individuals, including the Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili and the service Chiefs. We need the flexibility in the fiscal year 1997 budget resolution to consider the additions these leaders of our Armed Forces have requested and accept or reject them on their own merits, not through a sweeping budget cut.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. BOND. Mr. President, I ask unanimous consent that a vote on or in relation to the Grassley amendment occur at 6:55, and the time between now and then be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. That is all right.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. BOND. Mr. President, I yield 5 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, I am not sure that I need that much time. I do not believe the Senator has that much time, if I am looking at the clock correctly and dividing the time in half. I will take just a couple minutes.

Mr. President, I rise in opposition to the Grassley amendment to reduce the defense spending levels in this budget resolution.

For several years I have been expressing my concern that the projected declining budgets in defense are not sufficient from four standpoints: First, to maintain the current readiness of our forces; second, to provide the standard of living that military personnel and their families expect and deserve; third, supporting the force structure necessary to carry out the full range of missions that we expect our military to perform; and, fourth, to provide for the modernization that is the key to the future capability and future readiness of those forces. Mr. President, modernization today is our greatest deficiency.

We are living off the capital of previous investment. The men and women in the military continue to perform superbly every time they are called on. We call on them all the time, as we can see every day. We owe it to them to give them the support they need to do the job.

We also have to ensure that the men and women who will be called on 5, 10 or 20 years from now will have the same advantages vis-a-vis their potential opponents that our military forces have today, including technological superiority.

That latter point is where we are having problems today. You can live off the corpus for awhile. I think our force structure has been brought down about right. We have done a superb job in bringing it down, the military has, and keeping up the morale of our people.

The readiness of our forces is in good shape today. I do not agree with those who say that we have declined in readiness. I think our readiness is in good shape. What we are really doing, though, is borrowing from the future. We do not have enough money in the outyears of defense projections to be able to maintain the kind of research and development and procurement that we must have.

I do believe that the Budget Committee has it about right. I think this amendment would take the defense number down too low. It is important for all of us to realize that even with the Budget Committee number, which is higher than the President's, it is less in real dollar terms than last year.

When we are talking about this budget increasing defense spending, we are talking about relative to the President's budget, not relative to real dollars last year. This is still a defense cut, but it is moving toward stabilization. I think we do need to move toward stabilizing the defense budget in real dollar terms. I urge my colleagues to vote against the Grassley amendment.

While I believe the funding levels requested for readiness, military pay raises, and quality of life initiatives in the President's budget are about right, I think there are clearly insufficient funds going into modernizing our force. Modernization, for the most part, is delayed into the outyears under the current future years defense program. And we all know from experience how illusory these budget projections become 4 or 5 years down the road.

For the past few years, the Air Force has bought virtually no new fighter aircraft. The Air Force has no bomber modernization program. The Navy is not buying enough ships to modernize even a 300 ship Navy. The Marine Corps is years away from having a replacement for its aging amphibious assault vehicles. For the Army it would probably be quicker to list the modernization programs they do have left than to list the ones they don't.

The fiscal squeeze on the defense budget is already intense. As we seek to balance the budget—especially if we try to enact tax cuts at the same time, which I hope we will not do—the pressure will get even more intense. This gives me even less confidence in the outyear funding predictions that show funds for defense modernization increasing.

In my view, we need to increase the defense topline now, to restore the balance to our defense program. We also need to preserve the firewalls that the Senator from New Mexico has included in both last year's budget resolution and in the budget resolution that is before the Senate today to protect any defense increases we are able to achieve and to provide some stability in the defense budget. Firewalls have not and will not mean defense cannot be cut, but they ensure that if it is cut the savings go to reducing the deficit and not to spending on other programs.

We have been reducing the defense budget for a long time. The current buildown started during President Reagan's second term, even before the fall of the Berlin Wall, and continued, accelerated, throughout the Bush administration and the current administration. However, the time has come to stabilize the defense budget as much as possible, since the defense budget has already made a greater contribution to deficit reduction than any other part of the budget.

MODERNIZATION FUNDING SHOULD BE INCREASED

The future readiness and future capability of the Defense Department requires modernization and it requires research and development, and those are the programs that have been cut most deeply during the defense drawdown.

The pressure to achieve and maintain a balanced budget will make it very difficult to increase the defense budget above current levels, yet current levels are still somewhat artificially low as we work our back toward a normal level of procurement and a normal level of infrastructure investment.

Because we were reducing the size of the force and were able to keep the most modern equipment as we downsized, a temporary decline in procurement was appropriate. But we are now reaching the point where we have to get our modernization budget back up to a long-term level that will sustain our forces for the future. We have to start increasing the procurement budget to prevent the average age of our weapons technology from reaching unacceptable levels.

Similarly, during the BRAC era we underinvested in facilities modernization because nobody wanted to waste a lot of money modernizing facilities we might be about to shut down. But now that we have made those decisions and the BRAC process is over we are going to have to put more money in modernizing and maintaining the facilities we have left.

So our challenge will be to have a budget that is slightly larger than the ones now planned, if we are going to balance the budget it is unrealistic to plan for more than a slight increase, and the budget plan in this resolution only increases the budget by about 1 percent over the levels in the administration's request—in order to have adequate funds for capital investments in weapons and facilities.

This is why I oppose this amendment which would eliminate the increase in the defense topline number that the Armed Services Committee has recommended. This increase has gone almost entirely to modernization. I think my colleagues will find that the funds the Armed Services Committee added to the modernization accounts have gone mostly, not completely, to programs the service chiefs have requested, and generally these are things the administration was already planning to buy.

In conclusion, Mr. President, many of my colleagues share my concern that we have cut the defense budget too far, too fast and that we are mortgaging our future by sacrificing the capability of our forces 10 years down the road in order to fully fund current readiness. This amendment would eliminate our ability to fund modernization programs vital to the future capability of our military forces, and I urge my colleagues to reject it.

Mr. GRASSLEY. Mr. President, I have 2½ minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. I yield myself that time.

I hope one thing that all my colleagues will remember comes out of this debate. We have heard the argument from the other side that dollars define our defense. That is an upside-down way of making national security policy and the budget that is necessary to carry it out.

The way we decide how much money we are going to spend in defense is to define our national security policies, define our needs, have policy to fit those needs, and finance those policies. The other side has not made that argument. They have only made an argument that we need x number of dollars more for defense. That is upside-down reasoning.

Now, the other point I hope my colleagues remember from this debate is that we have been promised savings because of reforms. The General Accounting Office has told us—the nonpartisan General Accounting Office—has told us those savings have not materialized. They have not gone into modernization. That is what Secretary Perry said he was going to do. They have gone into administrative overhead and things of that nature.

If we are going to be promised reforms, we should see those reforms before we give more money. Whatever money we give should be based upon a policy determination of carrying out our national security goals and our interests. The other side has not made the case for more money.

I yield the floor, and I yield back the balance of my time.

Mr. DOMENICI. Mr. President, I gather the consent agreement has already been arrived at that we will vote at 6:55?

The PRESIDING OFFICER. The Senator is correct. We will vote at 6:55.

Mr. DOMENICI. Mr. President, I thank all the Senators that came to the floor this evening and today. I think it was an excellent debate. I commend my friend, Senator GRASSLEY, but I do not believe we should adopt this amendment.

Obviously, he is consistent. From what I can tell, this is not the time to expect the President to ask for increases if they are needed. I believe that will not happen and we will get a budget that is politically motivated, not really one that the Joint Chiefs of Staff totally support. As evidence of that, they have come to the Hill, singularly and together and asked for an additional $15 billion. I do not think they did that lightly. I think that is what they need.

Clearly, we ought to go with the Budget Committee's number and in due course debate can occur on how we spend it. I believe it will be spent wisely.

I yield the floor, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

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

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—42

Akaka	Daschle	Kerrey
Baucus	Dorgan	Kerry
Biden	Exon	Kohl
Bingaman	Feingold	Lautenberg
Boxer	Glenn	Leahy
Bradley	Graham	Levin
Brown	Grassley	Mikulski
Bryan	Harkin	Moseley-Braun
Bumpers	Hatfield	Moynihan
Byrd	Jeffords	Murray
Conrad	Kennedy	Pell
Pressler	Rockefeller	Simpson
Pryor	Sarbanes	Wellstone
Reid	Simon	Wyden

NAYS—57

Abraham	Feinstein	Lugar
Ashcroft	Ford	Mack
Bennett	Frist	McCain
Bond	Gorton	McConnell
Breaux	Gramm	Murkowski
Burns	Grams	Nickles
Campbell	Gregg	Nunn
Chafee	Hatch	Robb
Coats	Heflin	Roth
Cochran	Helms	Santorum
Cohen	Hollings	Shelby
Coverdell	Hutchison	Smith
Craig	Inhofe	Snowe
D'Amato	Johnston	Specter
DeWine	Kassebaum	Stevens
Dodd	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lieberman	Thurmond
Faircloth	Lott	Warner

NOT VOTING—1

Inouye

The amendment (No. 3963) was rejected.

Mr. DOMENICI. Madam President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, might I say to the Senators, since there are a lot of them present here tonight, Senator EXON and I have been trying to work together to see if we can move this resolution and the amendments along. We would very much appreciate it if Senators who have amendments could begin to tell us what the amendments are by noon tomorrow and perhaps begin to turn in amendments by noon tomorrow so we can begin to schedule the amendments in some kind of sequence.

Having said that, Senator EXON and I have conferred. Senator EXON is going to lay down the President's budget at 9:30 in the morning. There will be ample time to debate. There is plenty of time on the resolution. Indeed, there is time for amendments to the President's budget, and we will have some of those ready on our side.

MORNING BUSINESS

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice relates to Federal service labor-management relations (Regulations under section 220(d) of the Congressional Accountability Act.)

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS, PROTECTIONS AND RESPONSIBILITIES UNDER CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS (REGULATIONS UNDER SECTION 220(d) OF THE CONGRESSIONAL ACCOUNTABILITY ACT)

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement section 220 of the Congressional Accountability Act of 1995 (''CAA'' or ''Act''), Pub. L. 104-1, 109 Stat. 3. Specifically, these regulations are published pursuant to section 220(d) of the CAA.

The provisions of section 220 are generally effective October 1, 1996. 2 U.S.C. section 1351. Section 220(d) of the Act directs the Board to issue regulations to implement section 220. The proposed regulations set forth herein are to be applied to the Senate, the House of Representatives, and the Congressional instrumentalities and employees of the Senate, the House of Representatives, and the Congressional instrumentalities. These regulations set forth the recommendations of the Deputy Executive Director for the Senate, the Deputy Executive Director for the House of Representatives and the Executive Director, Office of Compliance, as approved by the Board of Directors, Office of Compliance. A Notice of Proposed Rulemaking under section 220(e) is being published separately.

Dates: Comments are due within 30 days of publication of this Notice in the Congressional Record.

Addressess: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724-9250. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, 202–224–2705.

SUPPLEMENTARY INFORMATION

I. Background

A. Introduction

The Congressional Accountability Act of 1995 (''CAA'' or ''Act'') was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered Congressional employees and employing offices. Section 220 of the CAA concerns the application of chapter 71 of title 5, United States Code (''chapter 71'') relating to Federal service labor-management relations. Section 220(a) of the CAA applies the rights, protections and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122 and 7131 of title 5, United States Code to employing offices and to covered employees and representatives of those employees.

Section 220(d) authorizes the Board of Directors of the Office of Compliance (''Board'') to issue regulations to implement section 220 and further states that, except as provided in subsection (e), such regulations ''shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority [''FLRA''] to implement the statutory provisions referred to in subsection (a) except-(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or (B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.''

Section 220(e) further authorizes the Board to issue regulations on the manner and extent to which the requirements and exemptions of chapter 71 should apply to covered employees who are employed in certain specified offices, ''except . . . that the Board shall exclude from coverage under [section 220] any covered employees who are employed in [the specified offices] if the Board determines that such exclusion is required because of (i) a conflict of interest or appearance of a conflict of interest; or (ii) Congress' constitutional responsibilities.''

This Notice of Proposed Rulemaking sets forth proposed regulations under section 220(d) of the CAA. A Notice of Proposed Rulemaking with respect to regulations under section 220(e) is being published separately.

B. Advance Notice of Proposed Rulemaking

On March 6, 1996, the Board of Directors of the Office of Compliance (''Office'') issued an Advance Notice of Proposed Rulemaking (''ANPR'') that solicited comments from interested parties in order to obtain participation and information early in the rulemaking process. 142 Cong. R. S1547 (daily ed., Mar. 6, 1996). In addition to inviting comment on all relevant matters and/or specific questions arising under section 220 of the CAA, the Office sought consultation with the FLRA and the Director of the Office of Personnel Management with regard to the development of these regulations in accordance with section 304(g) of the CAA. The Office has also consulted with interested parties to further its understanding of the need for and content of appropriate regulations.

The Board received 5 comments on the ANPR: one from the Secretary of the Senate and four from various labor organizations. Based on the information gleaned from its consultations and the comments on the ANPR, the Board is publishing these proposed rules, pursuant to section 220(d) of the CAA.

1. Substantive Regulations Promulgated by the Federal Labor Relations Authority.—In the ANPR, the Board invited comment on the meaning of the term ''substantive regulations'' under sections 220 and 304 of the CAA and further asked commenters to identify which of the regulations promulgated by the FLRA should be considered substantive regulations within the meaning of section 220 of the CAA. In this regard, the Board noted that certain of the FLRA's regulations relate to processes that implement chapter 71, while others relate to principles or criteria for making decisions that implement chapter 71. The Board invited commenters to discuss whether, in their view, the term ''substantive'' as used in sections 220 and 304 of the CAA might be intended to distinguish such regulations from those that are ''procedural'' in nature or content. In addition, the Board specifically invited comment on whether and, if so, to what extent the Board should propose the adoption of the FLRA regulations set forth in 5 C.F.R. sections 2411-2416.

a. Summary of comments: Two commenters addressed the meaning of the term ''substantive regulations.'' One of these two commenters suggested that the term ''substantive regulations'' means ''only those regulations promulgated by the [FLRA] that are necessary to implement the provisions of chapter 71 made applicable'' by section 220 of the CAA. In this commenter's view, the term ''substantive regulations'' should exclude FLRA regulations that address procedural processes already provided for by the CAA. For example, because sections 405 and 406 of the CAA and the Office's procedural rules promulgated under section 303 set forth the procedures for hearings and Board review of hearing officer's decisions, in this commenter's view, provisions of the FLRA's regulations that purport to govern those matters should not be adopted by the Board. In support of its position, the commenter cited to *Batterton v. Francis*, 432 U.S. 416, 425 n.9 (1977).

This commenter further asserted that the term ''substantive regulations'' should neither include FLRA regulations that are procedural in nature, such as those addressing filing procedures, nor FLRA regulations that address processes already provided for in procedural rules issued by the Office pursuant to section 303 of the CAA, because ''their adoption is not necessary to implement the provisions of chapter 71 made applicable by the CAA.'' The commenter stated that the Board has issued regulations, pursuant to section 303, that provide procedures for submissions under Part A of the CAA; the commenter urged that, to the extent possible, the same procedures should be used for submissions under Part D (section 220) of the CAA. The commenter suggested that, if any modifications to the Office's procedural rules are required to implement section 220, the Board should issue additional procedural regulations under section 303 of the CAA, rather than adopt assertedly ''non-substantive'' regulations of the FLRA.

Based on these views, this commenter took the position that, with certain modifications, all regulations set forth in subchapters C and D of the FLRA's regulations are substantive and should be adopted by the Board. Within those subchapters, this commenter suggested the exclusion of those regulations that the commenter deemed ''purely procedural.'' Finally, this commenter opined that the regulations in subchapter B, set forth at sections 2411-2416, should not be adopted by the Board as those sections do not implement provisions of chapter 71, as applied by the CAA.

The other commenter did not propose to define the term ''substantive regulations.'' Rather, this commenter asserted that, at present, it is not necessary for the Board to decide which of the FLRA's regulations are substantive. Instead, this commenter suggested that, although the FLRA's regulations may or may not be ''substantive regulations,'' the regulations are sound procedural guides that the Board is free to follow in the exercise of its general rulemaking authority under sections 303 and 304 of the CAA. The commenter pointed to the approach to rulemaking followed by the FLRA and the National Labor Relations Board (NLRB) as models for the Board, arguing that both the FLRA's and the NLRB's regulations include the various processes by which unfair labor practice and representation cases may be brought and considered and that neither the FLRA nor the NLRB has sought to ''define substantive rights by regulation.''

Finally, one other commenter, while not addressing the meaning of the term ''substantive regulations,'' suggested that the Board should adopt all of the FLRA's regulations, including sections 2411-2416.

b. Board consideration and conclusion: The Board first examines the question of the meaning of the term ''substantive regulations'' under sections 220 and 304 of the Act. Under settled principles of administrative law, substantive regulations are regulations implementing an underlying statute that are issued by a regulatory body pursuant to its statutory authority. See Batterton v. Francis, 432 U.S. 416, 425 n.9 (1977). Such regulations are generally promulgated in accordance with the Administrative Procedure Act, which requires that substantive rulemaking generally be preceded by a general notice of proposed rulemaking at least thirty days before the effective date of the proposed rule, and further requires that the agency afford interested persons an opportunity to participate in the rulemaking by submitting written comments. Regulations issued pursuant to this process are substantive because they ''have the force and effect of law,'' id., and because, among other things, they ''grant rights, impose obligations, or produce other significant effects on private interests,'' or . . . 'effect a change in existent law or policy.''' American Hospital Assoc. v. Bowen, 834 F.2d 1037, 1044 (D.C. Cir. 1987) (citations omitted).

That regulations may arguably be procedural in content is, in the Board's view, not a legally sufficient reason for not viewing them as ''substantive regulations.'' Procedural rules can in fact be substantive regulations. Process is frequently the substance of law and regulation; indeed, in the labor laws, process is the predominate means by which substantive regulation is effectuated. Moreover, in administrative law, it is commonplace for regulations covering procedures to be considered substantive regulations; as noted above, the Administrative Procedure Act generally treats regulation of process as substantive regulation. There is no evidence that Congress intended a different approach in the context of the CAA. Thus, it is the Board's conclusion that all regulations promulgated after a notice and comment period by the FLRA to implement chapter 71 are appropriately classified as substantive regulations for the purposes of rulemaking under sections 220 and 304 of the CAA.

In light of the foregoing, the Board has considered the regulations promulgated by the FLRA in order to determine which of the regulations are ''substantive'' regulations. The regulations promulgated by the FLRA ''are designed to implement the provisions of chapter 71 of title 5 of the United States Code . . . [and] prescribe the procedures, basic principles or criteria under which the Federal Labor Relations Authority or the General Counsel'' will carry out their functions, resolve issues and otherwise administer chapter 71. 5 C.F.R. §2420.1. In addition, these regulations were issued according to the requirements of the Administrative Procedure Act, with a public notice and comment period. Therefore, it is the Board's judgment that all the regulations promulgated by the FLRA and published at 5 C.F.R. 2411–2416, 2420–2430 and 2470–2472 are ''substantive regulations'' within the meaning of sections 220 and 304 of the CAA.

A review of the FLRA's regulations demonstrates, however, that not all of the FLRA's substantive regulations are ones that the Board need adopt. Certain of the FLRA's regulations were promulgated to implement provisions of statutes other than provisions of chapter 71 made applicable by the CAA. In this regard, in the ANPR, the Board noted that sections 2411–2416 of the FLRA's regulations treat, among other things, the implementation and applicability of the Freedom of Information Act, the Privacy Act and the Sunshine Act in the FLRA's processes. Although one commenter suggested that the referenced statutes and the FLRA's implementing regulations should govern the processes of the Office of Compliance, these statutes were not incorporated in the CAA and the Board thus is not proposing the adoption of sections 2411–2416 of the FLRA regulations.

Similarly, the Board does not propose to adopt either section 2430 of the FLRA's regulations, which establishes procedures for applying for awards of attorney fees and other expenses under the Equal Access to Justice Act, 5 U.S.C. 504, or section 2472, which implements provisions of section 6131 of title 5 of the United States Code. As neither 5 U.S.C. 504 nor 5 U.S.C. 6131 is applied by the CAA, sections 2430 and 2472 were not promulgated to implement statutory provisions that are applied by section 220 and, accordingly, the FLRA's regulations implementing them need not be adopted.

2. *Proposed Modification of Substantive Regulations of the FLRA.*—In the ANPR, the Board invited comment on whether and to what extent it should, pursuant to section 220(d) of the CAA, modify the substantive regulations promulgated by the FLRA. Section 220(d) provides that the Board shall issue regulations that are the same as applicable substantive regulations of the FLRA ''except to the extent that the Board may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section'' (emphasis added). Section 220(d) also provides that the Board may modify the FLRA's substantive regulations ''as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.''

a. Summary of comments: A number of commenters urged that the FLRA's substantive regulations should be adopted without change. One of these commenters particularly stressed, in its view, the need to adopt without change the regulations that treat recourse to the Federal Service Impasses Panel and the Merit Systems Protection Board. But another commenter suggested several modifications to the substantive regulations. In addition to a variety of technical changes in nomenclature and terminology, this commenter specifically suggested the following modifications:

(1) Regulations implementing provisions of chapter 71 not made applicable by the CAA

The commenter stated that section 2423.9(b) should not be adopted on the ground that it sets forth procedures implementing 5 U.S.C. section 7123(d), a section not incorporated into the CAA.

(2) Provisions inapplicable under the CAA

The commenter further suggested that the definition of the term ''activity'' under section 2421.5 of the FLRA's regulations should be deleted on the ground that it has no applicability in the legislative branch. Further, this commenter suggested that the term ''Government-wide rule'' found throughout the regulations should be changed to ''Government-wide rule applicable to the Senate [Legislative Branch]'' because not all government-wide rules apply to the legislative branch. Similarly, this commenter proposed the deletion of section 2425.3(b) because it relates to civil service employees, of which there are none in the legislative branch. The commenter further suggested that Section 2429.2, relating to transfer and consolidation of cases, should also be deleted because it has no applicability in light of the structure of the Office of Compliance. Finally, according to the commenter, part 2428 of the FLRA's regulations, which relates to enforcement of decisions of the Assistant Secretary of Labor for Labor-Management Relations, should not be adopted because the Assistant Secretary has no authority under the CAA and neither covered employees nor employing offices are bound by the decisions of the Assistant Secretary.

(3) Regulations addressing procedures governed by 405 and 406 of CAA

The commenter also contended that section 220 of the CAA directs that all representation and unfair labor practice matters that arise under section 220 be referred ''to a hearing officer for decision pursuant to subsection (b) through (h) of section 405.'' Further, according to the commenter, sections 220(c)(1) and (2) require that decisions of the hearing officers be reviewed by the Board under section 406 of the CAA. Consequently, in this commenter's view, the Board should not adopt any FLRA regulation relating to the conduct of hearings on representation petitions or unfair labor practice allegations or relating to Board review of decisions. For example, this commenter suggested that sections 2422.18–22 of the FLRA's regulations should be omitted because they relate to the procedures for the conduct of pre-election investigatory hearings on representation petitions; according to the commenter, procedures for these hearings are governed by section 405 of the CAA and by the Board's procedural rules.

(4) Consultation Rights

The commenter additionally suggested that the threshold requirement in section 2426.1 of the FLRA's regulations that a labor organization hold exclusive recognition for 10% or more of the personnel of an employing office in order for that labor organization to obtain consultation rights be modified for good cause. Because of the small size of many employing offices in the legislative branch, the commenter expressed the concern that employing offices would be required to engage in consultation when only one or two employees are represented by a union. Such an obligation to consult would, in this commenter's view, ''interfere with the rights of unrepresented employees because it would necessarily cause delay in implementation of new terms of employment.''

(5) Posting of Materials

The commenter suggested that sections 2422.7 and 2422.23 of the FLRA's regulations be modified to prohibit the posting of any material relating to a labor organization in any area open to the public on the basis that such a display of material would create a conflict of interest ''insofar as it may appear that Congress is unduly influenced by particular labor organizations.''

b. Board Consideration and Response to Comments: Based upon the comments received and the Board's understanding of chapter 71 and the institutions to which it is being made applicable through the CAA, the Board is proposing to adopt the FLRA's regulations published at 5 C.F.R. 2420–29 and 2470–71 with only limited modifications. The Board has proposed to delete provisions of the FLRA's regulations that were promulgated to implement provisions of chapter 71 that are not applied by the CAA. In this regard, sections 2423.9(b)(c) and (d) have been deleted because they implement section 7123(d) of chapter 71, a provision that is not applied by the CAA. Similarly, section 2429.7 of the FLRA's regulations, relating to the issuance of subpoenas, has been deleted because it implements section 7132 of chapter 71, a section of chapter 71 that is not applied by the CAA. Finally, as statutory provisions in title 5 that

permit executive branch employees to have access to the Merit Systems Protection Board (MSPB) were not applied by the CAA, references to the MSPB have also been deleted. The Board finds that there is good cause to make these modifications for the reasons herein stated.

In addition, the Board has proposed to make technical changes in definitions, nomenclature and prescribed processes so that the regulations comport with the CAA and the organizational structure of the Office of Compliance. In the Boards judgment, making such changes satisfies the Act's ''good cause'' requirement. However, contrary to one commenter's suggestion that the terms ''activity'' and ''Government-wide'' rule be omitted or modified, the Board is of the view that these concepts have applicability in the context of the CAA and therefore should not be deleted or modified. Of course, the Board welcomes additional comment on these issues as part of interested parties' comments on the proposed rules.

In addition to the foregoing, the Board has concluded that there is good cause to propose certain other modifications to the FLRA's regulations. These proposed modifications are discussed below.

(1) Exercise of Investigative and Adjudicatory Responsibilities

In issuing these proposed regulations to implement section 220, the Board has had to determine how it may best exercise its investigative and other authorities and responsibilities under section 220 of the CAA. In this regard, the Board notes that section 220(c)(1) of the CAA provides that the Board shall exercise the authorities of the three member Federal Labor Relations Authority (Authority) under various provisions of chapter 71 and that any ''petition, or other submission that, under chapter 71 . . . would be submitted to the . . . Authority shall, . . . be submitted to the Board''. The Board further notes that section 220(c)(1) provides that the Board ''shall refer any matter under this paragraph to a hearing officer for decision pursuant to . . . section 405''; and yet it also states that the Board may direct that the General Counsel carry out the Board's ''investigative authorities''. Finally, the Board notes that section 220(c)(3) limits judicial review to Board actions on unfair labor practice complaints. As an initial matter, therefore, there is a question as to whether section 220(c)(1) should be read to require that *all* representation, arbitration, negotiability and unfair labor practice issues that come before the Board first be referred to hearing officers for decision under section 405, or only to require referral of those matters that require a formal adversary hearing (involving, among other things, discovery and adherence to formal rules of evidence) in order to resolve the matter in dispute and create a record for judicial review. After considerable reflection, the Board is persuaded that Congress did not intend in the CAA to require that all issues first be presented to a hearing officer under section 405.

By its terms, section 220(c)(1) of the CAA expressly contemplates a distinction between investigative issues and those issues requiring referral for an adversary hearing. Specifically, section 220 expressly acknowledges that the Board possesses and may exercise investigative authorities, and explicitly states that the Board may direct the General Counsel to carry out such investigative authorities. *A fortiori,* the Board does not have to refer matters involving these ''investigative authorities'' to a hearing officer (but rather may direct the General Counsel to carry them out or carry them out itself).

The textual reference to the Board's investigative authorities is, in fact, only one of the statutory signals that Congress did not intend to require the Board to refer all issues to a hearing officer for initial decision under Section 405. Section 220(c)(3) further specifies that there shall be judicial review of only Board actions on unfair labor practice complaints. Since one of the key purposes of the section 405 hearing process is to create a record for judicial review, this limitation of the judicial review process is another textual suggestion that Congress intended to require referral to a hearing officer of only those matters that require a hearing of the type contemplated by section 405—i.e., a formal adversary hearing that establishes a record for Board and then judicial review.

Indeed, in section 220, Congress purported to impose upon the legislative branch the labor law applicable to the executive branch. In that scheme, representation issues, negotiability of bargaining proposals, and review of arbitral awards are not subject to elaborate adversarial procedures. Rather, they are subject to different investigative and decisional process better suited to expeditious and effective resolution of the issues presented. A determination by the Board that the resolution of exceptions to arbitral awards, negotiability of bargaining proposals, and representation petitions, must first be referred to a hearing officer for an adversarial hearing under section 405 would result in an overly cumbersome system that would undermine considerably the effective implementation of Section 220. The Board would not hesitate to implement such a scheme if Congress had clearly commanded it; but, when read in context, the statutory language does not so require, and the legislative history contains no suggestion that Congress intended such a striking departure from the underlying statutory scheme that it was purporting to impose on itself. In such circumstances, the Board cannot find good cause to modify the FLRA's regulations to require formal adversarial proceedings where they are not presently required under chapter 71.

Accordingly, the Board has examined the range of investigative and adjudicatory functions carried out by the FLRA and its officials under chapter 71 and the FLRA's regulations. The Board has further examined the manner in which those functions may most effectively and appropriately be carried out by the Office under the CAA. The Board has considered the suggestions of the commenters, the differences in organizational structure between the Office of Compliance and the FLRA, and the language and underlying statutory schemes of chapter 71 and the CAA. And, having done so, the Board has concluded that, consistent with the language of section 220(c)(1) and the scheme envisioned and implemented under chapter 71, issues that are presented directly to the Authority may and should also be presented directly to the Board. Likewise, the Board has determined that issues that are submitted to administrative law judges in the chapter 71 scheme should be submitted to hearing officers in the CAA scheme. Thus, the Board will decide representation issues, negotiability issues and exceptions to arbitral awards based upon a record developed through direct submissions from the parties and, where necessary, further investigation by the Board (through the person of the Executive Director); and it will refer unfair labor practice complaints to hearing officers for initial decision under section 405 (and then review by the Board and the courts).

Contrary to one commenter's assertion, 220(c)(1) does not require that pre-election hearings on representation petitions be conducted pursuant to section 405 of the CAA. Such hearings are investigatory in nature; and they do not require formal adversarial proceedings. They are to be conducted as part of the Board's authority to investigate representation petitions pursuant to the provisions of chapter 71 that are applied by the CAA. They thus need not be conducted by hearing officers under section 405.

(2) Procedural matters

The Board has further concluded that there is good cause to modify the FLRA's substantive regulations by omitting provisions that set forth procedures which are already provided for under comparable provisions of the Office's procedural rules. There are obvious benefits to having one set of procedural rules for matters arising under the CAA. Indeed, one commenter suggested this beneficial outcome in arguing why certain rules should not be considered to be ''substantive regulations'' within the meaning of section 304. While the Board believes that the rules are in fact substantive regulations, it believes that the benefits of having one set of procedural rules provides the ''good cause'' needed to modify the FLRA's substantive regulations in this respect.

Accordingly, provisions of Part 2423 relating to the filing of complaints and the conduct of hearings on allegations of violations of section 220 have been deleted or modified, as appropriate, where there is a specific regulation on the same matters in the Office's procedural rules. Similarly, provisions of Part 2429 of the FLRA's regulations relating to such matters as service, interlocutory appeals, computation of time, and methods of filing have been deleted or modified, to the extent that they are the same as, or specifically provided for under, procedural rules already issued. Finally, section 2429.9 relating to presentations by an amicus curiae and section 2429.17, which provides procedures for seeking Board reconsideration, have also been deleted. Although these subjects are not now covered by the Office's procedural rules, they have general applicability to Board proceedings under the CAA. The Board has determined that it would be more effective for the implementation of the rights and protections under the CAA to propose and issue rules relating to amicus filings and reconsideration in all matters before the Board as part of a rulemaking under section 303 of the Act.

(3) Arbitral awards on adverse actions

The Board also agrees with the commenter who suggested the deletion of section 2425.3(b), a provision that precludes the FLRA's review of arbitration awards involving certain adverse actions. Under chapter 71, Congress generally provided for the review of arbitration awards by the FLRA. However, for awards relating to matters in which an employee has an option of either filing an appeal with the Merit Systems Protection Board (or another adjudicative body) or of filing a grievance under a negotiated grievance procedure, Congress provided for judicial review of the award under the same standards of review that would be accorded to a decision of the MSPB or another appellate body. Therefore, there is a symmetrical framework for the review of arbitration awards involving certain adverse actions in the general Federal civil service in which decisions on such matters, whether made by an arbitrator or an adjudicative body, are subject to the same judicial review. In contrast, there is no such symmetry of review under the CAA because legislative branch employees have no recourse to the MSPB or other similar administrative agencies and there is no judicial review of arbitrators' awards. If section 2425.3(b) were not deleted, employees and employing offices under the CAA would be deprived of a forum for review of arbitration awards involving certain adverse actions. Accordingly, the Board concludes that

there is good cause to modify the FLRA's regulations by deleting section 2425.3(b).

(4) Consultation rights

Under section 2426.1(a) of the FLRA's regulations, an agency or an agency's primary national subdivision shall accord national consultation rights to a labor organization that ''[h]olds exclusive recognition for either: (i) Ten percent (10%) or more of the total number of civilian personnel employed by the agency and the non-appropriated fund Federal instrumentalities under its jurisdiction, excluding foreign nationals; or (ii) 3,500 or more employees of the agency.'' The Board has determined that the 10% threshold requirement should not be modified for good cause, as one commenter suggested. The Board agrees with the commenter that the small size of many employing offices in the legislative branch must be considered. However, the FLRA considered 10% of the employees of an agency or primary national subdivision to be a significant enough proportion of the employee complement to allow for meaningful consultations, no matter the size of the agency or the number of its employees. No convincing reason has been provided by the commenter why the FLRA's judgment is not workable here, or why there should be a different threshold requirement for small legislative branch employing offices from that applicable to small executive branch agencies.

By contrast, the same concern for the small size of many employing offices has prompted the Board to conclude that good cause exists to modify the alternate threshold requirement—i.e., the requirement that a labor organization hold exclusive recognition of 3,500 or more of an agency's employees in order to be accorded national consultation rights. Although the Board has been unable through its research to determine the reasoning of the FLRA in choosing the number 3,500 as a threshold requirement, the number corresponds to the considerable size of many of the executive branch agencies. Because none of the employing offices has as many as 35,000 employees, the 3,500 employee threshold is irrelevant in light of the existence of the other threshold requirement, discussed above, of 10% of the employee complement. The Board thus finds that it is unworkable in this context and that there is good cause to delete it.

Section 2426.11(a) requires that ''[a]n agency shall accord consultation rights on Government-wide rules or regulations to a labor organization that . . . [h]olds exclusive recognition for 3,500 or more employees.'' The Board has determined that this threshold requirement should also be deleted for good cause, since many of the employing offices in the legislative branch are considerably smaller than executive branch agencies. However, once this requirement is omitted, there is no other requirement in the regulations by which to determine whether consultation rights on Government-wide rules or regulations should be granted to a labor organization. Therefore, the Board has concluded that the 10% threshold requirement should be employed in this section as well. The 10% figure is used as an alternate criterion to 3,500 in according national consultation rights, and it is an appropriate standard to use for according consultation rights on Government-wide regulations as well.

(5) Enforcement of Decisions of the Assistant Secretary of Labor

As noted above, one commenter asserted that part 2428 of the FLRA's regulations is inapplicable under the CAA and should be omitted from the Board's regulations. Part 2428 of the FLRA's regulations provides a procedure for the Assistant Secretary of Labor for Labor-Management Relations to petition the FLRA to enforce decisions and orders of the Assistant Secretary with respect to labor organization conduct.

The Board has concluded that, although the Assistant Secretary has no enforcement authority over covered employing offices or covered employees, nothing in the CAA removes the Assistant Secretary of Labor's authority to regulate the conduct of labor organizations, even those that exclusively represent legislative branch employees. Indeed, 5 U.S.C. 7120(d) authorizes the Assistant Secretary of Labor for Labor-Management Relations to regulate the conduct of labor organizations and is specifically incorporated into the CAA. Further, nothing in the CAA would preclude the Assistant Secretary from petitioning the Board to enforce a decision and order involving a labor organization under the jurisdiction of the CAA. In this regard, the FLRA promulgated part 2428 as part of its authority under section 7105 of chapter 71 to ''take such actions as are necessary and appropriate to effectively administer the provisions'' of chapter 71. Under the CAA, the Board has specifically been granted the same authority to administer the provisions of chapter 71 as applied by the CAA. Accordingly, there is not good cause for the Board to omit part 2428 in its entirety or to decline to permit the Assistant Secretary to petition the Board in accordance with the procedures set forth therein.

However, the Board proposes not to adopt section 2428.3(a), which would require the Board to enforce any decision or order of the Assistant Secretary unless it is ''arbitrary and capricious or based upon manifest disregard of the law.'' In light of section 225(f)(3) of the CAA, which states that the CAA does not authorize executive branch enforcement of the Act, the Board should not adopt a provision that would require the Board to defer to decisions of an executive branch agency. Accordingly, the Board has modified the provisions of part 2428 by omitting section 2428.3(a).

(6) Production of evidence in pre-election investigatory hearings

As noted in section I.B.2. above, section 7132 of chapter 71, which authorizes the issuance of subpoenas by various FLRA officials, was not made applicable by the CAA. Moreover, as pre-election investigatory hearings are not hearings that are conducted under section 405 of the CAA, subpoenas for documents or witnesses in such pre-election proceedings are not available under the CAA. Nonetheless, in order to properly decide disputed representation issues and effectively implement section 220 of the CAA, a complete investigatory record comparable to that developed by the FLRA under chapter 71 is necessary. Accordingly, there is good cause to modify section 2422.18 of the FLRA's regulations in order to ensure that such a record is made in the absence of the availability of subpoenas. To this end, the Board is specifically proposing the inclusion of section 2422.18(d), which provides that the parties have an obligation to produce existing documents and witnesses for the pre-election investigatory hearing in accordance with the instructions of the Executive Director; and the Board is further proposing that a willful failure to comply with such instructions may in appropriate circumstances result in an adverse inference being drawn on the issue related to the evidence sought.

(7) Selection of the unfair labor practice procedure or the negotiability procedure

The Board has determined that there is also good cause to delete the concluding sentence of sections 2423.5 and 2424.5 of the FLRA's regulations because, in the context of the CAA, they would serve improperly to deprive judicial review in certain circumstances. Generally, when an employing office asserts it has no duty to bargain over a proposal, a labor organization may seek a Board determination on the issue either through an unfair labor practice proceeding or a negotiability proceeding. However, the concluding sentences of the referenced regulations preclude a labor organization from filing an unfair labor practice charge in cases that solely involve an employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and that do not involve actual or contemplated changes in conditions of employment. In such cases, those sentences of the regulations provide that a labor organization may only file a petition for review of a negotiability issue.

Unlike chapter 71, the CAA does not provide for direct judicial review of Board decisions and orders on petitions for review of negotiability issues. Rather, judicial review of Board determinations as to the negotiability of collective bargaining proposals is only available through an unfair labor practice proceeding involving a dispute over an employing office's duty to bargain. Accordingly, if sections 2423.5 and 2424.5 were not modified, a labor organization would, in certain circumstances, be precluded from electing to file an unfair labor practice charge and possibly obtaining judicial review of a Board decision. Rather, the labor organization would be required to file a petition for review of the negotiability issue and any unfavorable decision would be unreviewable. The Board concludes that it would be more effective for the implementation of the rights and protections under section 220 to delete the two specified sentences, thereby allowing a labor organization to use the unfair labor practice procedures in all circumstances.

(8) Official time

Section 2429.13 of the FLRA's regulations requires employing offices to grant ''official time'' to employees when the employees' participation in investigations or hearings is deemed necessary by hearing officers or Office officials. The Board has determined that section 2429.13 of the FLRA's regulations should be modified by striking the last sentence, which would require the payment by employing offices of transportation and per diem expenses associated with employees' participation in investigations or hearings on official time. The Board finds good cause to modify the provision in light of the decision of the United States Supreme Court in Bureau of Alcohol, Tobacco and Firearms v. Federal Labor Relations Authority, 464 U.S. 89, 104 S.Ct. 439 (1983), in which the Supreme Court held that the FLRA had exceeded its authority by requiring federal agencies to pay such per diem allowances and travel expenses. This regulatory requirement has been authoritatively and finally invalidated by the Supreme Court and thus has no applicability under the laws that have been incorporated by the CAA.

(9) The Board's exercise of the authorities of the Federal Service Impasses Panel

Section 2470 of the FLRA's regulations defines the Federal Service Impasses Panel as all members of the Panel or a quorum thereof and thus permits formal actions to be taken on behalf of the Panel by less than the Panel's full complement of members. The Federal Service Impasses Panel is composed of seven members. The Board, which will exercise the authorities of the Panel pursuant to section 220(c)(4) of the CAA, is a five-member body. It is the Board's determination that it will be more effective for the implementation of section 220(c)(4) to provide for the full Board, rather than a quorum

thereof, to carry out its authorities under that section. Section 2470 of the regulation has been modified accordingly.

(10) Conflict of Interest

As noted above, one commenter asserted that sections 2422.7 and 2422.23 of the FLRA's regulations should be modified pursuant to section 220(d)(2)(B). The two referenced sections of the FLRA's regulations provide, respectively, that an employing office may be directed to post a notice advising affected employees of the filing of a representation petition and that an employing office will post a notice of election when an election is to be conducted. In both instances the notices, which in the context of the CAA will be prepared by the Office of Compliance, must be posted in places where notices are normally posted for the affected employees or they may be distributed in a manner by which notices are normally distributed. The commenter urges that these regulatory provisions be modified to prohibit the publication of any material relating to a labor organization in any area open to the public. In support of the proposed modification, the commenter states only that display of such material in public view creates, at the very least, an appearance of a conflict of interest insofar as it may appear that Congress is unduly influenced by particular labor organizations.

In the ANPR, the Board requested commenters to fully and specifically describe the conflict of interest or appearance thereof that they believe would exist were pertinent FLRA regulations not modified and to explain the necessity for avoiding the asserted conflict or appearance of conflict. The Board further asked commenters to explain how they interpret 220(d)(2)(B) and, in doing so, identify the factual and interpretive materials upon which they are relying. The commenter has not discussed section 220(d)(2)(B) or explained why the proposed modification, a specific prohibition on posting an Office of Compliance notice in a public area, is necessary to avoid an appearance of conflict; indeed, the commenter has not explained how the posting of a notice announcing the filing of a petition or an upcoming election would create the appearance of undue influence asserted by the commenter.

In the Board's view, no appearance of conflict of interest or undue influence is created by an employing office posting a notice, prepared by the Office of Compliance, advising covered employees of a pending petition or an election under a statute that Congress has specifically applied to itself, similar provisions of which apply in the private and public sectors. Nothing in the FLRA's regulations requires that notices be posted in public areas; the referenced notices must only be posted or distributed in the manner that other information affecting employees is posted or distributed. Moreover, since the notices are prepared by the Office of Compliance, which is an independent office in the legislative branch, no reasonable person could even begin to find undue influence from the posting itself.

The Board thus concludes that, contrary to the commenter's suggestion, it is not necessary to modify sections 2422.7 and 2422.23 of the FLRA's regulations to avoid a conflict of interest or appearance of conflict of interest. The Board therefore proposes to adopt those provisions with only technical changes in nomenclature.

II. Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 14th day of May, 1996.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Subchapter C

2420 Purpose and scope
2421 Meaning of terms as used in this subchapter
2422 Representation proceedings
2423 Unfair labor practice proceedings
2424 Expedited review of negotiability issues
2425 Review of arbitration awards
2426 National consultation rights and consultation rights on Government-wide rules or regulations
2427 General statements of policy or guidance
2428 Enforcement of Assistant Secretary standards of conduct decisions and orders
2429 Miscellaneous and general requirements

Subchapter D

2470 General
2471 Procedures of the Board in impasse proceedings

Subchapter C

PART 2420—PURPOSE AND SCOPE

§ 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 of the United States Code, as applied by section 220 of the Congressional Accountability Act (CAA). They prescribe the procedures, basic principles or criteria under which the Board and the General Counsel, as applicable, will:

(a) Determine the appropriateness of units for labor organization representation under 5 U.S.C. 7112, as applied by the CAA;

(b) Supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of 5 U.S.C. 7111, as applied by the CAA, relating to the according of exclusive recognition to labor organizations;

(c) Resolve issues relating to the granting of national consultation rights under 5 U.S.C. 7113, as applied by the CAA;

(d) Resolve issues relating to determining compelling need for employing office rules and regulations under 5 U.S.C. 7117(b), as applied by the CAA;

(e) Resolve issues relating to the duty to bargain in good faith under 5 U.S.C. 7117(c), as applied by the CAA;

(f) Resolve issues relating to the granting of consultation rights with respect to conditions of employment under 5 U.S.C. 7117(d), as applied by the CAA;

(g) Conduct hearings and resolve complaints of unfair labor practices under 5 U.S.C. 7118, as applied by the CAA;

(h) Resolve exceptions to arbitrators' awards under 5 U.S.C. 7122, as applied by the CAA; and

(i) Take such other actions as are necessary and appropriate effectively to administer the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

Sec.
2421.1 Act; CAA.
2421.2 Chapter 71.
2421.3 General Definitions.
2421.4 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.
2421.5 Activity.
2421.6 Primary national subdivision.
2421.7 Executive Director.
2421.8 Hearing Officer.
2421.9 Party.
2421.10 Intervenor.
2421.11 Certification.
2421.12 Appropriate unit.
2421.13 Secret ballot.
2421.14 Showing of interest.
2421.15 Regular and substantially equivalent employment.
2421.16 Petitioner.
2421.17 Eligibility Period.
2421.18 Election Agreement.
2421.19 Affected by Issues raised.
2421.20 Determinative challenged ballots.

§ 2421.1 Act; CAA.

The terms ''Act'' and ''CAA'' mean the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

§ 2421.2 Chapter 71.

The term ''chapter 71'' means chapter 71 of title 5 of the United States Code.

§ 2421.3 General Definitions.

(a) The term ''person'' means an individual, labor organization or employing office.

(b) Except as noted in subparagraph (3) of this subsection, the term ''employee'' means an individual—

(1) Who is a current employee, applicant for employment, or former employee of: the House of Representatives; the Senate; the Capitol Guide Service; the Capitol Police; the Congressional Budget Office; the Office of the Architect of the Capitol; the Office of the Attending Physician; the Office of Compliance; or the Office of Technology Assessment; or

(2) Whose employment in an employing office has ceased because of any unfair labor practice under section 7116 of title 5 of the United States Code, as applied by the CAA, and who has not obtained any other regular and substantially equivalent employment as determined under regulations prescribed by the Board, but does not include——

(i) An alien or noncitizen of the United States who occupies a position outside of the United States;

(ii) A member of the uniformed services;

(iii) A supervisor or a management official or;

(iv) Any person who participates in a strike in violation of section 7311 of title 5 of the United States Code, as applied the CAA.

(3) For the purpose of determining the adequacy of a showing of interest or eligibility for consultation rights, except as required by law, applicants for employment and former employees are not considered employees.

(c) The term ''employing office'' means—

(1) The personal office of a Member of the House of Representatives or of a Senator;

(2) A committee of the House of Representatives or the Senate or a joint committee;

(3) Any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) The Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(d) The term ''labor organization'' means an organization composed in whole or in part

of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an employing office concerning grievances and conditions of employment, but does not include—

(1) An organization which, by its constitution, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(2) An organization which advocates the overthrow of the constitutional form of government of the United States;

(3) An organization sponsored by an employing office; or

(4) An organization which participates in the conduct or a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

(e) The term ''dues'' means dues, fees, and assessments.

(f) The term ''Board'' means the Board of Directors of the Office of Compliance.

(g) The term ''collective bargaining agreement'' means an agreement entered into as a result of collective bargaining pursuant to the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

(h) The term ''grievance'' means any complaint—

(1) By any employee concerning any matter relating to the employment of the employee;

(2) By any labor organization concerning any matter relating to the employment of any employee; or

(3) By any employee, labor organization, or employing office concerning—

(i) The effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

(i) The term ''supervisor'' means an individual employed by an employing office having authority in the interest of the employing office to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term ''supervisor'' includes only those individuals who devote a preponderance of their employment time to exercising such authority.

(j) The term ''management official'' means an individual employed by an employing office in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the employing office.

(k) The term ''collective bargaining'' means the performance of the mutual obligation of the representative of an employing office and the exclusive representative of employees in an appropriate unit in the employing office to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

(l) The ''term confidential employee'' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

(m) The term ''conditions of employment'' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

(1) Relating to political activities prohibited under subchapter III of chapter 73 of title 5 of the United States Code, as applied by the CAA;

(2) Relating to the classification of any position; or

(3) To the extent such matters are specifically provided for by Federal statute.

(n) The term ''professional employee'' means—

(1) An employee engaged in the performance of work—

(i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) Requiring the consistent exercise of discretion and judgment in its performance;

(iii) Which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) Which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(2) An employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (1)(i) of this paragraph and is performing related work under appropriate direction and guidance to qualify the employee as a professional employee described in subparagraph (1) of this paragraph.

(o) The term ''exclusive representative'' means any labor organization which is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of title 5 of the United States Code, as applied by the CAA.

(p) The term ''firefighter'' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment.

(q) The term ''United States'' means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(r) The term ''General Counsel'' means the General Counsel of the Office of Compliance.

(s) The term ''Assistant Secretary'' means the Assistant Secretary of Labor for Labor-Management Relations.

§ 2421.4 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.

(a)(1) The term ''national consultation rights'' means that a labor organization that is the exclusive representative of a substantial number of the employees of the employing office, as determined in accordance with criteria prescribed by the Board, shall—

(i) Be informed of any substantive change in conditions of employment proposed by the employing office; and

(ii) Be permitted reasonable time to present its views and recommendations regarding the changes.

(2) National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Board. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Board.

(b)(1) The term ''consultation rights on Government-wide rules or regulations'' means that a labor organization which is the exclusive representative of a substantial number of employees of an employing office determined in accordance with criteria prescribed by the Board, shall be granted consultation rights by the employing office with respect to any Government-wide rule or regulation issued by the employing office effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Board. Any issue relating to a labor organizations eligibility for, or continuation of, such consultation rights shall be subject to determination by the Board.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

(i) Be informed of any substantive change in conditions of employment proposed by the employing office; and

(ii) shall be permitted reasonable time to present its views and recommendations regarding the changes.

(3) If any views or recommendations are presented under paragraph (2) of this subsection to an employing office by any labor organization—

(i) The employing office shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(ii) The employing office shall provide the labor organization a written statement of the reasons for taking the final action.

(c) The term ''exclusive recognition'' means that a labor organization has been selected as the sole representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in an election.

(d) The term ''unfair labor practices'' means—

(1) Any of the following actions taken by an employing office—

(i) Interfering with, restraining, or coercing any employee in the exercise by the employee of any right under chapter 71, as applied by the CAA;

(ii) Encouraging or discouraging membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other condition of employment;

(iii) Sponsoring, controlling, or otherwise assisting any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

(iv) Disciplining or otherwise discriminating against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under chapter 71, as applied by the CAA;

(v) Refusing to consult or negotiate in good faith with a labor organization as required by chapter 71, as applied by the CAA;

(vi) Failing or refusing to cooperate in impasse procedures and impasse decisions as required by chapter 71, as applied by the CAA;

(vii) Enforcing any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect

before the date the rule or regulation was prescribed; or

(viii) Otherwise failing or refusing to comply with any provision of chapter 71, as applied by the CAA;

(2) Any of the following actions taken by a labor organization—

(i) Interfering with, restraining, or coercing any employee in the exercise by the employee of any right under this chapter;

(ii) Causing or attempting to cause an employing office to discriminate against any employee in the exercise by the employee of any right under this chapter;

(iii) Coercing, disciplining, fining, or attempting to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the members duties as an employee;

(iv) Discriminating against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(v) Refusing to consult or negotiate in good faith with an employing office as required by chapter 71, as applied by the CAA;

(vi) Failing or refusing to cooperate in impasse procedures and impasse decisions as required by chapter 71, as applied by the CAA;

(vii)(A) Calling, or participating in, a strike, work stoppage, or slowdown, or picketing of an employing office in a labor-management dispute if such picketing interferes with an employing office's operations; or

(B) Condoning any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(viii) Otherwise failing or refusing to comply with any provision of chapter 71, as applied by the CAA;

(3) Denial of membership by an exclusive representative to any employee in the appropriate unit represented by such exclusive representative except for failure—

(i) To meet reasonable occupational standards uniformly required for admission, or

(ii) To tender dues uniformly required as a condition of acquiring and retaining membership.

§ 2421.5 Activity.

The term ''activity'' means any facility, organizational entity, or geographical subdivision or combination thereof, of any employing office.

§ 2421.6 Primary national subdivision.

''Primary national subdivision'' of an employing office means a first-level organizational segment which has functions national in scope that are implemented in field activities.

§ 2421.7 Executive Director.

''Executive Director'' means the Executive Director of the Office of Compliance.

§ 2421.8 Hearing Officer.

The term ''Hearing Officer'' means any individual designated by the Executive Director to preside over a hearing conducted pursuant to section 405 of the CAA on matters within the Office's jurisdiction, including a hearing arising in cases under 5 U.S.C. 7116, as applied by the CAA, and any other such matters as may be assigned.

§ 2421.9 Party.

The term ''party'' means:

(a) Any labor organization, employing office or employing activity or individual filing a charge, petition, or request;

(b) Any labor organization or employing office or activity.

(1) Named as—

(i) A charged party in a charge,

(ii) A respondent in a complaint, or

(iii) An employing office or activity or an incumbent labor organization in a petition.

(2) Whose intervention in a proceeding has been permitted or directed by the Board; or

(3) Who participated as a party.

(i) In a matter that was decided by an employing office head under 5 U.S.C. 7117, as applied by the CAA, or

(ii) In a matter where the award of an arbitrator was issued; and

(c) The General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

§ 2421.10 Intervenor.

The term ''intervenor'' means a party in a proceeding whose intervention has been permitted or directed by the Board, its agents or representatives.

§ 2421.11 Certification.

The term ''certification'' means the determination by the Board, its agents or representatives, of the results of an election, or the results of a petition to consolidate existing exclusively recognized units.

§ 2421.12 Appropriate unit.

The term ''appropriate unit'' means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, as applied by the CAA, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), as applied by the CAA, and consistent with the provisions of 5 U.S.C. 7112, as applied by the CAA.

§ 2421.13 Secret ballot.

The term ''secret ballot'' means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 2421.14 Showing of interest.

The term ''showing of interest'' means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; allotment of dues forms executed by an employee and the labor organization's authorized official; current dues records; an existing or recently expired agreement; current certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently certified labor organization; employees' signed and dated petitions or cards indicating a desire that an election be held on a proposed consolidation of units; or other evidence approved by the Board.

§ 2421.15 Regular and substantially equivalent employment.

The term ''regular and substantially equivalent employment'' means employment that entails substantially the same amount of work, rate of pay, hours, working conditions, location of work, kind of work, and seniority rights, if any, of an employee prior to the cessation of employment in an employing office because of any unfair labor practice under 5 U.S.C. 7116, as applied by the CAA.

§ 2421.16 Petitioner.

''Petitioner'' means the party filing a petition under Part 2422 of this Subchapter.

§ 2421.17 Eligibility period.

The term ''eligibility period'' means the payroll period during which an employee must be in an employment status with an employing office or activity in order to be eligible to vote in a representation election under Part 2422 of this Subchapter.

§ 2421.18 Election agreement.

The term ''election agreement'' means an agreement under Part 2422 of this Subchapter signed by all the parties, and approved by the Board, the Executive Director, or any other individual designated by the Board, concerning the details and procedures of a representation election in an appropriate unit.

§ 2421.19 Affected by issues raised.

The phrase ''affected by issues raised'', as used in Part 2422, should be construed broadly to include parties and other labor organizations, or employing offices or activities that have a connection to employees affected by, or questions presented in, a proceeding.

§ 2421.20 Determinative challenged ballots.

''Determinative challenged ballots'' are challenges that are unresolved prior to the tally and sufficient in number after the tally to affect the results of the election.

PART 2422—REPRESENTATION PROCEEDINGS

Sec.
2422.1 Purposes of a petition.
2422.2 Standing to file a petition.
2422.3 Contents of a petition.
2422.4 Service requirements.
2422.5 Filing petitions.
2422.6 Notification of filing.
2422.7 Posting notice of filing of a petition.
2422.8 Intervention and cross-petitions.
2422.9 Adequacy of showing of interest.
2422.10 Validity of showing of interest.
2422.11 Challenge to the status of a labor organization.
2422.12 Timeliness of petitions seeking an election.
2422.13 Resolution of issues raised by a petition.
2422.14 Effect of withdrawal/dismissal.
2422.15 Duty to furnish information and cooperate.
2422.16 Election agreements or directed elections.
2422.17 Notice of pre-election investigatory hearing and prehearing conference.
2422.18 Pre-election investigatory hearing procedures.
2422.19 Motions.
2422.20 Rights of parties at a pre-election investigatory hearing.
2422.21 Duties and powers of the Executive Director in the conduct of the pre-election investigatory hearing.
2422.22 Objections to the conduct of the pre-election investigatory hearing.
2422.23 Election procedures.
2422.24 Challenged ballots.
2422.25 Tally of ballots.
2422.26 Objections to the election.
2422.27 Determinative challenged ballots and objections.
2422.28 Runoff elections.
2422.29 Inconclusive elections.
2422.30 Executive Director investigations, notices of pre-election investigatory hearings, and actions; Board Decisions and Orders.
2422.31 Application for review of an Executive Director action.
2422.32 Certifications and revocations.
2422.33 Relief obtainable under Part 2423.
2422.34 Rights and obligations during the pendency of representation proceedings.

§ 2422.1 Purposes of a petition.

A petition may be filed for the following purposes:

(a) *Elections or Eligibility for dues allotment.* To request:

(1)(i) An election to determine if employees in an appropriate unit wish to be represented

for the purpose of collective bargaining by an exclusive representative; and/or

(ii) A determination of eligibility for dues allotment in an appropriate unit without an exclusive representative; or

(2) An election to determine if employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative.

(3) Petitions under this subsection must be accompanied by an appropriate showing of interest.

(b) *Clarification or Amendment*. To clarify, and/or amend:

(1) A certification then in effect; and/or

(2) Any other matter relating to representation.

(c) *Consolidation*. To consolidate two or more units, with or without an election, in an employing office and for which a labor organization is the exclusive representative.

§ 2422.2 Standing to file a petition.

A representation petition may be filed by: an individual; a labor organization; two or more labor organizations acting as a joint-petitioner; an individual acting on behalf of any employee(s); an employing office or activity; or a combination of the above: *provided, however*, that (a) only a labor organization has standing to file a petition pursuant to section 2422.1(a)(1); (b) only an individual has standing to file a petition pursuant to section 2422.1(a)(2); and (c) only an employing office or a labor organization may file a petition pursuant to section 2422.1(b) or (c).

§ 2422.3 Contents of a petition.

(a) *What to file*. A petition must be filed on a form prescribed by the Board and contain the following information:

(1) The name and mailing address for each employing office or activity affected by issues raised in the petition, including street number, city, state and zip code.

(2) The name, mailing address and work telephone number of the contact person for each employing office or activity affected by issues raised in the petition.

(3) The name and mailing address for each labor organization affected by issues raised in the petition, including street number, city, state and zip code. If a labor organization is affiliated with a national organization, the local designation and the national affiliation should both be included. If a labor organization is an exclusive representative of any of the employees affected by issues raised in the petition, the date of the certification and the date any collective bargaining agreement covering the unit will expire or when the most recent agreement did expire should be included, if known.

(4) The name, mailing address and work telephone number of the contact person for each labor organization affected by issues raised in the petition.

(5) The name and mailing address for the petitioner, including street number, city, state and zip code. If a labor organization petitioner is affiliated with a national organization, the local designation and the national affiliation should both be included.

(6) A description of the unit(s) affected by issues raised in the petition. The description should generally indicate the geographic locations and the classifications of the employees included (or sought to be included) in, and excluded (or sought to be excluded) from, the unit.

(7) The approximate number of employees in the unit(s) affected by issues raised in the petition.

(8) A clear and concise statement of the issues raised by the petition and the results the petitioner seeks.

(9) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that the contents of the petition are true and correct to the best of the person's knowledge and belief.

(10) The signature, title, mailing address and telephone number of the person filing the petition.

(b) *Compliance with 5 U.S.C. 7111(e), as applied by the CAA*. A labor organization/petitioner complies with 5 U.S.C. 7111(e), as applied by the CAA, by submitting to the employing office or activity and to the Department of Labor a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives. By signing the petition form, the labor organization/petitioner certifies that it has submitted these documents to the employing activity or office and to the Department of Labor.

(c) *Showing of interest supporting a representation petition*. When filing a petition requiring a showing of interest, the petitioner must:

(1) So indicate on the petition form;

(2) Submit with the petition a showing of interest of not less than thirty percent (30%) of the employees in the unit involved in the petition; and

(3) Include an alphabetical list of the names constituting the showing of interest.

(d) *Petition seeking dues allotment*. When there is no exclusive representative, a petition seeking certification for dues allotment shall be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit claimed to be appropriate. An alphabetical list of names constituting the showing of membership must be submitted.

§ 2422.4 Service requirements.

Every petition, motion, brief, request, challenge, written objection, or application for review shall be served on all parties affected by issues raised in the filing. The service shall include all documentation in support thereof, with the exception of a showing of interest, evidence supporting challenges to the validity of a showing of interest, and evidence supporting objections to an election. The filer must submit a written statement of service to the Executive Director.

§ 2422.5 Filing petitions.

(a) *Where to file*. Petitions must be filed with the Executive Director.

(b) *Number of copies*. An original and two (2) copies of the petition and the accompanying material must be filed with the Executive Director.

(c) *Date of filing*. A petition is filed when it is received by the Executive Director.

§ 2422.6 Notification of filing.

(a) *Notification to parties*. After a petition is filed, the Executive Director, on behalf of the Board, will notify any labor organization, employing office or employing activity that the parties have identified as being affected by issues raised by the petition, that a petition has been filed with the Office. The Executive Director, on behalf of the Board, will also make reasonable efforts to identify and notify any other party affected by the issues raised by the petition.

(b) *Contents of the notification*. The notification will inform the labor organization, employing office or employing activity of:

(1) The name of the petitioner;

(2) The description of the unit(s) or employees affected by issues raised in the petition; and,

(3) A statement that all affected parties should advise the Executive Director in writing of their interest in the issues raised in the petition.

§ 2422.7 Posting notice of filing of a petition.

(a) *Posting notice of petition*. When appropriate, the Executive Director, on behalf of the Board, after the filing of a representation petition, will direct the employing office or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of a notice in a manner by which notices are normally distributed.

(b) *Contents of notice*. The notice shall advise affected employees about the petition.

(c) *Duration of notice*. The notice should be conspicuously posted for a period of ten (10) days and not be altered, defaced, or covered by other material.

§ 2422.8 Intervention and cross-petitions.

(a) *Cross-petitions*. A cross-petition is a petition which involves any employees in a unit covered by a pending representation petition. Cross-petitions must be filed in accordance with this subpart.

(b) *Intervention requests and cross-petitions*. A request to intervene and a cross-petition, accompanied by any necessary showing of interest, must be submitted in writing and filed with the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no pre-election investigatory hearing is held, a request to intervene and a cross-petition must be filed prior to action being taken pursuant to § 2422.30.

(c) *Labor organization intervention requests*. Except for incumbent intervenors, a labor organization seeking to intervene shall submit a statement that it has complied with 5 U.S.C. 7111(e), as applied by the CAA, and one of the following:

(1) A showing of interest of ten percent (10%) or more of the employees in the unit covered by a petition seeking an election, with an alphabetical list of the names of the employees constituting the showing of interest; or

(2) A current or recently expired collective bargaining agreement covering any of the employees in the unit affected by issues raised in the petition; or

(3) Evidence that it is or was, prior to a reorganization, the certified exclusive representative of any of the employees affected by issues raised in the petition.

(d) *Incumbent*. An incumbent exclusive representative, without regard to the requirements of paragraph (c) of this section, will be considered a party in any representation proceeding raising issues that affect employees the incumbent represents, unless it serves the Board, through the Executive Director, with a written disclaimer of any representation interest in the claimed unit.

(e) *Employing office*. An employing office or activity will be considered a party if any of its employees are affected by issues raised in the petition.

(f) *Employing office or activity intervention*. An employing office or activity seeking to intervene in any representation proceeding must submit evidence that one or more employees of the employing office or activity may be affected by issues raised in the petition.

§ 2422.9 Adequacy of showing of interest.

(a) *Adequacy*. Adequacy of a showing of interest refers to the percentage of employees in the unit involved as required by §§ 2422.3 (c) and (d) and 2422.8(c)(1).

(b) *Executive Director investigation and action*. The Executive Director, on behalf of the Board, will conduct such investigation as deemed appropriate. The Executive Director's determination, on behalf of the Board, that the showing of interest is adequate is final and binding and not subject to collateral attack at a representation hearing or on appeal to the Board. If the Executive Director determines, on behalf of the Board, that a showing of interest is inadequate, the Executive Director will dismiss the petition, or deny a request for intervention.

§ 2422.10 Validity of showing of interest.

(a) *Validity.* Validity questions are raised by challenges to a showing of interest on grounds other than adequacy.

(b) *Validity challenge.* The Executive Director or any party may challenge the validity of a showing of interest.

(c) *When and where validity challenges may be filed.* Party challenges to the validity of a showing of interest must be in writing and filed with the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no pre-election investigatory hearing is held, challenges to the validity of a showing of interest must be filed prior to action being taken pursuant to § 2422.30.

(d) *Contents of validity challenges.* Challenges to the validity of a showing of interest must be supported with evidence.

(e) *Executive Director investigation and action.* The Executive Director, on behalf of the Board, will conduct such investigation as deemed appropriate. The Executive Director's determination, on behalf of the Board, that a showing of interest is valid is final and binding and is not subject to collateral attack or appeal to the Board. If the Executive Director finds, on behalf of the Board, that the showing of interest is not valid, the Executive Director will dismiss the petition or deny the request to intervene.

§ 2422.11 Challenge to the status of a labor organization.

(a) *Basis of challenge to labor organization status.* The only basis on which a challenge to the status of a labor organization may be made is compliance with 5 U.S.C. 7103(a)(4), as applied by the CAA.

(b) *Format and time for filing a challenge.* Any party filing a challenge to the status of a labor organization involved in the processing of a petition must do so in writing to the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no hearing is held, challenges must be filed prior to action being taken pursuant to § 2422.30.

§ 2422.12 Timeliness of petitions seeking an election.

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking an election will not be considered timely if filed within twelve (12) months of a valid election involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election will not be considered timely if filed within twelve (12) months after the certification of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement covering the claimed unit is pending employing office head review under 5 U.S.C. 7114(c), as applied by the CAA, or is in effect, paragraphs (c), (d), or (e) of this section apply.

(c) *Bar during employing office head review.* A petition seeking an election will not be considered timely if filed during the period of employing office head review under 5 U.S.C. 7114(c), as applied by the CAA. This bar expires upon either the passage of thirty (30) days absent employing office head action, or upon the date of any timely employing office head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the agreement.

(e) *Contract bar where the contract is for more than three (3) years.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of more than three (3) years from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

(f) *Unusual circumstances.* A petition seeking an election or a determination relating to representation matters may be filed at any time when unusual circumstances exist that substantially affect the unit or majority representation.

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended prior to sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c), as applied by the CAA, and those that automatically renew without further action by the parties, do not constitute a bar to a petition seeking an election under this section unless a clear and unambiguous effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

§ 2422.13 Resolution of issues raised by a petition.

(a) *Meetings prior to filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet prior to the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties a representative of the Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* After a petition is filed, the Executive Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

§ 2422.14 Effect of withdrawal/dismissal.

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* When a petition seeking an election that has been timely filed is withdrawn by the petitioner or dismissed by the Executive Director or the Board less than sixty (60) days prior to the expiration of an existing agreement between the incumbent exclusive representative and the employing office or activity or any time after the expiration of the agreement, another petition seeking an election will not be considered timely if filed within a ninety (90) day period from either:

(1) The date the withdrawal is approved; or

(2) The date the petition is dismissed by the Executive Director when no application for review is filed with the Board; or

(3) The date the Board rules on an application for review; or

(4) The date the Board issues a Decision and Order dismissing the petition.

Other pending petitions that have been timely filed under this Part will continue to be processed.

(b) *Withdrawal by petitioner.* A petitioner who submits a withdrawal request for a petition seeking an election that is received by the Executive Director after the notice of pre-election investigatory hearing issues or after approval of an election agreement, whichever occurs first, will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date of the approval of the withdrawal by the Executive Director.

(c) *Withdrawal by incumbent.* When an election is not held because the incumbent disclaims any representation interest in a unit, a petition by the incumbent seeking an election involving the same unit or a subdivision of the same unit will not be considered timely if filed within six (6) months of cancellation of the election.

§ 2422.15 Duty to furnish information and cooperate.

(a) *Relevant information.* After a petition is filed, all parties must, upon request of the Executive Director, furnish the Executive Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After a petition seeking an election is filed, the Executive Director, on behalf of the Board, may direct the employing office or activity to furnish the Executive Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of the representation process. This obligation includes cooperating fully with the Executive Director, submitting all required and requested information, and participating in prehearing conferences and pre-election investigatory hearings. The failure to cooperate in the representation process may result in the Executive Director or the Board taking appropriate action, including dismissal of the petition or denial of intervention.

§ 2422.16 Election agreements or directed elections.

(a) *Election agreements.* Parties are encouraged to enter into election agreements.

(b) *Executive Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the Executive Director, on behalf of the Board, will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for an investigatory hearing.* Before directing an election, the Executive Director shall provide affected parties an opportunity for a pre-election investigatory hearing on other than procedural matters.

(d) *Challenges or objections to a directed election.* A Direction of Election issued under this section will be issued without prejudice to the right of a party to file a challenge to the eligibility of any person participating in the election and/or objections to the election.

§ 2422.17 Notice of pre-election investigatory hearing and prehearing conference.

(a) *Purpose of notice of an investigatory hearing.* The Executive Director, on behalf of the Board, may issue a notice of pre-election investigatory hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will advise affected parties about the pre-election investigatory hearing. The Executive Director will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

(c) *Prehearing conference.* A prehearing conference will be conducted by the Executive Director or her designee, either by meeting or teleconference. All parties must participate in a prehearing conference and be prepared to fully discuss, narrow and resolve

the issues set forth in the notification of the prehearing conference.

(d) *No interlocutory appeal of investigatory hearing determination.* The Executive Director's determination of whether to issue a notice of pre-election investigatory hearing is not appealable to the Board.

§ 2422.18 Pre-election investigatory hearing procedures.

(a) *Purpose of a pre-election investigatory hearing.* Representation hearings are considered investigatory and not adversarial. The purpose of the hearing is to develop a full and complete record of relevant and material facts.

(b) *Conduct of hearing.* Pre-election investigatory hearings will be open to the public unless otherwise ordered by the Executive Director or her designee. There is no burden of proof, with the exception of proceedings on objections to elections as provided for in § 2422.27(b). Formal rules of evidence do not apply.

(c) *Pre-election investigatory hearing.* Pre-election investigatory hearings will be conducted by the Executive Director or her designee.

(d) *Production of evidence.* Parties have the obligation to produce existing documents and witnesses for the investigatory hearing in accordance with the instructions of the Executive Director or her designee. If a party willfully fails to comply with such instructions, the Board may draw an inference adverse to that party on the issue related to the evidence sought.

(e) *Transcript.* An official reporter will make the official transcript of the pre-election investigatory hearing. Copies of the official transcript may be examined in the Office during normal working hours. Requests by parties to purchase copies of the official transcript should be made to the official hearing reporter.

§ 2422.19 Motions.

(a) *Purpose of a motion.* Subsequent to the issuance of a notice of pre-election investigatory hearing in a representation proceeding, a party seeking a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds therefor. Challenges and other filings referenced in other sections of this subpart may, in the discretion of the Executive Director or her designee, be treated as a motion.

(b) *Prehearing motions.* Prehearing motions must be filed in writing with the Executive Director. Any response must be filed with the Executive Director within five (5) days after service of the motion. The Executive Director shall rule on the motion.

(c) *Motions made at the investigatory hearing.* During the pre-election investigatory hearing, motions will be made to the Executive Director or her designee, and may be oral on the record, unless otherwise required in this subpart to be in writing. Responses may be oral on the record or in writing, but, absent permission of the Executive Director or her designee, must be provided before the hearing closes. The Executive Director or her designee will rule on motions made at the hearing.

(d) *Posthearing motions.* Motions made after the hearing closes must be filed in writing with the Board. Any response to a posthearing motion must be filed with the Board within five (5) days after service of the motion.

§ 2422.20 Rights of parties at a pre-election investigatory hearing.

(a) *Rights.* A party at a pre-election investigatory hearing will have the right:

(1) To appear in person or by a representative;

(2) To examine and cross-examine witnesses; and

(3) To introduce into the record relevant evidence.

(b) *Documentary evidence and stipulations.* Parties must submit two (2) copies of documentary evidence to the Executive Director or her designee and copies to all other parties. Stipulations of fact between/among the parties may be introduced into evidence.

(c) *Oral argument.* Parties will be entitled to a reasonable period prior to the close of the hearing for oral argument. Presentation of a closing oral argument does not preclude a party from filing a brief under paragraph (d) of this section.

(d) *Briefs.* A party will be afforded an opportunity to file a brief with the Board.

(1) An original and two (2) copies of a brief must be filed with the Board within thirty (30) days from the close of the hearing.

(2) A written request for an extension of time to file a brief must be filed with and received by the Board no later than five (5) days before the date the brief is due.

(3) No reply brief may be filed without permission of the Board.

§ 2422.21 Duties and powers of the Executive Director in the conduct of the pre-election investigatory hearing.

(a) *Duties.* The Executive Director or her designee, on behalf of the Board, will receive evidence and inquire fully into the relevant and material facts concerning the matters that are the subject of the investigatory hearing, and may make recommendations on the record to the Board.

(b) *Powers.* During the period a case is assigned to the Executive Director or her designee for pre-election investigatory hearing and prior to the close of the hearing, the Executive Director or her designee may take any action necessary to schedule, conduct, continue, control, and regulate the pre-election investigatory hearing, including ruling on motions when appropriate.

§ 2422.22 Objections to the conduct of the pre-election investigatory hearing.

(a) *Objections.* Objections are oral or written complaints concerning the conduct of a pre-election investigatory hearing.

(b) *Exceptions to rulings.* There are automatic exceptions to all adverse rulings.

§ 2422.23 Election procedures.

(a) *Executive Director conducts or supervises election.* The Executive Director, on behalf of the Board, will decide to conduct or supervise the election. In supervised elections, employing offices or activities will perform all acts as specified in the Election Agreement or Direction of Election.

(b) *Notice of election.* Prior to the election a notice of election, prepared by the Executive Director, will be posted by the employing office or activity in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed. The notice of election will contain the details and procedures of the election, including the appropriate unit, the eligibility period, the date(s), hour(s) and location(s) of the election, a sample ballot, and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document purporting to be a copy of the official ballot that suggests either directly or indirectly to employees that the Board endorses a particular choice in the election may constitute grounds for setting aside an election if objections are filed under § 2422.26.

(d) *Secret ballot.* All elections will be by secret ballot.

(e) *Intervenor withdrawal from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, prior to the approval of an election agreement or before the direction of an election, file a written request with the Executive Director to remove its name from the ballot. If the request is not received prior to the approval of an election agreement or before the direction of an election, unless the parties and the Executive Director, on behalf of the Board, agree otherwise, the intervening labor organization will remain on the ballot. The Executive Director's decision on the request is final and not subject to the filing of an application for review with the Board.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative will not be held if the incumbent provides the Executive Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election will not be held if the petitioner provides the Executive Director with a written request to withdraw the petition. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

(h) *Observers.* All parties are entitled to representation at the polling location(s) by observers of their own selection subject to the Executive Director's approval.

(1) Parties desiring to name observers must file in writing with the Executive Director a request for specifically named observers at least fifteen (15) days prior to an election. The Executive Director may grant an extension of time for filing a request for specifically named observers for good cause where a party requests such an extension or on the Executive Director's own motion. The request must name and identify the observers requested.

(2) An employing office or activity may use as its observers any employees who are not eligible to vote in the election, except:

(i) Supervisors or management officials;

(ii) Employees who have any official connection with any of the labor organizations involved; or

(iii) Non-employees of the legislative branch.

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the union.

(4) Objections to a request for specific observers must be filed with the Executive Director stating the reasons in support within five (5) days after service of the request.

(5) The Executive Director's ruling on requests for and objections to observers is final and binding and is not subject to the filing of an application for review with the Board.

§ 2422.24 Challenged ballots.

(a) *Filing challenges.* A party or the Executive Director may, for good cause, challenge the eligibility of any person to participate in the election prior to the employee voting.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) prior to the tally of ballots, the unresolved

challenged ballot(s) will be impounded and preserved until a determination can be made, if necessary, by the Executive Director or the Board.

§ 2422.25 Tally of ballots.

(a) *Tallying the ballots.* When the election is concluded, the Executive Director or her designee will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Executive Director will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

(c) *Valid ballots cast.* Representation will be determined by the majority of the valid ballots cast.

§ 2422.26 Objections to the election.

(a) *Filing objections to the election.* Objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election may be filed by any party. Objections must be filed and received by the Executive Director within five (5) days after the tally of ballots has been served. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. An original and two (2) copies of the objections must be received by the Executive Director.

(b) *Supporting evidence.* The objecting party must file with the Executive Director evidence, including signed statements, documents and other materials supporting the objections within ten (10) days after the objections are filed.

§ 2422.27 Determinative challenged ballots and objections.

(a) *Investigation.* The Executive Director, on behalf of the Board, will investigate objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

(b) *Burden of proof.* A party filing objections to the election bears the burden of proof by a preponderance of the evidence concerning those objections. However, no party bears the burden of proof on challenged ballots.

(c) *Executive Director action.* After investigation, the Executive Director will take appropriate action consistent with § 2422.30.

(d) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and in accordance with § 2422.33, objections and/or determinative challenged ballots may be consolidated with an unfair labor practice hearing. Such consolidated hearings will be conducted by a Hearing Officer. Exceptions and related submissions must be filed with the Board and the Board will issue a decision in accordance with Part 2423 of this chapter and section 406 of the CAA, except for the following:

(1) Section 2423.18 of this Subchapter concerning the burden of proof is not applicable;

(2) The Hearing Officer may not recommend remedial action to be taken or notices to be posted; and,

(3) References to charge and complaint in Part 2423 of this chapter will be omitted.

§ 2422.28 Runoff elections.

(a) *When a runoff may be held.* A runoff election is required in an election involving at least three (3) choices, one of which is no union or neither, when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the objections to the election and determinative challenged ballots have been resolved.

(b) *Eligibility.* Employees who were eligible to vote in the original election and who are also eligible on the date of the runoff election may vote in the runoff election.

(c) *Ballot.* The ballot in the runoff election will provide for a selection between the two choices receiving the largest and second largest number of votes in the election.

§ 2422.29 Inconclusive elections.

(a) *Inconclusive elections.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is no union or neither and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Board determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* A current payroll period will be used to determine eligibility to vote in a rerun election.

(c) *Ballot.* If a determination is made that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will indicate a majority of valid ballots has not been cast for any choice and a certification of results will be issued. If necessary, a runoff may be held when an original election is rerun.

§ 2422.30 Executive Director investigations, notices of pre-election investigatory hearings, and actions; Board Decisions and Orders.

(a) *Executive Director investigation.* The Executive Director, on behalf of the Board, will make such investigation of the petition and any other matter as the Executive Director deems necessary.

(b) *Executive Director notice of pre-election investigatory hearing.* On behalf of the Board, the Executive Director will issue a notice of pre-election investigatory hearing to inquire into any matter about which a material issue of fact exists, where there is an issue as to whether a question concerning representation exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) *Executive Director action.* After investigation and/or hearing, when a pre-election investigatory hearing has been ordered, the Executive Director may, on behalf of the Board, approve an election agreement, dismiss a petition or deny intervention where there is an inadequate or invalid showing of interest, or dismiss a petition where there is an undisputed bar to further processing of the petition under law, rule or regulation.

(d) *Appeal of Executive Director action.* A party may file with the Board an application for review of an Executive Director action taken pursuant to section (c) above.

(e) *Contents of the Record.* When no pre-election investigatory hearing has been conducted all material submitted to and considered by the Executive Director during the investigation becomes a part of the record. When a pre-election investigatory hearing has been conducted, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

(f) *Transfer of record to Board; Board Decisions and Orders.* In cases that are submitted to the Board for decision in the first instance, the Board shall decide the issues presented based upon the record developed by the Executive Director, including the transcript of the pre-election investigatory hearing, if any, documents admitted into the record and briefs and other approved submissions from the parties. The Board may direct that a secret ballot election be held, issue an order dismissing the petition, or make such other disposition of the matter as it deems appropriate.

§ 2422.31 Application for review of an Executive Director action.

(a) *Filing an application for review.* A party must file an application for review with the Board within sixty (60) days of the Executive Director's action. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f), as applied by the CAA, may not be extended or waived.

(b) *Contents.* An application for review must be sufficient to enable the Board to rule on the application without recourse to the record; however, the Board may, in its discretion, examine the record in evaluating the application. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific reference to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Executive Director.

(c) *Review.* The Board may, in its discretion, grant an application for review when the application demonstrates that review is warranted on one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent;

(2) Established law or policy warrants reconsideration; or,

(3) There is a genuine issue over whether the Executive Director has:

(i) Failed to apply established law;

(ii) Committed a prejudicial procedural error;

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(d) *Opposition.* A party may file with the Board an opposition to an application for review within ten (10) days after the party is served with the application. A copy must be served on the Executive Director and all other parties and a statement of service must be filed with the Board.

(e) *Executive Director action becomes the Board's action.* An action of the Executive Director becomes the action of the Board when:

(1) No application for review is filed with the Board within sixty (60) days after the date of the Executive Director's action; or

(2) A timely application for review is filed with the Board and the Board does not undertake to grant review of the Executive Director's action within sixty (60) days of the filing of the application; or

(3) The Board denies an application for review of the Executive Director's action.

(f) *Board grant of review and stay.* The Board may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review shall stay any action ordered by the Executive Director unless specifically ordered by the Board.

(g) *Briefs if review is granted.* If the Board does not rule on the issue(s) in the application for review in its order granting review, the Board may, in its discretion, afford the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Board's order granting review.

§ 2422.32 Certifications and revocations.

(a) *Certifications.* The Executive Director, on behalf of the Board, will issue an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No objections are filed or challenged ballots are not determinative, or

(ii) Objections and determinative challenged ballots are decided and resolved; or

(2) The Executive Director takes an action requiring a certification and that action becomes the action of the Board under §2422.31(e) or the Board otherwise directs the issuance of a certification.

(b) *Revocations.* Without prejudice to any rights and obligations which may exist under the CAA, the Executive Director, on behalf of the Board, will revoke a recognition or certification, as appropriate, and provide a written statement of reasons when an incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit.

§2422.33 Relief obtainable under Part 2423.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief if filed or raised as an unfair labor practice under Part 2423 of this Chapter: *provided, however*, that related matters may be consolidated for hearing as noted in §2422.27(d) of this subpart.

§2422.34 Rights and obligations during the pendency of representation proceedings.

(a) *Existing recognitions, agreements, and obligations under the CAA.* During the pendency of any representation proceeding, parties are obligated to maintain existing recognitions, adhere to the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the CAA.

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, pursuant to 5 U.S.C. 7103(a)(2), 7112(b) and (c), as applied by the CAA: *provided, however*, that its actions may be challenged, reviewed, and remedied where appropriate.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.
2423.1 Applicability of this part.
2423.2 Informal proceedings.
2423.3 Who may file charges.
2423.4 Contents of the charge; supporting evidence and documents.
2423.5 Selection of the unfair labor practice procedure or the negotiability procedure.
2423.6 Filing and service of copies.
2423.7 Investigation of charges.
2423.8 Amendment of charges.
2423.9 Action by the General Counsel.
2423.10 Determination not to file complaint.
2423.11 Settlement or adjustment of issues.
2423.12 Filing and contents of the complaint.
2423.13 Answer to the complaint.
2423.14 Prehearing disclosure; conduct of hearing.
2423.15 Intervention.
2423.16 [Reserved]
2423.17 [Reserved]
2423.18 Burden of proof before the Hearing Officer.
2423.19 Duties and powers of the Hearing Officer.
2423.20 [Reserved]
2423.21 [Reserved]
2423.22 [Reserved]
2423.23 [Reserved]
2423.24 [Reserved]
2423.25 [Reserved]
2423.26 Hearing Officer decisions; entry in records of the Office.
2423.27 Appeal to the Board.
2423.28 [Reserved]
2423.29 Action by the Board.
2423.30 Compliance with decisions and orders of the Board.
2423.31 Backpay proceedings.

§2423.1 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices occurring on or after October 1, 1996.

§2423.2 Informal proceedings.

(a) The purposes and policies of chapter 71, as applied by the CAA, can best be achieved by the cooperative efforts of all persons covered by the program. To this end, it shall be the policy of the Board and the General Counsel to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges.

(b) In furtherance of the policy referred to in paragraph (a) of this section, and noting the 180 day period of limitation set forth in section 220(c)(2) of the CAA, it shall be the policy of the Board and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the filing of a complaint by the General Counsel.

(c) In order to afford the parties an opportunity to implement the policy referred to in paragraphs (a) and (b) of this section, the investigation of an unfair labor practice charge by the General Counsel will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, during which period the parties are urged to attempt to informally resolve the unfair labor practice allegation.

§2423.3 Who may file charges.

An employing office, employing activity, or labor organization may be charged by any person with having engaged in or engaging in any unfair labor practice prohibited under 5 U.S.C. 7116, as applied by the CAA.

§2423.4 Contents of the charge; supporting evidence and documents.

(a) A charge alleging a violation of 5 U.S.C. 7116, as applied by the CAA, shall be submitted on forms prescribed by the General Counsel and shall contain the following:

(1) The name, address and telephone number of the person(s) making the charge;

(2) The name, address and telephone number of the employing office or activity, or labor organization against whom the charge is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of chapter 71 of title 5 of the United States Code made applicable by the CAA alleged to have been violated, and the date and place of occurrence of the particular acts; and

(4) A statement of any other procedure invoked involving the subject matter of the charge and the results, if any, including whether the subject matter raised in the charge (i) has been raised previously in a grievance procedure; (ii) has been referred to the Board under Part 2471 of these regulations, or the Federal Mediation and Conciliation Service, or (iii) involves a negotiability issue raised by the charging party in a petition pending before the Board pursuant to Part 2424 of this subchapter.

(b) Such charge shall be in writing and signed and shall contain a declaration by the person signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that person's knowledge and belief.

(c) When filing a charge, the charging party shall submit to the General Counsel any supporting evidence and documents.

§2423.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to this part which involves a negotiability issue, and the labor organization also files pursuant to part 2424 of this subchapter a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the General Counsel and all parties to both the unfair labor practice case and the negotiability case.

§2423.6 Filing and service of copies.

(a) An original and four (4) copies of the charge together with one copy for each additional charged party named shall be filed with the General Counsel.

(b) Upon the filing of a charge, the charging party shall be responsible for the service of a copy of the charge (without the supporting evidence and documents) upon the person(s) against whom the charge is made, and for filing a written statement of such service with the General Counsel. The General Counsel will, as a matter of course, cause a copy of such charge to be served on the person(s) against whom the charge is made, but shall not be deemed to assume responsibility for such service.

(c) A charge will be deemed to be filed when it is received by the General Counsel in accordance with the requirements in paragraph (a) of this section.

§2423.7 Investigation of charges.

(a) The General Counsel shall conduct such investigation of the charge as the General Counsel deems necessary. Consistent with the policy set forth in §2423.2, the investigation will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, to informally resolve the unfair labor practice allegation.

(b) During the course of the investigation all parties involved will have an opportunity to present their evidence and views to the General Counsel.

(c) In connection with the investigation of charges, all persons are expected to cooperate fully with the General Counsel.

(d) The purposes and policies of chapter 71, as applied by the CAA, can best be achieved by the full cooperation of all parties involved and the voluntary submission of all potentially relevant information from all potential sources during the course of the investigation. To this end, it shall be the policy of the Board and the General Counsel to protect the identity of individuals and the substance of the statements and information they submit or which is obtained during the investigation as a means of assuring the Board's and the General Counsel's continuing ability to obtain all relevant information.

§2423.8 Amendment of charges.

Prior to the issuance of a complaint, the charging party may amend the charge in accordance with the requirements set forth in §2423.6.

§2423.9 Action by the General Counsel.

(a) The General Counsel shall take action which may consist of the following, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Refuse to file a complaint;

(3) Approve a written settlement and recommend that the Executive Director approve a written settlement agreement in accordance with the provisions of section 414 of the CAA;

(4) File a complaint;

(5) Upon agreement of all parties, transfer to the Board for decision, after filing of a complaint, a stipulation of facts in accordance with the provisions of §2429.1(a) of this subchapter; or

(6) Withdraw a complaint.

§ 2423.10 Determination not to file complaint.

(a) If the General Counsel determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the General Counsel may request the charging party to withdraw the charge, and in the absence of such withdrawal within a reasonable time, decline to file a complaint.

(b) The charging party may not obtain a review of the General Counsel's decision not to file a complaint.

§ 2423.11 Settlement or adjustment of issues.

(a) At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity to submit to the Executive Director or General Counsel, as appropriate, for consideration, all facts and arguments concerning offers of settlement, or proposals of adjustment.

Precomplaint settlements

(b)(1) Prior to the filing of any complaint or the taking of other formal action, the General Counsel will afford the charging party and the respondent a reasonable period of time in which to enter into a settlement agreement to be submitted to and approved by the General Counsel and the Executive Director. Upon approval by the General Counsel and Executive Director and compliance with the terms of the settlement agreement, no further action shall be taken in the case. If the respondent fails to perform its obligations under the settlement agreement, the General Counsel may determine to institute further proceedings.

(2) In the event that the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, if the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied by the CAA, the agreement shall be between the respondent and the General Counsel and the latter shall decline to file a complaint.

Post complaint settlement policy

(c) Consistent with the policy reflected in paragraph (a) of this section, even after the filing of a complaint, the Board favors the settlement of issues. Such settlements may be accomplished as provided in paragraph (b) of this section. The parties may, as part of the settlement, agree to waive their right to a hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the settlement. Ordinarily such a settlement agreement will also contain the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order.

Post complaint prehearing settlements

(d)(1) If, after the filing of a complaint, the charging party and the respondent enter into a settlement agreement, and such agreement is accepted by the General Counsel, the settlement agreement shall be submitted to the Executive Director for approval.

(2) If, after the filing of a complaint, the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, and the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied by the CAA, the agreement shall be between the respondent and the General Counsel. The charging party will be so informed and provided a brief written statement by the General Counsel of the reasons therefor. The settlement agreement together with the charging party's objections, if any, and the General Counsel's written statements, shall be submitted to the Executive Director for approval. The Executive Director may approve or disapprove any settlement agreement.

(3) After the filing of a complaint, if the General Counsel concludes that it will effectuate the policies of chapter 71, as applied by the CAA, the General Counsel may withdraw the complaint.

Settlements after the opening of the hearing

(e)(1) After filing of a complaint and after opening of the hearing, if the General Counsel concludes that it will effectuate the policies of chapter 71, as applied by the CAA, the General Counsel may request the Hearing Officer for permission to withdraw the complaint and, having been granted such permission to withdraw the complaint, may approve a settlement and recommend that the Executive Director approve the settlement pursuant to paragraph (b) of this section.

(2) If, after filing of a complaint and after opening of the hearing, the parties enter into a settlement agreement that contains the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order, the General Counsel may request the Hearing Officer and the Executive Director to approve such settlement agreement, and upon such approval, to transmit the agreement to the Board for approval.

(3) If the charging party fails or refuses to become a party to a settlement agreement, offered by the respondent, that contains the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order, and the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied to the CAA, the agreement shall be between the respondent and the General Counsel. After the charging party is given an opportunity to state on the record or in writing the reasons for opposing the settlement, the General Counsel may request the Hearing Officer and the Executive Director to approve such settlement agreement, and upon such approval, to transmit the agreement to the Board for approval. The Board may approve or disapprove any such settlement agreement or return the case to the Hearing Officer for other appropriate action.

§ 2423.12 Filing and contents of the complaint.

(a) After a charge is filed, if it appears to the General Counsel that formal proceedings in respect thereto should be instituted, the General Counsel shall file a formal complaint: *Provided, however*, That a determination by the General Counsel to file a complaint shall not be subject to review.

(b) The complaint shall include:

(1) Notice of the charge;

(2) Any information required pursuant to the Procedural Rules of the Office.

(c) Any such complaint may be withdrawn before the hearing by the General Counsel.

§ 2423.13 Answer to the complaint.

A respondent shall file an answer to a complaint in accordance with the requirements of the Procedural Rules of the Office.

§ 2423.14 Prehearing disclosure; conduct of hearing.

The procedures for prehearing discovery and the conduct of the hearing are set forth in the Procedural Rules of the Office.

§ 2423.15 Intervention.

Any person involved and desiring to intervene in any proceeding pursuant to this part shall file a motion in accordance with the procedures set forth in the Procedural Rules of the Office. The motion shall state the grounds upon which such person claims involvement.

§ 423.16 [Reserved]

§ 423.17 [Reserved]

§ 423.18 Burden of proof before the Hearing Officer.

The General Counsel shall have the responsibility of presenting the evidence in support of the complaint and shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

2423.19 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matter before such Hearing Officer, subject to the rules and regulations of the Office and the Board.

§ 2423.20 [Reserved]

§ 2423.21 [Reserved]

§ 2423.22 [Reserved]

§ 2423.23 [Reserved]

§ 2423.24 [Reserved]

§ 2423.25 [Reserved]

§ 2423.26 Hearing Officer decisions; entry in records of the Office.

In accordance with the Procedural Rules of the Office, the Hearing Officer shall issue a written decision and that decision will be entered into the records of the Office.

§ 2423.27 Appeal to the Board.

An aggrieved party may seek review of a decision and order of the Hearing Officer in accordance with the Procedural Rules of the Office.

§ 2423.28 [Reserved]

§ 2423.29 Action by the Board.

(a) If an appeal is filed, the Board shall review the decision of the Hearing Officer in accordance with section 406 of the CAA, and the Procedural Rules of the Office.

(b) Upon finding a violation, the Board shall issue an order:

(1) To cease and desist from any such unfair labor practice in which the employing office or labor organization is engaged;

(2) Requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) Requiring reinstatement of an employee with backpay in accordance with 5 U.S.C. 5596; or

(4) Including any combination of the actions described in paragraphs (1) through (3) of this paragraph (b), or such other action as will carry out the purpose of the chapter 71, as applied by the CAA.

(c) Upon finding no violation, the Board shall dismiss the complaint.

§ 2423.30 Compliance with decisions and orders of the Board.

When remedial action is ordered, the respondent shall report to the Office within a specified period that the required remedial action has been effected. When the General Counsel or the Executive Director finds that the required remedial action has not been effected, the General Counsel or the Executive Director shall take such action as may be appropriate, including referral to the Board for enforcement.

§ 2423.31 Backpay proceedings.

After the entry of a Board order directing payment of backpay, or the entry of a court decree enforcing such order, if it appears to the General Counsel that a controversy exists which cannot be resolved without a formal proceeding, the General Counsel may issue and serve on all parties a backpay specification accompanied by a request for hearing or a request for hearing without a specification. Upon receipt of the request for hearing, the Executive Director will appoint an independent Hearing Officer. The respondent shall, within twenty (20) days after the service of a backpay specification, file an answer thereto in accordance with the Office's Procedural Rules. No answer need be filed by the respondent to a notice of hearing issued without a specification. After the issuance of a notice of hearing, with or without a backpay specification, the hearing procedures provided in the Procedural Rules of the Office shall be followed insofar as applicable.

PART 2424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

Subpart A—Instituting an Appeal

Sec.
2424.1 Conditions governing review.
2424.2 Who may file a petition.
2424.3 Time limits for filing.
2424.4 Content of petition; service.
2424.5 Selection of the unfair labor practice procedure or the negotiability procedure.
2424.6 Position of the employing office; time limits for filing; service.
2424.7 Response of the exclusive representative; time limits for filing; service.
2424.8 Additional submissions to the Board.
2424.9 Hearing.
2424.10 Board decision and order; compliance.

Subpart B—Criteria for Determining Compelling Need for Employing Office Rules and Regulations

2424.11 Illustrative criteria.

Subpart A—Instituting an Appeal

§ 2424.1 Conditions governing review.

The Board will consider a negotiability issue under the conditions prescribed by 5 U.S.C. 7117 (b) and (c), as applied by the CAA, namely: If an employing office involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter proposed to be bargained because, as proposed, the matter is inconsistent with law, rule or regulation, the exclusive representative may appeal the allegation to the Board when——

(a) It disagrees with the employing office's allegation that the matter as proposed to be bargained is inconsistent with any Federal law or any Government-wide rule or regulation; or

(b) It alleges, with regard to any employing office rule or regulation asserted by the employing office as a bar to negotiations on the matter, as proposed, that:

(1) The rule or regulation violates applicable law, or rule or regulation of appropriate authority outside the employing office;

(2) The rule or regulation was not issued by the employing office or by any primary national subdivision of the employing office, or otherwise is not applicable to bar negotiations with the exclusive representative, under 5 U.S.C. 7117(a)(3), as applied by the CAA; or

(3) No compelling need exists for the rule or regulation to bar negotiations on the matter, as proposed, because the rule or regulation does not meet the criteria established in subpart B of this part.

§ 2424.2 Who may file a petition.

A petition for review of a negotiability issue may be filed by an exclusive representative which is a party to the negotiations.

§ 2424.3 Time limits for filing.

The time limit for filing a petition for review is fifteen (15) days after the date the employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained is served on the exclusive representative. The exclusive representative shall request such allegation in writing and the employing office shall make the allegation in writing and serve a copy on the exclusive representative: provided, however, that review of a negotiability issue may be requested by an exclusive representative under this subpart without a prior written allegation by the employing office if the employing office has not served such allegation upon the exclusive representative within ten (10) days after the date of the receipt by any employing office bargaining representative at the negotiations of a written request for such allegation.

§ 2424.4 Content of petition; service.

(a) A petition for review shall be dated and shall contain the following:

(1) A statement setting forth the express language of the proposal sought to be negotiated as submitted to the employing office;

(2) An explicit statement of the meaning attributed to the proposal by the exclusive representative including:

(i) Explanation of terms of art, acronyms, technical language, or any other aspect of the language of the proposal which is not in common usage; and

(ii) Where the proposal is concerned with a particular work situation, or other particular circumstances, a description of the situation or circumstances which will enable the Board to understand the context in which the proposal is intended to apply;

(3) A copy of all pertinent material, including the employing office's allegation in writing that the matter, as proposed, is not within the duty to bargain in good faith, and other relevant documentary material; and

(4) Notification by the petitioning labor organization whether the negotiability issue is also involved in an unfair labor practice charge filed by such labor organization under part 2423 of this subchapter and pending before the General Counsel.

(b) A copy of the petition including all attachments thereto shall be served on the employing office head and on the principal employing office bargaining representative at the negotiations.

(c)(1) Filing an incomplete petition for review will result in the exclusive representative being asked to provide the missing or incomplete information. Noncompliance with a request to complete the record may result in dismissal of the petition.

(2) The processing priority accorded to an incomplete petition, relative to other pending negotiability appeals, will be based upon the date when the petition is completed not the date it was originally filed.

§ 2424.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to part 2423 of this subchapter which involves a negotiability issue, and the labor organization also files pursuant to this part a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the General Counsel and all parties to both the unfair labor practice case and the negotiability case.

§ 2424.6 Position of the employing office; time limits for filing; service.

(a) Within thirty (30) days after the date of the receipt by the head of an employing office of a copy of a petition for review of a negotiability issue the employing office shall file a statement

(1) Withdrawing the allegation that the duty to bargain in good faith does not extend to the matter proposed to be negotiated; or

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Board to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation and shall contain a copy of any internal employing office rule or regulation so relied upon. The statement shall include:

(i) Explanation of the meaning the employing office attributes to the proposal as a whole, including any terms of art, acronyms, technical language or any other aspect of the language of the proposal which is not in common usage; and

(ii) Description of a particular work situation, or other particular circumstance the employing office views the proposal to concern, which will enable the Board to understand the context in which the proposal is considered to apply by the employing office.

(b) A copy of the employing office's statement of position, including all attachments thereto shall be served on the exclusive representative.

§ 2424.7 Response of the exclusive representative; time limits for filing; service.

(a) Within fifteen (15) days after the date of the receipt by an exclusive representative of a copy of an employing office's statement of position the exclusive representative shall file a full and detailed response stating its position and reasons for:

(1) Disagreeing with the employing office's allegation that the matter, as proposed to be negotiated, is inconsistent with any Federal law or Government-wide rule or regulation; or

(2) Alleging that the employing office's rules or regulations violate applicable law, or rule or regulation or appropriate authority outside the employing office; that the rules or regulations were not issued by the employing office or by any primary national subdivision of the employing office, or otherwise are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), as applied by the CAA; or that no compelling need exists for the rules or regulations to bar negotiations.

(b) The response shall cite the particular section of any law, rule or regulation alleged to be violated by the employing office's rules or regulations; or shall explain the grounds for contending the employing office rules or regulations are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), as applied by the CAA, or fail to meet the criteria established in subpart B of this part, or were not issued at the employing office headquarters level or at the level of a primary national subdivision.

(c) A copy of the response of the exclusive representative including all attachments thereto shall be served on the employing office head and on the employing office's representative of record in the proceeding before the Board.

§ 2424.8 Additional submissions to the Board.

The Board will not consider any submission filed by any party, whether supplemental or responsive in nature, other than those authorized under §§ 2424.2 through 2424.7 unless such submission is requested by the Board; or unless, upon written request by any party, a copy of which is served on all other parties, the Board in its discretion grants permission to file suchsubmission.

§ 2424.9 Hearing.

A hearing may be held, in the discretion of the Board, before a determination is made under 5 U.S.C. 7117(b) or (c), as applied by the CAA. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

§ 2424.10 Board decision and order; compliance.

(a) Subject to the requirements of this subpart the Board shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the employing office a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(b) If the Board finds that the duty to bargain extends to the matter proposed to be bargained, the decision of the Board shall include an order that the employing office shall upon request (or as otherwise agreed to by the parties) bargain concerning such matter. If the Board finds that the duty to bargain does not extend to the matter proposed to be negotiated, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue. If the Board finds that the duty to bargain extends to the matter proposed to be bargained only at the election of the employing office, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue.

(c) When an order is issued as provided in paragraph (b) of this section, the employing office or exclusive representative shall report to the Executive Director within a specified period failure to comply with an order that the employing office shall upon request (or as otherwise agreed to by the parties) bargain concerning the disputed matter.

Subpart B—Criteria for Determining Compelling Need for Employing Office Rules and Regulations

§ 2424.11 Illustrative criteria.

A compelling need exists for an employing office rule or regulation concerning any condition of employment when the employing office demonstrates that the rule or regulation meets one or more of the following illustrative criteria:

(a) The rule or regulation is essential, as distinguished from helpful or desirable, to the accomplishment of the mission or the execution of functions of the employing office or primary national subdivision in a manner which is consistent with the requirements of an effective and efficient government.

(b) The rule or regulation is necessary to insure the maintenance of basic merit principles.

(c) The rule or regulation implements a mandate to the employing office or primary national subdivision under law or other outside authority, which implementation is essentially nondiscretionary in nature.

PART 2425—REVIEW OF ARBITRATION AWARDS

Sec.
2425.1 Who may file an exception; time limits for filing; opposition; service.
2425.2 Content of exception.
2425.3 Grounds for review.
2425.4 Board decision.

§ 2425.1 Who may file an exception; time limits for filing; opposition; service.

(a) Either party to arbitration under the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA, may file an exception to an arbitrator's award rendered pursuant to the arbitration.

(b) The time limit for filing an exception to an arbitration award is thirty (30) days beginning on the date the award is served on the filing party.

(c) An opposition to the exception may be filed by a party within thirty (30) days after the date of service of the exception.

(d) A copy of the exception and any opposition shall be served on the other party.

§ 2425.2 Content of exception.

An exception must be a dated, self-contained document which sets forth in full:

(a) A statement of the grounds on which review is requested;

(b) Evidence or rulings bearing on the issues before the Board;

(c) Arguments in support of the stated grounds, together with specific reference to the pertinent documents and citations of authorities; and

(d) A legible copy of the award of the arbitrator and legible copies of other pertinent documents; and

(e) The name and address of the arbitrator.

§ 2425.3 Grounds for review.

The Board will review an arbitrator's award to which an exception has been filed to determine if the award is deficient—

(a) Because it is contrary to any law, rule or regulation; or

(b) On other grounds similar to those applied by Federal courts in private sector labor-management relations.

§ 2425.4 Board decision.

The Board shall issue its decision and order taking such action and making such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

PART 2426—NATIONAL CONSULTATION RIGHTS AND CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

Subpart A—National Consultation Rights

Sec.
2426.1 Requesting; granting; criteria.
2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.
2426.3 Obligation to consult.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

2426.11 Requesting; granting; criteria.
2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.
2426.13 Obligation to consult.

Subpart A—National Consultation Rights

§ 2426.1 Requesting; granting; criteria.

(a) An employing office shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the employing office level; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of personnel employed by the employing office.

(b) An employing office's primary national subdivision which has authority to formulate conditions of employment shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the primary national subdivision level; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of personnel employed by the primary national subdivision.

(c) In determining whether a labor organization meets the requirements as prescribed in paragraphs (a)(2) and (b)(2) of this section, the following will not be counted:

(1) At the employing office level, employees represented by the labor organization under national exclusive recognition granted at the employing office level.

(2) At the primary national subdivision level, employees represented by the labor organization under national exclusive recognition granted at the agency level or at that primary national subdivision level.

(d) An employing office or a primary national subdivision of an employing office shall not grant national consultation rights to any labor organization that does not meet the criteria prescribed in paragraphs (a), (b) and (c) of this section.

§ 2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

(a) Requests by labor organizations for national consultation rights shall be submitted in writing to the headquarters of the employing office or the employing office's primary national subdivision, as appropriate, which headquarters shall have fifteen (15) days from the date of service of such request to respond thereto in writing.

(b) Issues relating to a labor organization's eligibility for, or continuation of, national consultation rights shall be referred to the Board for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria set forth in § 2426.1 may be filed by a labor organization.

(2) A petition for determination of eligibility for national consultation rights shall be submitted on a form prescribed by the Board and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the employing office or the primary national subdivision and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the employing office or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(vi) A showing that petitioner holds adequate exclusive recognition as required by § 2426.1; and

(vii) A statement as appropriate:

(A) That such showing has been made to and rejected by the employing office or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that employing office or primary national subdivision;

(B) That the employing office or primary national subdivision has served notice of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination; or

(C) That the employing office or primary national subdivision has failed to respond in writing to a request for national consultation rights made under § 2426.2(a) within fifteen (15) days after the date the request is

served on the employing office or primary national subdivision.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for national consultation rights shall be filed with the Executive Director.

(ii) An original and four (4) copies of a petition shall be filed, qtogether with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Executive Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the employing office or primary national subdivision of its refusal to accord national consultation rights pursuant to a request under §2426.2(a) or its intention to terminate existing national consultation rights. If an employing office or primary national subdivision fails to respond in writing to a request for national consultation rights made under §2426.2(a) within fifteen (15) days after the date the request is served on the employing office or primary national subdivision, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an employing office or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the employing office or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an employing office or primary national subdivision may terminate national consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the employing office or primary national subdivision shall file a response thereto with the Executive Director raising any matter which is relevant to the petition.

(vii) The Executive Director, on behalf of the Board, shall make such investigations as the Executive Director deems necessary and thereafter shall issue and serve on the parties a determination with respect to the eligibility for national consultation rights which shall be final: *provided, however,* that an application for review of the Executive Director's determination may be filed with the Board in accordance with the procedure set forth in §2422.31 of this subchapter. A determination by the Executive Director to issue a notice of hearing shall not be subject to the filing of an application for review.On behalf of the Board, the Executive Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting an investigatory hearing. Investigatory hearings shall be conducted by the Executive Director or her designee in accordance with §2422.17 through §2422.22 of this subchapter and after the close of the investigatory hearing a Decision and Order shall be issued by the Board in accordance with §2422.30 of this subchapter.

2426.3 Obligation to consult.

(a) When a labor organization has been accorded national consultation rights, the employing office or the primary national subdivision which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed substantive change in conditions of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in conditions of employment to an employing office or a primary national subdivision, that employing office or primary national subdivision shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this subpart shall be construed to limit the right of any employing office or exclusive representative to engage in collective bargaining.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

2426.11 Requesting; granting; criteria.

(a) An employing office shall accord consultation rights on Government-wide rules or regulations to a labor organization that:

(1) Requests consultation rights on Government-wide rules or regulations from an employing office; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of employees employed by the employing office.

(b) An employing office shall not grant consultation rights on Government-wide rules or regulations to any labor organization that does not meet the criteria prescribed in paragraph (a) of this section.

2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

(a) Requests by labor organizations for consultation rights on Government-wide rules or regulations shall be submitted in writing to the headquarters of the employing office, which headquarters shall have fifteen (15) days from the date of service of such request to respond thereto in writing.

(b) Issues relating to a labor organization's eligibility for, or continuation of, consultation rights on Government-wide rules or regulations shall be referred to the Board for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for consultation rights under criteria set forth in §2426.11 may be filed by a labor organization.

(2) A petition for determination of eligibility for consultation rights shall be submitted on a form prescribed by the Board and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the employing office and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the employing office in which the petitioner seeks to obtain or retain consultation rights on Government-wide rules or regulations, and the persons to contact and their titles, if known;

(vi) A showing that petitioner meets the criteria as required by §2426.11; and

(vii) A statement, as appropriate:

(A) That such showing has been made to and rejected by the employing office, together with a statement of the reasons for rejection, if any, offered by that employing office;

(B) That the employing office has served notice of its intent to terminate existing consultation rights on Government-wide rules or regulations, together with a statement of the reasons for termination; or

(C) That the employing office has failed to respond in writing to a request for consultation rights on Government-wide rules or regulations made under §2426.12(a) within fifteen (15) days after the date the request is served on the employing office.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for consultation rights on Government-wide rules or regulations shall be filed with the Executive Director.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on the employing office, and a written statement of such service shall be filed with the Executive Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the employing office of its refusal to accord consultation rights on Government-wide rules or regulations pursuant to a request under §2426.12(a) or its intention to terminate such existing consultation rights. If an employing office fails to respond in writing to a request for consultation rights on Government-wide rules or regulations made under §2426.12(a) within fifteen (15) days after the date the request is served on the employing office, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an employing office wishes to terminate consultation rights on Government-wide rules or regulations, notice of its intention to do so shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the employing office pending disposition of the petition. If no petition has been filed within the provided time period, an employing office may terminate such consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the employing office shall file a response thereto with the Executive Director raising any matter which is relevant to the petition.

(vii) The Executive Director, on behalf of the Board, shall make such investigation as the Executive Director deems necessary and thereafter shall issue and serve on the parties a determination with respect to the eligibility for consultation rights which shall be final: *Provided, however,* that an application for review of the Executive Director's determination may be filed with the Board in accordance with the procedure set forth in §2422.31 of this subchapter. A determination by the Executive Director to issue a notice of investigatory hearing shall not be subject to the filing of an application for review. On behalf of the Board, the Executive Director,

if appropriate, may cause a notice of investigatory hearing to be issued where substantial factual issues exist warranting a hearing. Investigatory hearings shall be conducted by the Executive Director or her designee in accordance with §2422.17 through §2422.22 of this chapter and after the close of the investigatory hearing a Decision and Order shall be issued by the Board in accordance with §2422.30 of this subchapter.

§2426.13 Obligation to consult.

(a) When a labor organization has been accorded consultation rights on Government-wide rules or regulations, the employing office which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed Government-wide rule or regulation issued by the employing office affecting any substantive change in any condition of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in any condition of employment to an employing office, that employing office shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

PART 2427—GENERAL STATEMENTS OF POLICY OR GUIDANCE

Sec.
2427.1 Scope.
2427.2 Requests for general statements of policy or guidance.
2427.3 Content of request.
2427.4 Submissions from interested parties.
2427.5 Standards governing issuance of general statements of policy or guidance.

§2427.1 Scope.

This part sets forth procedures under which requests may be submitted to the Board seeking the issuance of general statements of policy or guidance under 5 U.S.C. 7105(a)(1), as applied by the CAA.

§2427.2 Requests for general statements of policy or guidance.

(a) The head of an employing office (or designee), the national president of a labor organization (or designee), or the president of a labor organization not affiliated with a national organization (or designee) may separately or jointly ask the Board for a general statement of policy or guidance. The head of any lawful association not qualified as a labor organization may also ask the Board for such a statement provided the request is not in conflict with the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA, or other law.

(b) The Board ordinarily will not consider a request related to any matter pending before the Board or General Counsel.

§2427.3 Content of request.

(a) A request for a general statement of policy or guidance shall be in writing and must contain:

(1) A concise statement of the question with respect to which a general statement of policy or guidance is requested together with background information necessary to an understanding of the question;

(2) A statement of the standards under §2427.5 upon which the request is based;

(3) A full and detailed statement of the position or positions of the requesting party or parties;

(4) Identification of any cases or other proceedings known to bear on the question which are pending under the CAA; and

(5) Identification of other known interested parties.

(b) A copy of each document also shall be served on all known interested parties, including the General Counsel, where appropriate.

§2427.4 Submissions from interested parties.

Prior to issuance of a general statement of policy or guidance the Board, as it deems appropriate, will afford an opportunity to interested parties to express their views orally or in writing.

§2427.5 Standards governing issuance of general statements of policy or guidance.

In deciding whether to issue a general statement of policy or guidance, the Board shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether a Board statement would prevent the proliferation of cases involving the same or similar question;

(c) Whether the resolution of the question presented would have general applicability under chapter 71, as applied by the CAA;

(d) Whether the question currently confronts parties in the context of a labor-management relationship;

(e) Whether the question is presented jointly by the parties involved; and

(f) Whether the issuance by the Board of a general statement of policy or guidance on the question would promote constructive and cooperative labor-management relationships in the legislative branch and would otherwise promote the purposes of chapter 71, as applied by the CAA.

PART 2428—ENFORCEMENT OF ASSISTANT SECRETARY STANDARDS OF CONDUCT DECISIONS AND ORDERS

Sec.
2428.1 Scope.
2428.2 Petitions for enforcement.
2428.3 Board decision.

§2428.1 Scope.

This part sets forth procedures under which the Board, pursuant to 5 U.S.C. 7105(a)(2)(I), as applied by the CAA, will enforce decisions and orders of the Assistant Secretary in standards of conduct matters arising under 5 U.S.C. 7120, as applied by the CAA.

§2428.2 Petitions for enforcement.

(a) The Assistant Secretary may petition the Board to enforce any Assistant Secretary decision and order in a standards of conduct case arising under 5 U.S.C. 7120, as applied by the CAA. The Assistant Secretary shall transfer to the Board the record in the case, including a copy of the transcript if any, exhibits, briefs, and other documents filed with the Assistant Secretary. A copy of the petition for enforcement shall be served on the labor organization against which such order applies.

(b) An opposition to Board enforcement of any such Assistant Secretary decision and order may be filed by the labor organization against which such order applies twenty (20) days from the date of service of the petition, unless the Board, upon good cause shown by the Assistant Secretary, sets a shorter time for filing such opposition. A copy of the opposition to enforcement shall be served on the Assistant Secretary.

§2428.3 Board decision.

The Board shall issue its decision on the case enforcing, enforcing as modified, or refusing to enforce, the decision and order of the Assistant Secretary.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

Subpart A—Miscellaneous

Sec.
2429.1 Transfer of cases to the Board.
2429.2 [Reserved]
2429.3 Transfer of record.
2429.4 Referral of policy questions to the Board.
2429.5 Matters not previously presented; official notice.
2429.6 Oral argument.
2429.7 [Reserved]
2429.8 [Reserved]
2429.9 [Reserved]
2429.10 Advisory opinions.
2429.11 [Reserved]
2429.12 [Reserved]
2429.13 Official time.
2429.14 Witness fees.
2429.15 Board requests for advisory opinions.
2429.16 General remedial authority.
2429.17 [Reserved]
2429.18 [Reserved]

Subpart B—General Requirements

2429.21 [Reserved]
2429.22 [Reserved]
2429.23 Extension; waiver.
2429.24 [Reserved]
2429.25 [Reserved]
2429.26 [Reserved]
2429.27 [Reserved]
2429.28 Petitions for amendment of regulations.

Subpart A—Miscellaneous

§2429.1 Transfer of cases to the Board.

In any unfair labor practice case under part 2423 of this subchapter in which, after the filing of a complaint, the parties stipulate that no material issue of fact exists, the Executive Director may, upon agreement of all parties, transfer the case to the Board; and the Board may decide the case on the basis of the formal documents alone. Briefs in the case must be filed with the Board within thirty (30) days from the date of the Executive Director's order transferring the case to the Board. The Board may also remand any such case to the Executive Director for further processing. Orders of transfer and remand shall be served on all parties.

§2429.2 [Reserved]

§2429.3 Transfer of record.

In any case under part 2425 of this subchapter, upon request by the Board, the parties jointly shall transfer the record in the case, including a copy of the transcript, if any, exhibits, briefs and other documents filed with the arbitrator, to the Board.

§2429.4 Referral of policy questions to the Board.

Notwithstanding the procedures set forth in this subchapter, the General Counsel, or the Assistant Secretary, may refer for review and decision or general ruling by the Board any case involving a major policy issue that arises in a proceeding before any of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Board shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate. The Board may decline a referral.

§2429.5 Matters not previously presented; official notice.

The Board will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Executive Director, Hearing Officer, or arbitrator. The Board may, however, take official notice of such matters as would be proper.

§2429.6 Oral argument.

The Board or the General Counsel, in their discretion, may request or permit oral argument in any matter arising under this subchapter under such circumstances and conditions as they deem appropriate.

§ 2429.7 [Reserved]
§ 2429.8 [Reserved]
§ 2429.9 [Reserved]
§ 2429.10 Advisory opinions.

The Board and the General Counsel will not issue advisory opinions.

§ 2429.11 [Reserved]
§ 2429.12 [Reserved]
§ 2429.13 Official time.

If the participation of any employee in any phase of any proceeding before the Board under section 220 of the CAA, including the investigation of unfair labor practice charges and representation petitions and the participation in hearings and representation elections, is deemed necessary by the Board, the Executive Director, the General Counsel, any Hearing Officer, or other agent of the Board designated by the Board, such employee shall be granted official time for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

§ 2429.14 Witness fees.

(a) Witnesses (whether appearing voluntarily, or under a subpena) shall be paid the fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States: *Provided*, that any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received pursuant to § 2429.13.

(b) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear, except when the witness receives compensation pursuant to § 2429.13.

§ 2429.15 Board requests for advisory opinions.

(a) Whenever the Board, pursuant to 5 U.S.C. 7105(i), as applied by the CAA, requests an advisory opinion from the Director of the Office of Personnel Management concerning the proper interpretation of rules, regulations, or policy directives issued by that Office in connection with any matter before the Board, a copy of such request, and any response thereto, shall be served upon the parties in the matter.

(b) The parties shall have fifteen (15) days from the date of service of a copy of the response of the Office of Personnel Management to file with the Board comments on that response which the parties wish the Board to consider before reaching a decision in the matter. Such comments shall be in writing and copies shall be served upon the other parties in the matter and upon the Office of Personnel Management.

§ 2429.16 General remedial authority.

The Board shall take any actions which are necessary and appropriate to administer effectively the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

§ 2429.17 [Reserved]
§ 2429.18 [Reserved]

Subpart B—General Requirements

§ 2429.21 [Reserved]
§ 2429.22 [Reserved]
§ 2429.23 Extension; waiver.

(a) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be in writing and received by the appropriate official not later than five (5) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

(b) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may waive any expired time limit in this subchapter in extraordinary circumstances. Request for a waiver of time limits shall state the position of the other parties and shall be served on the other parties.

(c) The time limits established in this subchapter may not be extended or waived in any manner other than that described in this subchapter.

(d) Time limits established in 5 U.S.C. 7105(f), 7117(c)(2) and 7122(b), as applied by the CAA, may not be extended or waived under this section.

§ 2429.24 [Reserved]
§ 2429.25 [Reserved]
§ 2429.26 [Reserved]
§ 2429.27 [Reserved]
§ 2429.28 Petitions for amendment of regulations.

Any interested person may petition the Board in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

SUBCHAPTER D IMPASSES

PART 2470—GENERAL

Subpart A— Purpose

Sec.
2470.1 Purpose.

Subpart B—Definitions

2470.2 Definitions.

Subpart A—Purpose

§ 2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of section 7119 of title 5 of the United States Code, as applied by the CAA. They prescribe procedures and methods which the Board may utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve the disputes.

Subpart B—Definitions

§ 2470.2 Definitions.

(a) The terms Executive Director, employing office, labor organization, and conditions of employment as used herein shall have the meaning set forth in Part 2421 of these rules.

(b) The terms designated representative or designee of the Board means a Board member, a staff member, or other individual designated by the Board to act on its behalf.

(c) The term hearing means a factfinding hearing, arbitration hearing, or any other hearing procedure deemed necessary to accomplish the purposes of 5 U.S.C. 7119, as applied by the CAA.

(d) The term impasse means that point in the negotiation of conditions of employment at which the parties are unable to reach agreement, notwithstanding their efforts to do so by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

(e) The term Board means the Board of Directors of the Office of Compliance.

(f) The term party means the agency or the labor organization participating in the negotiation of conditions of employment.

(g) The term voluntary arrangements means any method adopted by the parties for the purpose of assisting them in their resolution of a negotiation dispute which is not inconsistent with the provisions of 5 U.S.C. 7119, as applied by the CAA.

PART 2471—PROCEDURES OF THE BOARD IN IMPASSE PROCEEDINGS

Sec.
2471.1 Request for Board consideration; request for Board approval of binding arbitration.
2471.2 Request form.
2471.3 Content of request.
2471.4 Where to file.
2471.5 Copies and service.
2471.6 Investigation of request; Board recommendation and assistance; approval of binding arbitration.
2471.7 Preliminary hearing procedures.
2471.8 Conduct of hearing and prehearing conference.
2471.9 Report and recommendations.
2471.10 Duties of each party following receipt of recommendations.
2471.11 Final action by the Board.
2471.12 Inconsistent labor agreement provisions.

§ 2471.1 Request for Board consideration; request for Board approval of binding arbitration.

If voluntary arrangements, including the services of the Federal Mediation and Conciliation Services or any other third-party mediation, fail to resolve a negotiation impasse:

(a) Either party, or the parties jointly, may request the Board to consider the matter by filing a request as hereinafter provided; or the Board may, pursuant to 5 U.S.C. 7119(c)(1), as applied by the CAA, undertake consideration of the matter upon request of (i) the Federal Mediation and Conciliation Service, or (ii) the Executive Director; or

(b) The parties may jointly request the Board to approve any procedure, which they have agreed to adopt, for binding arbitration of the negotiation impasse by filing a request as hereinafter provided.

§ 2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Board for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Executive Director, Office of Compliance.

§ 2471.3 Content of request.

(a) A request from a party or parties to the Board for consideration of an impasse must be in writing and include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Statement of issues at impasse and the summary positions of the initiating party or parties with respect to those issues; and

(3) Number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized.

(b) A request for approval of a binding arbitration procedure must be in writing, jointly filed by the parties, and include the following information about the pending impasse:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Brief description of the impasse including the issues to be submitted to the arbitrator;

(3) Number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized;

(4) Statement that the proposals to be submitted to the arbitrator contain no questions concerning the duty to bargain; and

(5) Statement of the arbitration procedures to be used, including the type of arbitration, the method of selecting the arbitrator, and the arrangement for paying for the proceedings or, in the alternative, those provisions of the parties' labor agreement which contain this information.

§ 2471.4 Where to file.

Requests to the Board provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Office of Compliance.

§ 2471.5 Copies and service.

(a) Any party submitting a request for Board consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Board and shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. When the Board acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute, their counsel of record or designated representatives, if any, and any mediation service which may have been utilized. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Any party submitting a response to or other document in connection with a request for Board consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Board and shall serve a copy of the document upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Board. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Board or its designated representatives, any document or paper filed with the Board under these rules, together with any enclosure filed therewith, shall be submitted on 8 1/2″ x 11 inch size paper.

§ 2471.6 Investigation of request; Board recommendation and assistance; approval of binding arbitration.

(a) Upon receipt of a request for consideration of an impasse, the Board or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Board shall either:

(1) Decline to assert jurisdiction in the event that it finds that no impasse exists or that there is other good cause for not asserting jurisdiction, in whole or in part, and so advise the parties in writing, stating its reasons; or

(2) Recommend to the parties procedures, including but not limited to arbitration, for the resolution of the impasse and/or assist them in resolving the impasse through whatever methods and procedures the Board considers appropriate.

(b) Upon receipt of a request for approval of a binding arbitration procedure, the Board or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Board shall either approve or disapprove the request; *provided, however,* that when the request is made pursuant to an agreed-upon procedure for arbitration contained in an applicable, previously negotiated agreement, the Board may use an expedited procedure and promptly approve or disapprove the request, normally within five (5) workdays.

§ 2471.7 Preliminary hearing procedures.

When the Board determines that a hearing is necessary under § 2471.6, it will:

(a) Appoint one or more of its designees to conduct such hearing; and

(b) issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representatives appointed by the Board; (5) the issues to be resolved; and (6) the method, if any, by which the hearing shall be recorded.

§ 2471.8 Conduct of hearing and prehearing conference.

(a) A designated representative of the Board, when so appointed to conduct a hearing, shall have the authority on behalf of the Board to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpenas;

(2) Conduct the hearing in open, or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted;

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other appropriate procedural action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Board in order to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

§ 2471.9 Report and recommendations.

(a) When a report is issued after a hearing conducted pursuant to § 2471.7 and 2471.8, it normally shall be in writing and, when authorized by the Board, shall contain recommendations.

(b) A report of the designated representative containing recommendations shall be submitted to the parties, with two (2) copies to the Executive Director, within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any.

(c) A report of the designated representative not containing recommendations shall be submitted to the Board with a copy to each party within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any. The Board shall then take whatever action it may consider appropriate or necessary to resolve the impasse.

§ 2471.10 Duties of each party following receipt of recommendations.

(a) Within thirty (30) calendar days after receipt of a report containing recommendations of the Board or its designated representative, each party shall, after conferring with the other, either:

(1) Accept the recommendations and so notify the Executive Director; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Director; or

(3) Submit a written statement to the Executive Director setting forth the reasons for not accepting the recommendations and for not reaching a settlement of all unresolved issues.

(b) A reasonable extension of time may be authorized by the Executive Director for good cause shown when requested in writing by either party prior to the expiration of the time limits.

§ 2471.11 Final action by the Board.

(a) If the parties do not arrive at a settlement as a result of or during actions taken under § 2471.6(a)(2), 2471.7, 2471.8, 2471.9, and 2471.10, the Board may take whatever action is necessary and not inconsistent with 5 U.S.C. chapter 71, as applied by the CAA, to resolve the impasse, including but not limited to, methods and procedures which the Board considers appropriate, such as directing the parties to accept a factfinder's recommendations, ordering binding arbitration conducted according to whatever procedure the Board deems suitable, and rendering a binding decision.

(b) In preparation for taking such final action, the Board may hold hearings, administer oaths, and take the testimony or deposition of any person under oath, or it may appoint or designate one or more individuals pursuant to 5 U.S.C. 7119(c)(4), as applied by the CAA, to exercise such authority on its behalf.

(c) When the exercise of authority under this section requires the holding of a hearing, the procedure contained in § 2471.8 shall apply.

(d) Notice of any final action of the Board shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless they agree otherwise.

2471.12 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either 5 U.S.C. 7119, as applied by the CAA, or the procedures of the Board shall be deemed to be superseded.

UNITED STATES/UNITED KINGDOM AVIATION RELATIONS

Mr. PRESSLER. Madam President, I rise today to express my great frustration with the current state of aviation relations between the United States and the United Kingdom.

At a great cost to the United States economy, the highly restrictive United States/United Kingdom bilateral aviation agreement continues to be an enormous barrier to free and fair trade between our countries. It is a barrier British negotiators have carefully crafted over the years that, as intended, quite effectively limits competition in the United States/United Kingdom air service market. Simply

put, it is an agreement which artificially manages air service trade in a way that significantly benefits British carriers.

For U.S. passenger carriers serving the transatlantic air service market, these are both the best of times and the worst of times. On the bright side, the historic open skies agreement the United States recently signed with the Federal Republic of Germany, combined with existing open skies agreements with other European countries, means that nearly half of all passengers traveling between the United States and Europe will be flying to or from European countries with open skies regimes. That truly is a remarkable statistic and great news for consumers.

Our aviation relations with the British, however, stand in disturbingly stark contrast. Although the British Government extols the virtues of transatlantic free trade, its words ring hollow with respect to the United States/United Kingdom air service market. United States carriers have proven themselves to be highly competitive in every international market they serve yet, all United States passenger carriers combined have a smaller share of the United States/United Kingdom air service market than just one British carrier, British Airways. Overall, two British carriers currently control nearly 50 percent more of the passenger traffic in that market than United States carriers. As I have said before, I do not believe market forces are responsible for this imbalance.

What adverse impacts does the highly restrictive United States/United Kingdom bilateral aviation agreement have on the United States economy? First, each year our economy is losing hundreds of millions of dollars of export revenue United States carriers might otherwise capture if the United States/United Kingdom air service market truly was competitive. Second, it is costing Americans new jobs which otherwise might be created if United States carriers could expand their services to the United Kingdom. Finally, consumer choice is badly restricted and consumers are denied the most competitive air fares.

Several months ago I announced an initiative I hoped might jump start stalled air service negotiations with the British and remedy these adverse economic impacts. Regrettably, the British spurned that attempt and other good faith efforts by the administration to restart talks. For that reason, I have decided to delay indefinitely my plans to introduce legislation increasing the permissible level of foreign ownership in the voting stock of U.S. carriers to 49 percent. That legislation was the cornerstone of my initiative. If the British exhibit a genuine willingness to seriously address our air service concerns, I will reconsider my decision.

Quite frankly, I am frustrated with the British intransigence in addressing this serious trade issue. They have long blamed a lack of reciprocal investment opportunities in the voting stock of U.S. carriers as a stumbling block to progress in our air service relationship. Finding some merit in that concern, I offered to introduce legislation to address it and help clear the way for further liberalization of our aviation relationship. The British Government's reaction, however, calls into question whether reciprocal foreign investment opportunities ever were the concern the British have long played them up to be.

To underscore that skepticism, I noticed in recent months British carriers have now moved onto criticizing United States policy on the grounds of additional wish list rights such as cabotage and direct participation in the Fly America Program.

Madam President, it has become even more apparent in recent months that British aviation policy is not driven by the goal of expanding rights for its carriers and moving forward in our aviation relationship. Instead, the overarching goal of that policy seems to be nothing less than continuing to protect British carriers from vigorous competition with United States carriers.

In particular, the British Government wants to keep in place the current system which blocks United States carriers from serving London's most popular airport, Heathrow, from most major passenger feed hubs in the United States. After all, under the current managed competition agreement, the British have totally blocked United States passenger feed to Heathrow from major United States hub airports including those located in Atlanta, Cincinnati, Dallas, Denver, Detroit, Houston, Minneapolis, Newark and St. Louis. No wonder United States carriers do not use larger aircraft as the British often chide.

Mr. President, let me conclude by saying I hope the British Government will decide to get in step with the rest of Europe by finally agreeing to take meaningful steps to liberalize the United States/United Kingdom bilateral aviation agreement. The time for such liberalization is long past due.

Let me also add that I for one believe there will come a time when the British truly want some significant aviation rights or regulatory relief from the United States. When that time comes, I fully expect the administration will use that leverage to the fullest extent possible and demand a very high price.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the Federal Government is running on borrowed money—more than $5 trillion of it. As of the close of business yesterday, May 14, 1996, the Federal debt stood at $5,096,217,391,261.73. On a per capita basis, every man, woman, and child in America owes $19,242.02 as his or her share of the Federal debt.

FOREIGN OIL CONSUMED BY THE UNITED STATES HERE'S THE WEEKLY BOX SCORE

Mr. HELMS. Madam President, the American Petroleum Institute reports that for the week ending May 10, the United States imported 8,623,000 barrels of foreign oil each day, 1,411,000 barrels more than the 7,212,000 barrels imported during the same week a year ago.

This means that Americans now rely on foreign oil for 57 percent of their needs, and there are no signs that this upward spiral will abate. Before the Persian gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody interested in restoring domestic production of oil? Politicians had better ponder the economic calamity certain to occur in America if and when foreign producers shut off our oil supply—or double the already enormous cost of imported oil flowing into the United States—now 8,623,000 barrels a day.

RICHARD M. SCRUSHY AND THE SPORTS MEDICINE COUNCIL

Mr. HEFLIN. Madam President, last week, one of Alabama's outstanding citizens and great success stories came to Washington in his effort to give something back to his country. Richard Scrushy is founder, chairman, and CEO of Healthsouth Corp., the Nation's largest provider of medical rehabilitation and sports medicine. He is also founder of the Healthsouth Sports Medicine Council, a nonprofit organization whose goal is to educate young athletes and help them become champions—not only in sports, but in everyday life.

The Sports Medicine Council is made up of top professional athletes and the Nation's leading sports medicine physicians and orthopaedic surgeons. The group unites sports celebrities who know the importance of good attitude, team spirit, and competitiveness, with physicians who have studied how the human body works, how to make it strong, and how to keep it well. Under Richard Scrushy's direction, this group has crafted a program and message that ultimately will reach hundreds of thousands of school children between the ages of 8 and 18 in cities across the United States. It will teach kids the importance of receiving an education, staying away from drugs, and practicing good sportsmanship on and off the field.

Last week in Washington, the Sports Medicine Council's message reached nearly 14,000 kids through a series of field trips to Sports Medicine Council shows. They were hosted by such sports figures as Bo Jackson, Herschel Walker, Kristi Yamaguchi, Cory Everson, and Lex Luger. The shows combined

high-technology, interactive entertainment with the council's message and a hands-on opportunity for kids to meet their sports heroes and play on a team with them.

In a time when many of America's youth are in urgent need of positive role models and encouragement, Richard Scrushy's Sports Medicine Council is a wonderful idea and most welcome enterprise. It represents one of the ways in which private individuals and good corporate citizens can make a difference through their own initiatives. In this way, Richard Scrushy serves as a role model for all corporate CEO's.

Richard is truly one of the great American success stories. He is a self-made man who has never forgotten his roots. Part of his vision is to give back to his community. In the 12 years since the founding of Healthsouth Corp., he has led the company to employ over 33,000 people in over 900 locations across the United States. Healthsouth is an employer of over 3,000 people in Alabama alone. The company's revenues recently rose above the $2 billion mark. Not only has Richard Scrushy been a good citizen, he has been a great asset to the State of Alabama.

He has received such awards and honors as the 1994 Arthritis Foundation Humanitarian of the Year Award. He was named National Honorary Chairman of Multiple Sclerosis for the National Multiple Sclerosis Society. He has worked as a fundraiser for such charities as United Cerebral Palsy, the Ronald McDonald House, and the American Cancer Society.

As a modern-day, ''renaissance man,'' Richard is an accomplished musician and also a commercial multiengine instrument pilot.

I congratulate Richard Scrushy on his tremendous success and on the rapid growth and contributions of the Healthsouth Sports Medicine Council. His is a tremendous example for others in the business community to emulate.

THE GAINES FAMILY

Mr. KERRY. Madam President, as we observe National Police Week, I want to pay a special tribute to one police family in Massachusetts. For the third year in a row, a group of 46 officers and friends from Massachusetts rode the 600 miles to Washington on their bicycles to attend ceremonies at the National Law Enforcement Officers Memorial to honor those who have fallen in the line of duty. Among that group is Officer Paul Gaines and his three sons, Kevin, 10 years old; Stephen, 12; and Shawn, 14. Back at home, and missing her sons on Mother's Day is Sgt. Gladys Gaines, head of the Boston Police Department's domestic violence unit.

This remarkable family is an inspiration to all of us. While dysfunctional families who raise troubled children make the news, Paul and Gladys Gaines have obviously imparted to their children high moral values and a sense of responsibility to family and community, their own family, the family of brother and sister law enforcement officers, and the larger community of the Commonwealth. I want to pay tribute to the Gaines family and to the work they do as police officers and as parents.

TRIBUTE TO MISSOURI DEPUTY KEVIN M. MAYSE AND OTHER LAW ENFORCEMENT OFFICERS KILLED IN 1995

Mr. ASHCROFT. Madam President, I rise today to honor the heroic service of our Nation's law enforcement officers, especially those who have paid the ultimate price in the line of duty. Facing increasingly organized and violent criminals, these brave men and women constitute the first line of defense against those who threaten society. We should be thankful that they do not shrink from this challenge. In the quest for law and order, 161 of our Nation's finest citizens made the supreme sacrifice in 1995, laying down their lives so that the rest of us may enjoy peace and prosperity. It is to honor their memory that today is proclaimed National Peace Officers Memorial Day.

I wish to honor in particular a brave, young Missourian. Cass County Deputy Sheriff Kevin M. Mayse died on June 13, 1995, from injuries sustained while preserving and enhancing the quality of life enjoyed by his fellow Missourians in Cass County. Deputy Mayse left behind a widow, Scottie Sue, and four children, including his youngest daughter whom he never had the joy to meet since she was born a month after Kevin's death.

As we honor those who have fallen while protecting others, we should also honor those such as Scottie Sue and her children who have paid a very high price for our protection as well. In his autobiography, Benjamin Franklin wrote: ''The most acceptable service of God is doing good to man.'' The Bible says that there is no greater love than ''when one lays down his life for his friends.'' I can think of no greater service to his fellow man than that given by Deputy Sheriff Mayse.

Three Missouri peace officers who died before 1995 have also been added to the National Law Enforcement Officers Memorial. Officers George M. McCready of Richmond Heights, Max W. Smith of Moniteau County, and George Adams of St. Louis County also gave their lives in defense of their fellow citizens.

As we honor those lawmen slain in the line of duty, let us not forget those who carry on as guardians of our peace. We must protect them in turn by providing them with the tools and the laws necessary to wage the war against the ever-changing face of crime. Today, violent juvenile crime is growing at a phenomenal rate, yet our juvenile justice system is ill-prepared to cope with its dramatic rise or its brutality. Major reconstruction of the Federal and State juvenile justice systems is needed to ensure that violent and hardcore criminals, old and young, are identified, punished, and deterred. We also need to ensure that our fallen heroes, such as Deputy Sheriff Kevin Mayse, are not forgotten.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED ''SCIENCE AND ENGINEERING INDICATOR—1996''—MESSAGE FROM THE PRESIDENT—PM 145

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

As required by 42 U.S.C. 1863(j)(1), I am pleased to submit to the Congress a report of the National Science Board entitled *Science and Engineering Indicators—1996*. This report represents the twelfth in a series examining key aspects of the status of American science and engineering in a global environment.

The science and technology enterprise is a source of discovery and inspiration and is key to the future of our Nation. The United States must sustain world leadership in science, mathematics, and engineering if we are to meet the challenges of today and tomorrow.

I commend *Science and Engineering Indicators—1996* to the attention of the Congress and those in the scientific and technology communities.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 15, 1996*.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on May 14, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House agrees to the amendment of the Senate to the bill (H.R. 1743) to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1836) to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1743. An act to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes.

H.R. 1836. An act to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1129. An act to amend the National Trails Systems Act to designate the route from Selma to Montgomery as a National Historic Trail.

H.R. 2066. An act to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs.

H.R. 2464. An act to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

H.R. 2967. An act to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes.

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

H.R. 3058. An act to amend the Uniformed and Overseas Citizens Absentee Voting Act to extend the period for receipt of absentee ballots, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1129. An act to amend the National Trails Systems Act to designate the route from Selma to Montgomery as a National Historic Trail; to the Committee on Environment and Public Works.

H.R. 2464. An act to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes; to the Committee on Indian Affairs.

H.R. 2967. An act to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama; to the Committee on Environment and Public Works.

H.R. 3058. An act to amend the Uniformed and Overseas Citizens Absentee Voting Act to extend the period for receipt of absentee ballots, and for other purposes; to the Committee on Rules and Administration.

Hon. STROM THURMOND,
President pro tempore, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: It is my understanding that S. 1745, the National Defense Authorization Act for Fiscal Year 1997, contains provisions affecting intelligence activities and programs. As you know, these are issues of significant interest to, and clearly within the jurisdiction of, the Select Committee on Intelligence. Therefore, pursuant to Senate Resolution 400, Mr. Kerrey and I hereby request that S. 1745 be referred to our Committee for consideration.

Sincerely,

ARLEN SPECTER,
Chairman.
J. ROBERT KERREY,
Vice Chairman.

S. 1745. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; Referred to the Select Committee on Intelligence for a period not to exceed 30 days of session, pursuant to section 3(b) of Senate Resolution 400 of the 94th Congress to report or be discharged.

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–2602. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on assistance to Red Cross for Emergency Communications Services for Members of the Armed Forces and their families; to the Committee on Armed Services.

EC–2603. A communication from the Secretary of Defense, transmitting, pursuant to law, a notice relative to the multiyear contract of the Longbow Apache program; to the Committee on the Armed Services.

EC–2604. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a description of the property to be transferred to the Republic of Panama in accordance with the Panama Canal Treaty of 1977 and its related agreements; to the Committee on Armed Services.

EC–2605. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on the Panama Canal Treaty for fiscal year 1995; to the Committee on Armed Services.

EC–2606. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving U.S. exports to People's Republic of China (PRC); to the Committee on Banking, Housing, and Urban Affairs.

EC–2607. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule (RIN3235–AG48) received on May 7, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2608. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule (RIN3235–AG51) received on May 7, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2609. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule (RIN3235–AG67) received on May 9, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2610. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule on the electronic delivery interpretive release received on May 9, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2611. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the report on enforcement actions for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2612. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule (docket #R–0772) received on May 6, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2613. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule (docket #R–0822) received on May 6, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2614. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule (docket #R–0902) received on May 6, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2615. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule (docket #R–0911) received on May 6, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2616. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule (docket #R–0878) received on May 9, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–2617. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2618. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the Standard Missile 2 block IV major defense acquisition program; to the Committee on Armed Services.

EC–2619. A communication from the Director of Defense Procurement (Acquisition and Technology), Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of an interim rule under the Defense Federal Acquisition Regulation Supplement Case 96–D303 received on May 9, 1996; to the Committee on Armed Services.

EC–2620. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''The National Imagery and Mapping Agency Act of 1996''; to the Committee on Armed Services.

EC–2621. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''The Department of Defense Civilian Intelligence Personnel Reform Act''; to the Committee on Armed Services.

EC–2622. A communication from the Director of the Office of Management and Budget,

Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–2623. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of the notice to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2624. A communication from the Secretary of Agriculture, transmitting, pursuant to law, notice of the intention to award specific watershed restoration contracts on National Forest System lands; to the Committee on Energy and Natural Resources.

EC–2625. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of an interim final rule entitled ''Disposal of National Forest System Timber'' (RIN0596–AB58) received on May 6, 1996; to the Committee on Energy and Natural Resources.

EC–2626. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of safeguards information for the January 1 through March 31, 1996; to the Committee on Environment and Public Works.

EC–2627. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the liner study; to the Committee on Environment and Public Works.

EC–2628. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation entitled ''The Water Resources Development Act of 1996''; to the Committee on Environment and Public Works.

EC–2629. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of four rules (FRL–5502–5, FRL–5502–1, FRL–5500–7, FRL–5468–7) relative to reduced certification reporting requirements for new nonroad engines received on May 6, 1996; to the Committee on Environment and Public Works.

EC–2630. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of four rules (FRL–5461–6, FRL–5503–6, FRL–5503–7, FRL–5503–3) relative to hazardous air pollutants received on May 7, 1996; to the Committee on Environment and Public Works.

EC–2631. A communication from Chief (Regulations Unit), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of revenue ruling 96–25 received on May 7, 1996; to the Committee on Finance.

EC–2632. A communication from the Chief (Regulations Unit), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to the computation of combined taxable income under the profit split method received on May 9, 1996; to the Committee on Finance.

EC–2633. A communication from the Chief (Regulations Unit), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of final regulations on qualified cost sharing arrangements; to the Committee on Finance.

EC–2634. A communication from the Chairman of the U.S. International Trade Commission, transmitting, a draft of proposed legislation to provide authorization of appropriations for U.S. International Trade Commission for fiscal year 1998; to the Committee on Finance.

EC–2635. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period October 1 to March 31, 1996; order to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1090. A bill to amend section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), to provide for public access to information in an electronic format, and for other purposes (Rept. No. 104–272).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1605. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes (Rept. No. 104–273).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following U.S. Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Jerome J. Berard, 000–00–0000.
Brig. Gen. James W. Emerson, 000–00–0000.
Brig. Gen. Rodney R. Hannula, 000–00–0000.
Brig. Gen. James W. MacVay, 000–00–0000.
Brig. Gen. James D. Polk, 000–00–0000.

To be brigadier general

Col. Earl L. Adams, 000–00–0000.
Col. H. Steven Blum, 000–00–0000.
Col. Harry B. Burchstead, Jr., 000–00–0000.
Col. Larry K. Eckles, 000–00–0000.
Col. William L. Freeman, 000–00–0000.
Col. Gus L. Hargett, Jr., 000–00–0000.
Col. Allen R. Leppink, 000–00–0000.
Col. Jacob Lestenkof, 000–00–0000.
Col. Joseph T. Murphy, 000–00–0000.
Col. Larry G. Powell, 000–00–0000.
Col. Roger C. Schultz, 000–00–0000.
Col. Michael L. Seely, 000–00–0000.
Col. Larry W. Shellito, 000–00–0000.
Col. Gary G. Simmons, 000–00–0000.
Col. Nicholas P. Sipe, 000–00–0000.
Col. George S. Walker, 000–00–0000.
Col. Larry Ware, 000–00–0000.
Col. Jackie D. Wood, 000–00–0000.

(The above nominations were reported with the recommendation that they be confirmed.)

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. PRESSLER:

S. 1758. A bill to amend the Packers and Stockyards Act, 1921, to improve the administration of the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 1759. A bill to amend title 5, United States Code, to require that written notice be furnished by the Office of Personnel Management before making any substantial change in the health benefits program for Federal employees; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself, Mr. DOLE, Mr. BRADLEY, Mr. ROCKEFELLER, Mr. SIMPSON, Mr. KERRY, and Mrs. FEINSTEIN):

S. 1760. A bill to amend part D of title IV of the Social Security Act to improve child support enforcement services, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. BUMPERS):

S. 1761. A bill to eliminate taxpayer subsidies for recreational shooting programs, and to prevent the transfer of federally-owned weapons, ammunition, funds, and other property to a private Corporation for the Promotion of Rifle Practice and Firemans Safety; to the Committee on Armed Services.

By Mr. PELL:

S.J. Res. 55. A joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Con. Res. 58. A concurrent resolution expressing the intent of Congress with respect to the collection of fees or other payments from the allocation of toll-free telephone numbers; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 1758. A bill to amend the Packers and Stockyards Act, 1921, to improve the administration of the act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PACKERS AND STOCKYARDS IMPROVEMENT ACT OF 1996

Mr. PRESSLER. Mr. President, I am introducing legislation today that represents the first of several steps I am taking to get action on problems facing our domestic cattle industry. For the past year, I have been pressing the Clinton administration to address meatpacker concentration and utilize existing antitrust laws to make sure that cattle are sold in an open and competitive market. We have seen some action on the part of the administration to solve this problem. Frankly, its proposals offer nothing new. My bill is a necessary first step to pry open the market.

Another step in the process is to get the Senate more engaged on the issue. As part of that effort, the Senate Committee on Agriculture, Nutrition and

Forestry, and the Senate Committee on Commerce, Science and Transportation will hold a series of hearings on this subject next month. Cattle producers are facing the worst economic times in recent memory. The President has the authority to order immediate Justice Department action. Antitrust laws should be enforced now.

I have been saying that for months, but my words have fallen on deaf ears. Only by taking action to enforce antitrust laws already on the books can we ensure the long-term economic viability of the U.S. cattle industry.

South Dakota ranchers know that any real solution to beef prices must include antitrust action. It took only a few days and a 14 percent increase in the price of gasoline for the President to ask the Justice Department to establish a five-person task force to investigate possible antitrust violations. The facts are these: first, cattle prices are at their lowest levels in years; second, only a handful of the top packers control nearly 85 percent the market; and third, retail prices do not reflect the dramatically reduced price paid for cattle. Something is not right.

The bill I am introducing accomplishes three things that South Dakota cattlemen have told me must be done. First, the bill would establish a livestock dealer trust. This would protect sellers from any losses when cattle are sold on commission to a dealer or market agency that goes bankrupt. This was part of the Senate-passed farm bill, but was not in the final version that was signed into law. Second, the bill would require the Packers and Stockyards Administration to include formula-priced cattle in the definition of captive supplies. During the Senate Commerce Committee hearing I held last year in Huron, SD, producers made it loud and clear that this needed to be done. Finally, the bill would require the Secretary of Agriculture to make timely reports on the numbers of livestock and livestock products that are exported and imported, and also require the reporting of prices paid for livestock.

The Senate needs to carefully review this bill and other issues confronting the U.S. cattle industry. Packer concentration, price manipulation, possible price fixing and captive supply all must be looked at and a definite course of action implemented. The introduction of this bill today is the first step in this process.

We need to keep in mind that old saying ''if it ain't broke, don't fix it.'' Well the U.S. cattle industry is broke and it needs fixing, now. I urge my colleagues to support this bill.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 1759. A bill to amend title 5, United States Code, to require that written notice be furnished by the Office of Personnel Management before making any susbtantial change in the health benefits program for Federal employees; to the Committee on Governmental Affairs.

THE FEDERAL HEALTH BENEFIT CHANGE ACCOUNTABILITY ACT OF 1996

•Ms. MIKULSKI. Mr. President, I am introducing today, along with my colleague from Maryland, Senator SARBANES, the Federal Health Benefit Change Accountability Act. This bill is also being introduced in the House of Representatives by Congressman BEN CARDIN. Our legislation will ensure that Congress has an opportunity to respond to any proposed reductions in retired Federal employee health benefits.

I want to save lives, save jobs, and save money. The 1996 prescription plan for Federal retirees that Blue Cross/Blue Shield negotiated with the Office of Personnel Management [OPM] is jeopardizing jobs, and in some cases may be jeopardizing lives. I want this policy changed for 1997, and I want to make sure that Congress is well informed of any future changes in health benefits.

Our bill will protect retired federal employees from the type of attacks on their earned health benefits that we are seeing with this plan. The bill would require a new reporting process at OPM. OPM would have to provide an annual report to Congress that would describe any significant changes in Federal retiree health benefits. The report would explain how proposed changes would affect retirees—both financially and in quality of care. The report would also explain what cost savings OPM expected to achieve. Congress would have time to react if there were concerns with the changes.

This legislation is necessary because of the terrible situation our Federal retirees find themselves in today with their Blue Cross/Blue Shield prescription benefits. Retirees in this prescription plan have a new 20-percent copayment at their neighborhood pharmacies. This is forcing retirees out of neighborhood pharmacy and away from the pharmacists they know and trust. They are forced to use mail order for most of their prescription needs, where there is no copayment, and where their care consists of an 800 number and a mail box.

I've been meeting with Federal retiree groups and with pharmacy groups, and what I'm hearing about this plan has disturbed me greatly.

I'm hearing about elderly retirees who are confused about how and when to use mail order.

I'm hearing about local pharmacies that are losing as much as 30 percent of their business and that are going to have to lay off employees. I'm hearing about jobs being lost because local pharmacies are being cut out of the business of providing care to Federal retirees.

I'm not antimail order, but I think it should be used under the right circumstances. A person can't wait for mail order when a weekend ear ache or a stomach virus strikes. A local pharmacist must be available right then. That is the safety net that allows mail order to work.

As my colleagues know, retirees have special health needs that are different from the majority of younger Federal employees. They frequently take more than one medication at a time, and they have complicated medical histories.

They also need the personal drug education and counseling that local pharmacy is able to provide. When they don't get this education and counseling, studies show they end up in the hospital because of noncompliance with their drug directions.

Community pharmacy is the last health care professional a retiree will see before taking that prescription. We need to think very seriously about what that means and what the consequences are to retirees. Unfortunately, OPM did not put enough thought into these consequences when the Blue Cross/Blue Shield plan was approved.

The very people who are unable to pay the 20-percent copayment because they are on fixed incomes and are forced to use mail order, are the people who are most likely to need the face to face counseling and drug education that they cannot get at mail order pharmacy.

That's why we need a drug benefit that achieves fiscal discipline but that allows retirees choice in their pharmacy care. Otherwise we end up treating prescriptions like a commodity. We end up managing the benefit instead of managing the patient.

Federal retirees have served us honorably and we must value them. We don't value them with words, we do it with actions. They earned and deserve retirement security and health security, and I want to see this government honor the promises that were made to them when they signed up for service.

The legislation we are introducing today will help ensure that the promise of quality health care is not bargained away by the Office of Personnel Management in the future.•

By Ms. SNOWE (for herself, Mr. DOLE, Mr. BRADLEY, Mr. ROCKEFELLER, Mr. SIMPSON, Mr. KERRY, and Mrs. FEINSTEIN):

S. 1760. A bill to amend part D of title IV of the Social Security Act to improve child support enforcement services, and for other purposes; to the Committee on Finance.

THE CHILD SUPPORT IMPROVEMENT ACT OF 1996

• Ms. SNOWE. Mr. President, I am pleased to introduce the Child Support Improvement Act of 1996.

Fourteen months ago, Senator DOLE and I introduced our bill, the Child Support Responsibility Act of 1995, which later became an important piece of the welfare reform bill. Since that time, Congress has twice passed welfare reform, and twice it has been vetoed.

And now, we are in much the same place we were 14 months ago. While it is my sincerest hope that child support will pass as part of a comprehensive

welfare reform bill this year, I believe that we must seize this opportunity to move forward on child support. Because this issue is too important to the future of American children to stand by and wait any longer.

For many of our Nation's children, the American dream is a rapidly fading mirage—one that they can see but are unable to firmly grasp. I'm talking specifically about the millions of children who suffer from the neglect of deadbeat parents—those parents who help bring a child into the world and then, for whatever reasons, renege on their responsibilities as a parent to care for them and give them the tools necessary to craft a better life than the one we enjoy today.

At a time when one in four children grow up in single-parent households, the crisis of unpaid child support remains a heavy burden. It is a burden that has not only taken an emotional toll on single parents and their children, but an economic toll as well. And it is sapping the financial resources of our State governments.

While many single parents have had some success in winning child support, only half of those who succeed actually receive what is owed. The other half receives partial payments or no payments at all. And an alarming 40 percent of single parents who seek child support do not succeed in winning any order at all. That means that, while the potential for child support collections is estimated to exceed $47 billion each year, only $15 billion or so is ever collected from noncustodial parents.

Worse yet, those single parents who have never been married have a difficult time receiving any child support payments at all. Data collected from the 1990 census indicates that of all mothers who have never been married, 75 percent did not have child support orders and more than 50 percent had household incomes below the poverty level.

These statistics translate into unprecedented burdens for single parents and their children, many of whom struggle to find good child care, quality medical care, warm clothes, or simply put food on the table.

In all fairness, Congress has tried to strengthen child support enforcement mechanisms prior to this term. In 1975, Congress did pass the Child Support Enforcement and Paternity Establishment Program as part of the Social Security Act, and then it enacted further improvements to this effort by way of the 1984 Child Support Enforcement Amendments and the Family Support Act of 1988.

Despite these actions, States have been hard pressed to keep pace with the virtual tidal wave of mothers seeking child support. States are faced with the daunting task of locating parents, establishing paternity, establishing child support orders, and collecting child support payments. Yet States have been hampered by a lack of leadership and technical support from the Federal Government.

As a former Member of the House of Representatives, I have a long history of working to change and improve Federal laws governing child support enforcement, and introduced my own legislation to help relieve single parents and their children of the institutional barriers to progress on this issue. As cochair of the Congressional Caucus for Women's Issues, we made child support enforcement one of our top legislative priorities in previous Congresses, where some 30 bills were introduced to address this problem. But I believe we have come to a point where everyone agrees that child support enforcement is one of the most important aspects of our campaign to revamp the welfare system of this country. It affects every State—children at every income level—and it affects both single mothers and single fathers. As a national problem, child support enforcement merits a national solution. And we must demonstrate our leadership by providing it.

That's why I have joined forces again with the distinguished majority leader, Senator DOLE, to introduce the Child Support Improvement Act of 1996. I should add, Mr. President, that this bill has true bipartisan support, and is intended to complement the efforts of my House colleagues, Congresswomen NANCY JOHNSON and BARBARA KENNELLY, who have introduced companion legislation in the House. Together, we have introduced the same child support provisions which received overwhelming support from both parties of Congress, as well as the administration, during welfare reform.

By passing this legislation, we will send a clear signal to deadbeat parents that their days of irresponsibility are over. We will also send clear signal to States that the Federal Government will provide them with the assistance they need to collect child support on behalf of millions of American families.

The bill contains commonsense reforms which achieve the following:

To strengthen efforts to locate parents, it expands the Federal parent locator system by creating Federal and State data banks of child support orders, and allowing State-to-State access of the network. It also creates Federal and State directories of new hires, to allow for basic information supplied by employers from W–4 forms to be compared against child support data.

To ensure that collected funds go to families as soon as possible, it establishes a centralized State collections and disbursements unit, and requires employers that garnish wages from employees to pay those withheld wages to the State within 5 days.

To increase paternity establishment, our approach simplifies paternity procedures, facilitates voluntary acknowledgement, and encourages outreach.

To ensure that child support orders are fair and equitable to children, it provides for a simplified process for review and adjustment of child support orders, and requires provisions for heath care coverage to be required in child support orders. And to facilitate child support enforcement and collection, it requires States to adopt the Uniform Interstate Family Support Act, to encourage the seamless enforcement of child support orders across State lines.

Finally, this bill expands the penalties for child support delinquency to include the denial of professional, recreational and driver's license to deadbeat parents, and permits the denial of a passport for individuals who are more than $5,000 in arrears. My husband, former Gov. Jock McKernan, pioneered a similar program in Maine in 1993. This program has been an amazing success in my home State. Between August 1993 and April 1996, $44 million was collected in outstanding child support payments from 15,000 individuals. In fact, in one case, a long-haul trucker who owed the State $19,000 drove to the State capitol and paid the amount in one lump sum. In another case, a real estate agent who owed more than $11,000 in child support money contacted the State and agreed to sell off some land to pay off his debt. Clearly, it's worth taking these steps. But we can do—and should do—much more.

Mr. President, perhaps if we can replicate the successes of States like Maine on a national level, we can begin to ease and eventually lift the economic and emotional burdens caused by delinquent child support payments, and at last bring the justice, security, and equity to millions of single parents and their children.

I look forward to working with my colleagues to ensure that noncustodial parents begin to accept and bear responsibility for their children, who will reap the financial support they so justly deserve and desperately need.●

By Mr. LAUTENBERG (for himself and Mr. BUMPERS):

S. 1761. A bill to eliminate taxpayer subsidies for recreational shooting transfer of federally owned weapons, ammunition, funds, and other property to the private Corporation for the Promotion of Rifle Practice and Firearms Safety; to the Committee on Armed Services.

THE SELF-FINANCING CIVILIAN MARKSMANSHIP PROGRAM ACT OF 1996

● Mr. LAUTENBERG. Mr. President, I introduce the Self Financing Civilian Marksmanship Program Act of 1996. I'm pleased that Senator BUMPERS is joining me in introducing this legislation.

The goal of this legislation is simple: to block the transfer of a $76 million Federal endowment to American gun clubs.

The Defense Department concluded long ago that the Army-run Civilian Marksmanship Program does not serve any military purpose. Even so, until recently the program was sustained by an annual $2.5 million Federal subsidy.

To extricate the Army from this program, while ensuring a steady stream

of firearms to gun enthusiasts, pro-gun Members of Congress established a so-called private nonprofit version of the program in the fiscal year 1996 Department of Defense authorization bill.

In reality, the new corporation is private in name only. In fact, Congress blessed it with a multimillion-dollar endowment.

When the corporation becomes fully operational in October 1996, it will take control of 176,218 rifles worth more than $53 million. It will receive $4.4 million in cash and be given property valued at $8.8 million. Even more remarkable, the corporation will be given control of 146 million rounds of ammunition worth $9.7 million.

The old program was a flagrant example of government waste. The new version makes even less sense, since it relinquishes government control over the program.

In 1993, the General Services Administration reconfirmed a long-standing government policy. Under that policy, the Federal Government does not sell federally owned weapons to the public.

The Congress should not make an exception for the private, nonprofit Corporation for the Promotion of Rifle Practice and Firearms Safety. The U.S. Government shouldn't be an arms merchant.

Given the plethora of weapons readily available through the private sector, guns for which the federal government no longer has a use should be destroyed, and the corporation should be abolished.

Our bill would do just that. It would abolish the so-called private corporation, block the transfer of this $76 million endowment, and end the federally run Civilian Marksmanship Program once and for all. It would not prohibit gun clubs from operation, but it would not subsidize them with federally owned weapons, ammunition, property, and cash.

This gift of millions of dollars' worth of weapons and ammunition is terrible public policy. In fact, it's outrageous. The Government must work, to stem the rising tide of gun violence in this country, not aid and abet it.

I hope the Congress will approve this legislation. I ask unanimous consent that a copy of the Washington Post article on this program and a copy of the legislation be inserted in the RECORD.

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

S. 1761

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 ''Self Financing Civilian Marksmanship Program Act of 1996''.

SEC. 2. PRIVATE SHOOTING COMPETITIONS AND FIREARM SAFETY PROGRAMS.

Nothing in this Act prohibits any private person from establishing a privately financed program to support shooting competitions or firearms safety programs.

SEC. 3. REPEAL OF CHARTER LAW FOR THE CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND SAFETY.

(a) REPEAL OF CHARTER.—The Corporation for the Promotion of Rifle Practice and Firearms Safety Act (title XVI of Public Law 104–106; 110 Stat. 515; 36 U.S.C. 5501 et seq.), except for section 1624 of such Act (110 Stat. 522), is repealed.

(b) RELATED REPEALS.—Section 1624 of such Act (110 Stat. 522) is amended—

(1) in paragraphs (1) and (2) of subsection (a), by striking out ''and 4311'' and inserting in lieu thereof ''4311, 4312, and 4313'';

(b) by striking out subsection (b); and

(3) in subsection (c), by striking out ''on the earlier of—'' and all that follows and inserting in lieu thereof ''on October 1, 1996.''.

[From the Washington Post, May 7, 1996]

UP IN ARMS OVER RIFLE GIVEAWAY—GUN-CONTROL ADVOCATES CALL ARMY WEAPONS A SUBSIDY FOR NRA

A provision of the defense budget that went into effect earlier this year requires the Pentagon to give away 873,000 old rifles from World War II and the Korean War, spurring protests from gun-control advocates who believe the government shouldn't add to gun commerce.

The little-noticed measure was promoted by the National Rifle Association and the congressional delegation in Ohio, home to an annual marksmanship competition that will be financed by the sale of the venerable M–1 rifles and other aged guns with a resale value of about $100 million.

The heavy, nine-pound M–1s are unlikely to be used in street crimes such as drug killings, the program's advocates say, because the main buyers have been and likely will continue to be gun collectors who must be trained in shooting rifles and pass a stringent background investigation.

But critics say the recent congressional action is in effect a subsidy to the NRA. It requires the Army to transfer control over the rifles for free to a new nonprofit corporation. The corporation will sell them to benefit marksmanship programs and the yearly target tournament in Camp Perry, Ohio, which is managed by the NRA.

The old Army-administered program also co-sponsored the annual Ohio tournament with the NRA, and over the years the NRA used its close relationship with the project to market itself, critics of the group said.

Congress's action marked the death of the Army-administered program, called the Civilian Marksmanship Program, which critics called one of the U.S. government's oddest pork-barrel projects. The Pentagon ran it for decades but has sought to disentangle itself in recent years.

The program harkens to 1903, just after the Spanish-American War. U.S. military officials were upset to learn farm boys conscripted for that conflict were not the rustics of romantic American novels who could nail a jack rabbit from 200 yards—in fact, they couldn't hit a barn. Congress established the project, supported by U.S. military guns and money, to promote sharpshooting in future wars.

''The gift of millions of dollars worth of weapons and ammunition is terrible public policy,'' said Sen. Frank R. Lautenberg (D-N.J.) in a column in USA Today. ''In fact, it's outrageous. The government must work to stem the rising tide of gun violence in this country, not aid and abet it.''

''This program historically has been a federal subsidy to the NRA's marketing,'' said Josh Sugarmann, a gun-control activist and author of a 1992 book critical of the NRA. Congress's latest action, he added, is ''a new funding mechanism'' that also helps the NRA.

The great majority of the gun clubs that take part in the marksmanship program are affiliated with the NRA, he said. For decades, in fact, the guns' buyers had to prove to the Army they were NRA members—until a federal judge stopped the requirement in 1979.

Promoters of the 93-year-old program say it's no more sinister than the Boy Scouts, the Future Farmers of America and other youth groups that have taken part in its marksmanship training. The M–1s that are sold are not used in crimes, they said, because the strict background probes of the guns' potential buyers cull out criminals. They also point out that nine of the 10 members of America's 1992 Olympic shooting team learned marksmanship in the program.

''Any link opponents try to draw between this program and urban violence is comparable to linking Olympic boxing competition with hoodlum street fighting,'' said Rep. Paul E. Gillmor (R–Ohio), who sponsored the new measure and whose district draws 7,000 visitors and $10 million in revenue during the summertime rifle competition.

Gillmor added that it would cost the military $500,000 to destroy the guns, while the cost is nothing if it gives them away.

Chip Walker, a National Rifle Association spokesman, said Lautenberg and other critics of the program ''don't want to promote firearms safety and responsibility.'' He added that it's ''ironic'' that gun-control advocates for years have criticized the NRA for its harsh rhetoric, urging it to stick to its traditional mission of teaching firearms safety—and now raise questions about its efforts to pursue even that goal.

Almost all the guns the Army is to give away are M–1s, the bolt-action rifle lugged by GIs onto the beaches at D-Day and Guadalcanal. Replaced in 1958 by the M–14 as standard infantry issue, and later by today's M–16, the M–1 is prized by collectors and war buffs—especially the pristine guns sold in their original boxes by the Army.

Last year the Army charged $310 each for the M–1s stored at its Anniston Army Depot in Alabama—an increase from its recent price of $250. In any case, those are discounts, because M–1s usually sell for $400 to $500. In recent years the program sold a maximum of 6,000 guns a year.

The measure recently signed into law by President Clinton in essence privatizes the program and transfers ownership of the 373,000 rifles to the new Corporation for the Promotion of Rifle Practice and Firearms Safety, whose board is to be named by the Army. It will then sell the weapons for whatever price the market will bear, and at whatever rate it chooses. (The guns will remain at the Anniston facility until they are sold.)

The law requires the Army to transfer to the new corporation $5 million in cash the Army program has on hand, $8 million in computers and other equipment, about 120 million rounds of ammunition and the 373,000 guns. It's estimated that only about 60 percent of the guns—about 224,000—are usable, and they could fetch about $100 million.

The Pentagon has sought to remove itself as administrator of the program, under which it sold 6,000 guns a year and donated $2.5 million annually to the Ohio competition, military officials said. The main reason, they said, is that they concluded that the program years ago stopped contributing to ''military readiness.'' Moreover, Pentagon officials were uncomfortable being involved in an issue as controversial as firearms.

Finally, last year, military officials were upset by the taint the program suffered when it was learned that members of a Michigan militia had formed a gun club that became officially affiliated with the Army program. Using that affiliation, the militia members

had taken target practice at a Michigan military base until they were stopped.●

By Mr. PELL:

S.J. Res. 55. A joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

PRESIDENTIAL AND CONGRESSIONAL TERMS INAUGURATION DATE ADVANCE CONSTITUTIONAL AMENDMENT

Mr. PELL. Mr. President. I offer a joint resolution to amend the Constitution to advance the Inauguration dates for the President and Members of Congress from January 20th and 3rd to December 10th and 1st respectively. In offering this resolution here in the 104th Congress, I note for my colleagues that this is an effort I first began in 1981 and with each succeeding set of national elections, I believe that the rationale and wisdom for changing these dates becomes more compelling.

The current date for the Inauguration of the President was set by the 20th amendment to the Constitution in 1933. Prior to that, the Inauguration date had not changed since being fixed by an act of the Continental Congress in 1788 commencing the proceeding of the Government of the United States under the newly ratified Constitution. Under that act, March 4th was chosen simply because it happened to be the first Wednesday in March of 1789 and it was thought at the time that that amount of time was needed for each State to appoint Presidential electors to the Electoral College and for them to meet and cast their ballots. Additionally, there were practical and controlling considerations over the difficulty and length of time it took to travel to and from the Capital City, the necessity for time to allow newly elected officials to tend to the long-term organization of their private affairs prior to their extended departure from home for Washington, and the lack of sophisticated means for the verification of polling results and for communication of news. Thus, in the founding days of our country, March 4th was seen as the earliest possible date by which the Government could, in an orderly and practical manner, bring about the will of the electors as expressed in congressional and Presidential balloting from the previous November.

By 1933, however, it had become clear that it was no longer necessary to postpone the Inauguration of the President and Members of Congress until March 4th. Senator George W. Norris of Nebraska, the Champion of the 20th amendment to the Constitution which advanced the Presidential and congressional Inauguration dates to their current status, said on the Senate floor in 1932:

> When our Constitution was adopted, there was some reason for such a long intervention of time between the election and actual commencement of work by the new Congress. We had neither railroads nor telegraphic communication connecting the various States and communities of the country. Under present conditions, however, the result of elections is known all over the country within a few hours after the polls close, and the Capital City is within a few days' travel of the remotest portions of the country.
>
> . . . The only direct opportunity that the citizens of the country have to express their ideas and their wishes in regard to national legislation is the expression of their will through the election of their representatives at the general election in November. . . . In a government ''by the people'' the wishes of a majority should be crystallized into legislation as soon as possible after these wishes have been made known. These mandates should be obeyed within a reasonable time.

Those words ring true today. With the further advancement in travel, communications, polling, and the ascertainment of election results since 1933, their remains no justification for the present lengthy hiatus between Election Day and Inauguration Day. We now know election results within minutes of the last closing of the polls, indeed, usually before they close through news projections, and travel to Washington is an affair that can be accomplished in a day. The Electoral College could easily complete its duties within a few days time and there is no impediment to the commencement of the terms of the Members of Congress by December 1st. necessary because of the role of the House of Representatives in the ratification of the results of the Electoral College. It is clear then that no structural or logistical justification exists for delaying the implementation of the decision of the voters made at the polls in early November.

With no physical barriers to a more rapid installation of the President and Members of Congress, are there policy reasons for waiting 2 months and more before swearing them into office? In my opinion, the typical arguments of preservation of tradition and the need for time for transition organization are less than compelling. Indeed, I believe that these justifications pale in comparison to the drawbacks of the current state of affairs.

First and foremost, currently when a new President is elected, during the protracted transition period to a new administration that follows, it is unclear for almost 3 months who speaks for the United States on matters of national importance or crisis. As the undisputed leader in world affairs, and in a world ever more closely intertwined and influenced by daily events occurring throughout the international community, this is a needless peril into which we place ourselves. It is never wise not desirable for any country, particularly one with extensive power and influence such as ours, to tolerate any confusion or question about who runs and speaks for the affairs of State. Yet, whenever we elect a new President, we needlessly allow just such a situation to occur. We would substantially reduce the potential hazards of the current lengthy delay in the transition of our Government were this proposal adopted.

Another pitfall of the current lengthy interregnum is that under the present system, the next fiscal year's proposed budget is submitted by the outgoing administration only to be subject to amendment and revision once the new administration takes office. This is a needless duplication of effort and inevitably results in an unnecessary delay of the budget process. Indeed, given the record of the current Congress with regard to the Federal budget, it is clear that any additional time or lack of either redundant or pointless effort would be welcome. If the new Congress were to be sworn in on December 1 and the President on December 10, the new administration would start with a clean slate with regard to the budget and the process would be off to a much smoother and more sensible start.

Another clear benefit of an advance in the dates of inauguration for the President and Members of Congress would be that with the recently completed campaign season more fresh in the memories of the new administration and Congress, the opportunity would be greater to take quicker action on the proposals which collectively brought them to office. The populace, having listened to an extensive campaign and spoken their minds through the ballot box, deserve to have the views they supported formulated into legislation and acted upon in a reasonable and timely fashion. Waiting for 3 months to even begin the process seems to me to be simply too long.

Other reasons for advancing the Inauguration of the President and Congress, while slightly more speculative, seem likely. For example, with the advance, the President would prudently be inclined to have a good idea of who he or she would choose for key positions in the Cabinet prior to the election. Indeed, the composition of the Cabinet could well become part of the preelection debate, something which I feel would be healthy given the enormous influence Cabinet members have over the day-to-day functions of the executive branch.

Another potential benefit would be that given the much shorter period between Election Day and the commencement of the terms of the new Congress, the incentive or need to hold so-called lameduck sessions of Congress would be greatly reduced. This would produce the desirable result of discouraging the opportunity for Members who had lost at the polls to still meet, vote, and decide upon matters on behalf of the constituents who just turned them out. Again, in a democracy, it is the will of the people that should be afforded the greatest chance of being heard and reducing the likelihood of a lame-duck session of Congress would forward that goal.

For all of these reasons, I again propose the constitutional amendment. For those unfamiliar with my earlier efforts to advance the Inauguration dates, a couple of points. First, there is

nothing magical about the dates of December 10th for the President and December 1st for Members of Congress. Indeed, when I first pursued this effort, I proposed earlier dates ranging from early to mid-November. However, at a hearing before the Senate Judiciary Committee in 1984, there was a general feeling that perhaps that left too little time after the election for an orderly transition. Likewise, there was resistance to interference with the Thanksgiving holiday so early December presents itself as the earliest reasonable and desirable timeframe for setting these Inauguration dates. Incidentally, for those who wish to cling to tradition, establishing a swearing-in date of December 1st for Congress would be somewhat of a return to previous practice. The Constitution originally established the meeting day for Congress on the first Monday of December and this was the practice until the 20th amendment changed it in 1933. Thus, it was not until 1934 that Congress began its sessions in early January. Under my proposal, Congress would resume the commencement of its sessions in early December.

Thus, I offer my joint resolution to advance the Presidential and congressional Inauguration dates. This proposal is good government, it makes common sense, and is both feasible and practical. Furthermore, I believe that failing to change the dates needlessly risks confusion over who speaks for the national government, facilitates undesirable legislative scenarios such as the convening of lame-duck sessions of Congress, and unnecessarily delays the chance for those chosen by the electorate to take their rightful offices and act upon the issues of the day. I urge my colleagues to take the time to carefully consider this proposal and that they join me in this effort to make these straightforward and eminently reasonable changes in our governmental process.

Mr. President, I ask unanimous consent that at this point a brief history of the 20th amendment as prepared for the Judiciary Committee in 1985 be included in the RECORD.

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

AMENDMENTS TO THE CONSTITUTION: A BRIEF LEGISLATIVE HISTORY

AMENDMENT XX

Text of amendment

''SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

''SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

''SEC. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

''SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

''SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

''SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.''

Background

In accordance with the constitutional provisions written by the Founding Fathers in 1787, the newly established U.S. Government was to become effective when nine States ratified the Constitution.[1] After the ratification process was completed in June of 1788, the existing Congress designated March 4, 1789 as the official date when the Federal Government, as outlined in the Constitution, would begin operation. This date represented an estimate of the time needed to appoint presidential electors in each State and allow them to cast their ballots for President. In addition, the States needed time to select both Representatives and Senators to serve in the U.S. Congress. As mandated by the Constitution, the President was to serve for 4 years, Senators for 6, and Representatives for 2. All legislative and executive offices, then and in the future, would commence on March 4 and end in subsequent odd-numbered years on the same date.

The problem inherent in this system was that the Constitution, under Article I, Section 4, Clause 2, stipulated:

''The Congress shall assemble at least once in every year, and such a meeting shall be on the first Monday in December, unless they shall by Law appoint a different day.''

This meant that, although Congressmen were elected to office in November of even-numbered years, they were not entitled to take office until after the terms of their predecessors expired the following March. Moreover, the new Congressmen would not assemble until the following December. This left a thirteen month lapse from the time of election until the new Congress first convened. In the meantime, defeated or retiring Congressmen would meet in their regular session in December of the election year and continue to hold office until their term expired on March 4 of the next year. This short session of Congress, from December to March, was nicknamed the ''lame-duck'' session, deriving its title from the stock exchange term meaning ''one who was unable to meet his obligations.''[2]

The ''lame-duck'' session of Congress was controversial for a number of reasons. For instance, if the election of the President were thrown into the House of Representatives, the election would be decided not by recently elected Congressmen, but by the ''lame-duck'' session. In addition, should a session of Congress require more time to conduct its business, the session could not be extended, since the terms of many legislators expired on March 4. The pending business would either have to be postponed until the following December, or a special session of the new Congress would have to be called. Consequently, the ''lame-duck'' session provided parliamentary advantages for the majority party in Congress. This is why constitutional amendments to eliminate the ''lame-duck'' session continually faced opposition in Congress.

Objections to the ''lame-duck'' session were heard long before proposals leading to the Twentieth Amendment were introduced. On the opening day of Congress' first ''lame-duck'' session in March of 1795, Aaron Burr laid before the Senate a motion introducing a constitutional amendment extending the terms of Congressmen until the first day of June.[3] Again in 1840, Millard Fillmore introduced an amendment that called for the elimination of the ''lame-duck'' session. Fillmore's resolution provided for the terms of Congressmen to begin on the first day of December, rather than fourth day of March.[4] Several other amendments to the Constitution, which would have altered the terms of office and dates of congressional sessions, were introduced during the last quarter of the nineteenth century. Each of them was defeated.[5]

In 1923, the first of several resolutions introduced by Senator George W. Norris of Nebraska to eliminate the ''lame-duck'' session was reported by the Senate Committee on Agriculture and Forestry.[6] The measure, S.J. Res. 253, easily passed the Senate on February 13, 63 to 6, 27 not voting.[7] However, as would be the case with several of Norris' resolutions, the House of Representatives defeated the proposal by delaying further action until Congress adjourned in March. The same thing happened in 1924 with S.J. Res. 22 (68th Cong.), and again in 1926 with S.J. Res. 9 (69th Cong.). In 1928, S.J. Res. 47 (70th Cong.) finally made it to a vote in the House, where it gained a majority but failed to receive the necessary two-thirds vote, 209 to 157, 66 not voting and 2 answering ''present.''[8]

On June 8, 1929, another Norris amendment proposal, S.J. Res. 3 (71st Cong.), passed in the Senate and was sent to the House. Once in the House, the Resolution lay on the Speaker's table until April 17, 1930, when it was finally referred to a House committee. In the meantime, a similar House Resolution, H.J. Res. 292 (7st Cong.), was introduced. This proposal, as amended by Speaker of the House Nicholas Longworth of Ohio, would have required the second session of Congress, which convened in January, to adjourn by May 4 of even-numbered years.[9] H.J. Res. 292 passed easily in the House, 290 to 93, 47 not voting and 1 answering ''present.''[10] In conference, representatives from the House and the Senate failed to agree on a compromise measure. As a result, hopes for an amendment to the Constitution once again expired with the adjournment of the 71st Congress.[11]

Legislative history

The elections of 1930 resulted in a Democratic landslide in the House. Unlike Longworth, the new Speaker, John N. Garner of Texas, came out in active support of an amendment to remedy the ''lame-duck'' problem. On January 6, 1932, the sixth Norris Amendment, S.J. Res. 14 (72nd Cong.), was reported in the Senate by the Committee on the Judiciary. During floor consideration in the Senate on January 6, one amendment to

Footnotes at end of article.

limit the second session of Congress was rejected before the Resolution passed, 63 to 7, 25 not voting.[12]

In the House, the Committee on Election of the President, Vice President, and Representatives in Congress reported S.J. Res. 14 with an amendment in the nature of a substitute measure.[13] Among numerous suggested alterations, the substitute proposed ending presidential terms on January 24 and congressional terms on January 4, providing for succession in the event of the death or lack of qualification of the President-elect or Vice President-elect, making provision in case of the death of candidates from which Congress might have to choose a President or Vice President, and setting an effective date for the first two sections of the amendment.

The House began consideration of S.J. Res. 14 under an open rule on February 12, 1932.[14] On February 13, numerous amendments to the committee substitute were offered, all of which were either rejected or withdrawn. The two amendments withdrawn by their sponsors would have required ratification of the amendment within 7 years of its submission to the States and provided that Congress could, by concurrent resolution, set an assembly date other than January 4.[15] The rejected amendments called for ratification of the Twentieth Amendment by State conventions, extension of Representatives' terms to 4 years, and limitation of the second session of Congress.

After the House debate concluded, the Election Committee's substitute was approved and recommitted to the committee, with instructions to report it back with a new section establishing a mandatory 7-year ratification period.[16] Once the Resolution was amended accordingly and again reported by the Committee on Election, it passed the House 204 to 134, 43 not voting.[17] Minor differences between the House and Senate versions were quickly resolved in conference.[18]

Ratification history

The Twentieth Amendment was sent to the States for ratification in March of 1932; and within 1 year, all 48 States had ratified. Virginia was the first State to ratify, on March 4, 1932; and on January 23, 1933, Utah became the required 36th State to approve the Amendment. The ratification dates of each of the States appear below:

Virginia, Mar. 4, 1932.
New York, Mar. 11, 1932.
Mississippi, Mar. 16, 1932.
Arkansas, Mar. 17, 1932.
Kentucky, Mar. 17, 1932.
New Jersey, Mar. 21, 1932.
South Carolina, Mar. 25, 1932.
Michigan, Mar. 31, 1932.
Maine, Apr. 1, 1932.
Rhode Island, Apr. 14, 1932.
Illinois, Apr. 21, 1932.
Louisiana, Jun. 22, 1932.
West Virginia, Jul. 30, 1932.
Pennsylvania, Aug. 11, 1932.
Indiana, Aug. 15, 1932.
Texas, Sep. 7, 1932.
Alabama, Sep. 13, 1932.
California, Jan. 4 1933.
North Carolina, Jan. 5, 1933.
North Dakota, Jan. 9, 1933.
Minnesota, Jan. 12, 1933.
Arizona, Jan. 13, 1933.
Montana, Jan. 13, 1933.
Nebraska, Jan. 13, 1933.
Oklahoma, Jan. 13, 1933.
Kansas, Jan. 16, 1933.
Oregon, Jan. 16, 1933.
Delaware, Jan. 19, 1933.
Washington, Jan. 19, 1933.
Wyoming, Jan. 19, 1933.
Iowa, Jan. 20, 1933.
South Dakota, Jan. 20, 1933.
Tennessee, Jan. 20, 1933.
Idaho, Jan. 21, 1933.
New Mexico, Jan. 21, 1933.
Georgia, Jan. 23, 1933.
Missouri, Jan. 23, 1933.
Ohio, Jan. 23, 1933.
Utah, Jan. 23, 1933.
Colorado, Jan. 24, 1933.
Massachusetts, Jan. 24, 1933.
Wisconsin, Jan. 24, 1933.
Nevada, Jan. 26, 1933.
Connecticut, Jan. 27, 1933.
New Hampshire, Jan. 31, 1933.
Vermont, Feb. 2, 1933.
Maryland, Mar. 24, 1933.
Florida, Apr. 26, 1933.

With more than the necessary number of States having ratified, the Twentieth Amendment was certified as part of the Constitution on February 6, 1933, by Secretary of State Henry L. Stimson. Section 5 of the Amendment provided that Section 1 and 2 would become effective on October 15, 1933; therefore, the terms of newly-elected Senators and Representaties began on January 3, 1934, and the terms of the President and Vice President began on January 20, 1937.[19]

The Twentieth Amendment appears officially as 47 Stat. 2569.

FOOTNOTES

[1] United States Constitution, Article VII.
[2] Carl Brent Swisher, *American Constitutional Development* (Boston: Houghton Mifflin, Co., 1943), 723.
[3] *Annals of the Congress of the United States, 1795* (Washington, D.C.: Gales & Seaton, 1849), 5: 853.
[4] *Congressional Globe*, 26th Congress, 2nd Session, 1840, 9: 44.
[5] *Congressional Record*, 70th Congress, 2nd Session, 1928–1929, 70; 1–8; H. Doc. 551.
[6] *Congressional Record*, 67th Congress, 4th, Session, 1932, 64, Pt. 4: 3505–3507.
[7] Ibid., 3540–3541.
[8] Ibid., 70th Congress, 1st Session, 1928, 69, Pt. 4: 4430.
[9] Ibid., 71st Congress, 3rd Session, 1931, 74, Part 6: 5906–5907.
[10] Ibid., 5907–5908.
[11] For a summary of these five proposals see: *Congressional Record*, 72nd Congress, 1st Session, 1931–1932, 75.
[12] *Congressional Record*, 1372–1384.
[13] Ibid., 72nd Congress, 1st Session, 1932, 75.
[14] Ibid.
[15] Ibid., 3856–3857, 3875–3876.
[16] Ibid., 3857–78.
[17] 4059–60.
[18] Ibid.
[19] *Virginia Commission on Constitutional Government, The Constitution of the United States*, (Richmond, 1965), 36–37.

ADDITIONAL COSPONSORS

S. 1491

At the request of Mr. GRAMS, the names of the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1532

At the request of Mr. SIMON, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1532, a bill to provide for the continuing operation of the Office of Federal Investigations of the Office of Personnel Management, and for other purposes.

S. 1534

At the request of Mr. HATFIELD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1534, a bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes.

S. 1644

At the request of Mr. BROWN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1644, a bill to authorize the extension of nondiscriminatory treatment (most-favored-nation) to the products of Romania.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 215

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Resolution 215, a resolution to designate June 19, 1996, as ''National Baseball Day.''

SENATE CONCURRENT RESOLUTION 58—TELEPHONE NUMBER OWNERSHIP CONCURRENT RESOLUTION OF 1996

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation.

S. CON. RES. 58

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This Resolution may be cited as the ''Telephone Number Ownership Resolution of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) under existing law, the Federal Communications Commission is the administrator, not the owner, of telephone numbers, and has no authority to auction, or impose user fees for, any number within the North American Numbering Plan, nor does any other Federal agency;

(2) auctions of toll-free numbers will increase consumer fraud and confusion by allowing competitors to profit from the established reputation associated with existing toll-free numbers;

(3) there are a total of 21 countries in the North American Numbering Plan, including

the United States of America, Canada, and most Caribbean countries, and decisions affecting universally available toll-free numbers should not be made without a consensus among the participating nations;

(4) the value of a toll-free telephone number is derived solely from the efforts of the holder to create value in it; and

(5) the right of first refusal for companies with toll-free numbers that have become a unique brand identity will ensure that customers reach their intended service provider.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the Federal Communications Commission lacks legal authority to conduct auctions or other revenue raising activities in connection with the allocation of any number within the North American Numbering Plan.

(2) if the Congress is to authorize such activities, procedures will be required—

(A) to protect any value attaching to new toll-free numbers by reason of a private business investment in the advertisement or public awareness of the corresponding 800 number, by granting a right of first refusal or other protection to the subscriber to that corresponding 800 number;

(B) to prevent unjust enrichment and inefficient use of toll-free numbers by measures designed to prevent speculation, hoarding, and other ''gaming'' of the allocation system; and

(C) to protect consumers from fraud and confusion by preventing the misrepresentation of established toll-free numbers; and

(3) the Federal Communications Commission should submit to the Congress a plan for the allocation of toll-free 888 numbers that contains procedures described in paragraph (2), together with its recommendations for legislative authorization of such allocation.

AMENDMENTS SUBMITTED

THE CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

GRASSLEY (AND OTHERS) AMENDMENT NO. 3963

Mr. GRASSLEY (for himself, Mr. EXON, Mr. KOHL, Mr. KERRY, Mr. FEINGOLD, Mr. HARKIN, Mr. BUMPERS, Mr. SIMON, and Mr. DORGAN) proposed an amendment to the concurrent resolution (S. Con. Res. 57) setting forth the congressional budget for the United States Government for fiscal years 1997, 1998, 1999, 2000, 2001, and 2002; as follows:

On page 4, line 8, decrease the amount by $8,300,000,000.

On page 4, line 17, decrease the amount by $2,300,000,000.

On page 8, line 3, decrease the amount by $8,300,000,000.

On page 8, line 4, decrease the amount by $2,300,000,000.

On page 52, line 11, decrease the amount by $8,300,000,000.

On page 52, line 12, decrease the amount by $2,300,000,000.

On page 59, at the end of line 2, insert ''This section shall not apply to defense discretionary budget authority and budget outlays caps for fiscal year 1997.''

KYL AMENDMENT NO. 3964

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the concurrent resolution (S. Con. Res. 57) supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING A SUPERMAJORITY REQUIREMENT FOR RAISING TAXES.

(a) FINDINGS.—The Senate finds that—

(1) the Nation's current tax system is indefensible, being overly complex, burdensome, and severely limiting to economic opportunity for all Americans;

(2) fundamental tax reform should be undertaken as soon as practicable to produce a tax system that is fairer, flatter, and simpler; that promotes, rather than punishes, job creation; that eliminates unnecessary paperwork burdens on America's businesses; that recognizes the fact that families are performing the most important work of our society; that provides incentives for Americans who save for the future in order to build a better life for themselves and their families; that allows Americans, especially the middle class, to keep more of what they earn, but that raises enough money to fund a leaner, more efficient Federal Government; and that allows Americans to compute their taxes easily; and

(3) the stability and longevity of any new tax system designed to achieve these goals should be guaranteed with a supermajority vote requirement so that Congress cannot easily raise tax rates, impose new taxes, or otherwise increase the amount of a taxpayer's income that is subject to tax.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this concurrent resolution on the budget assumes fundamental tax reform should be accompanied by a proposal to amend the Constitution of the United States to require a supermajority vote in each House of Congress to approve tax increases.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Tuesday, May 21, 1996, at 11 a.m., in SR–328A to conduct confirmation hearings on the following:

Brooksley E. Born, of Washington, DC, to be Chairman of the Commodity Futures Trading Commission and to be Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 1999.

David D. Spears, of Kansas, to be Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 2000.

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 Wednesday, May 22, 1996, at 9:30 a.m., on Public Access to Government Information in the 21st Century, with a focus on the GPO Depository Program/Title 44.

For further information concerning this hearing, please contact Joy Wilson of the Committee staff.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a business meeting on Wednesday, May 22, 1996, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building to vote on the nomination of Ms. Ginger Ehn Lew to be Deputy Administrator of the U.S. Small Business Administration and to markup the ''Small Business Investment Company Improvement Act of 1996.''

For further information, please contact Paul Cooksey.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, May 15, 1996, at 9:30 A.M., in SR–332, to discuss how the Commodity Futures Trading Commission oversees markets in times of volatile prices and tight supplies.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. 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 Wednesday, May 15, 1996, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

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

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 15, 1996, at 10 A.M., to hold a hearing on ''combating violence against women.''

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, May 15, 1996, beginning at 9:30 a.m., until business is completed, to hold a hearing on Campaign Finance Reform.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, May 15, 1996, beginning at 10 a.m., until business is completed, to hold a hearing on Campaign Finance Reform.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 15, 1996 at 6 p.m., to hold a closed business meeting.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 15, 1996, at 2 p.m., to hold hearing.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, May 15, 1996, to hold hearings on Russian Organized Crime in the United States.

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

ADDITIONAL STATEMENTS

LET'S WORK TOGETHER TO PASS WELFARE REFORM

• Mr. HARKIN. Mr. President, President Clinton recently issued an executive order restricting welfare benefits to teenage parents. I commend the President for taking this action to change welfare as we know it. His work demonstrates his strong commitment to welfare reform. We in Congress should build on his action by quickly passing a tough bipartisan welfare reform plan.

There is no doubt about the dramatic increase in births to unmarried teens. It is clear that we must take aggressive and immediate action to address this serious problem.

The Clinton administration would change welfare policy to keep teen parents in school, require teen parents to sign personal responsibility contracts and require minor mothers to live at home. While this executive order is not the comprehensive overhaul of the welfare system that I feel is needed, it addresses a critical concern—the increase of births to unmarried teenagers. It is a good place to start.

Just last month, the Iowa welfare reform waiver was modified to institute similar changes. In the future, minor parents in Iowa will be required to stay in school and earn a high school diploma or GED and to live with their parents or another responsible adult. These changes will help build a welfare system that requires responsibility, strengthens families, and promotes independence by making families self-sufficient.

Without at least a high school education, welfare parents are unable to get decent jobs that will make the family self-sufficient. Therefore, too many young families are consigned to years of welfare dependency because the parents do not possess the basic skills necessary to get and keep a job. By requiring minor parents to stay in school to earn a diploma or GED, we begin to break this devastating cycle of dependency.

Further, too many minor parents go out and establish separate households when a child is born. Unfortunately many of these young parents are still children themselves and do not possess the skills to properly raise their children. By requiring these minors to remain with their own parents or live with another responsible adult, the young family will be in a more secure environment which will produce a stable family rather than a welfare dependent family for years to come.

Since January 1994, all Iowa welfare recipients, not just teen parents, have been required to sign family investment agreements which outline the steps the family will take to move off of welfare and a date at which time welfare benefits would end. The Clinton personal responsibility contract requirement is modeled on the family investment agreement which is working very well in Iowa.

Mr. President, as I have discussed many times before, Iowa instituted a statewide reform of the welfare system in October 1993. Since then, more families are working and earning income, the number of families on welfare has been declining and the amount of money spent on cash grant is down. In short, welfare reform is working in Iowa. In 1993 and 1995, Senator BOND and I introduced a common sense bipartisan reform plan based on the good work being done in Iowa and in Missouri on reforming welfare.

Mr. President, in February, the National Governors Association announced a bipartisan agreement on welfare reform. At that time, I viewed the proposal as the vehicle to jump-start the congressional debate on welfare reform and restore bipartisanship to the process. This does not seem to be happening and I am very frustrated by that reality.

There is no doubt that the current welfare system is badly broken and in desperate need of repair. Further, there is no question that there is strong, bipartisan support in the U.S. Senate for welfare reform legislation. I still hold out hope that we can and will enact bipartisan welfare reform legislation during the remaining days of the 104th Congress.

The current dependency inducing welfare system must be replaced with one that promotes independence and self-sufficiency. One that sends the clear message to families on welfare that if you can work, you must work. One that requires every family to take responsibility, from day one on welfare, to begin the journey off of welfare and into self-sufficient employment.

There is overwhelming support in the Senate for this kind of commonsense welfare reform. This support was demonstrated last fall when 87 Senators voted for a bipartisan bill to reform welfare.

Mr. President, the American people desperately want us to address the major problems facing our country and stop the political game playing.

We should take the Senate passed plan backup, amend it to adhere to some of the key recommendations of the National Governors Association such as increased funding for child care, and pass it. We clearly have an overwhelming bipartisan majority to do that. That's the clearest way to get comprehensive welfare reform signed into law this year.

Leaders in the House of Representatives have spoken in favor of taking up the Senate bill. The President has said he could support the Senate bill and has said good things about the NGA plan. So it is very clear that there is a path available to us to enact welfare reform. We should take it, and quickly.

Mr. President, I am very concerned, however, that some seem to want to take a different course—one that is clearly destined to result in more gridlock, political fingerpointing and no welfare reform. The budget resolution passed out of the Budget Committee ties welfare reform to a poison pill—elimination of guarantees for elderly people in nursing homes to continued coverage of their care through Medicaid. By block granting and severely cutting Medicaid, health care for pregnant women and children would also be placed on the chopping block. And the President has rightly said that this is wrong and would force him to veto a bill that contained it.

In an effort to clear the path for enactment of welfare reform, I will be offering an amendment to the budget resolution that would take out the poison pill. My amendment will require consideration of welfare reform separate from ending guaranteed coverage for health care to millions of elderly and other Americans. This is the only hope for welfare reform this year. So I hope that all of my colleagues who share my support for comprehensive welfare reform will join me in support of this amendment.

I look forward to working with all of my colleagues on this and other important issues during the remainder of this session and ask that a summary of the executive order be printed in the RECORD.

The summary follows:

EXECUTIVE ACTION ON WELFARE REFORM

Today, President Clinton announced four measures to make responsibility the law of the land, by ensuring that teen mothers on welfare stay in school and live at home. These four executive actions include requiring all States to submit plans for requiring teen mothers to stay in school and prepare for employment; cutting through redtape to allow States to pay cash bonuses to teen mothers who finish high school;

requiring all States to have teen mothers who have dropped out of school return to school and sign personal responsibility plans; and challenging all States to require minor mothers to live with a responsible adult. With these actions, we're focusing on one of the key components of welfare reform: parental responsibility. And we're putting young mothers on the right path, toward employment and self-sufficiency.

REQUIRING TEEN MOTHERS TO STAY IN SCHOOL

Currently, 26 States require teen parents to stay in school to receive assistance, 23 under waivers approved by the Clinton administration. Ohio, for example, has a model program called LEAP: Learning, Earning, and Parenting. LEAP reduces checks of teen mothers when they don't go to school, and pays them a bonus when they do. Other States are trying similar approaches with our support. For example, Delaware reduces benefits for truancy, and pays teen mothers a $50 bonus when they graduate from high school. Colorado pays bonuses when teen mothers graduate from high school or receive a GED.

These States are putting teen mothers on the right path, toward employment and self-sufficiency—and all 50 States around the country should follow their lead. That's why the President is directing all States to submit plans to require school attendance among teens who receive welfare. And to be sure they do, the Department of Health and Human Services will do annual surveys of their success.

ALLOWING STATES TO REWARD TEEN MOTHERS WHO COMPLETE HIGH SCHOOL

Today, President Clinton is also cutting through redtape to allow States to reward teen mothers who stay in school and complete high school, in addition to sanctioning those who don't. States would be able to give teen mothers cash bonuses for strong school attendance, graduating from high school, or GED receipt—without requesting a waiver.

REQUIRING TEEN MOTHERS TO SIGN PERSONAL RESPONSIBILITY PLANS

Today, the Clinton administration is requiring all 50 States to ensure that teen mothers on welfare who have dropped out of school both return to school and sign personal responsibility plans. These actions will help teen mothers plan for their futures and turn their lives around.

REQUIRING MINOR MOTHERS TO LIVE AT HOME

Under current law, States have the option to require minor mothers to live at home—but only 21 States have such requirements, 11 initiated under waivers granted by the Clinton administration and 10 adopted under the State option. Today, the Clinton administration is challenging all 50 States to put minor mothers on the right track by requiring them to live at home or with a responsible adult in order to receive assistance.

ENDING WELFARE AS WE KNOW IT

The President's goals for welfare reform are clear: requiring work, promoting responsibility, and protecting children. With this new initiative, President Clinton underscores his commitment to helping welfare recipients become—and stay—self-sufficient. President Clinton continues to call for a national welfare reform bill that gets these priorities right. Under welfare reform waivers, we've already freed 37 States from redtape to pursue innovative welfare reforms—more than under any previous administration. State welfare demonstrations approved by the Clinton administration now cover 75 percent of all welfare recipients nationwide.●

HONORING MARY WHITE

● Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to a very worthy constituent, Mrs. Mary White. Mrs. White is retiring this month after years of service to both her State and her country, by working for the Immigration and Naturalization Service.

Mrs. White spent 21 years in public service. Her work for INS over the past 6 years has been exemplary, and has set a very high standard for her peers. My office, as well as many others, has enjoyed an excellent working relationship with the Immigration and Naturalization service over the years, due in large part to the cooperation we received from Mrs. White. On numerous occasions she has performed flawlessly, always keeping an attitude that focused on helping others.

My best wishes go out to Mrs. White and her family. May she enjoy this new stage in her life, and be ever mindful of the respect and esteem we hold her in.

RECOGNIZING THE ODELSON FAMILY

● Mr. SIMON. The late Sam and Rose Odelson of Chicago had 13 children, 8 of whom served in the U.S. Armed Forces during World War II.

Four served in Europe, three in the Pacific, and one in the States. Two were injured in combat, and altogether, they earned 20 battle stars. Oscar served in the U.S. Army in Italy. Sidney, an Army veteran who landed at Omaha Beach served in France and Germany. Joe was also in the Army, serving near the tail end of the war in southern France. Irving was one of the first sent overseas, serving in the South Pacific. Julius was 89th Airborne, Roy was in the Army Air Corps, Ben served with the 13th Air Force in the South Pacific for over 2 years, and Mike was an MP in the Philippines.

All the eight Odelson boys returned home after the war. A few stayed in Chicago, the others moved out to sunny California to work in the insurance, furniture, or restaurant business.

With the recent commemoration of the 50th anniversary of World War II, it is fitting to recognize the achievements of this family. I salute these brothers and their family for their selfless commitment to our country. Every year the Odelsons gather out West in Nevada for a reunion. I am sure that they, as do we, will celebrate their contribution.●

TRIBUTE TO GEN. CALVIN A.H. WALLER

● Mr. NUNN. Mr. President, today a grateful nation paid tribute to one of its true patriots and finest soldiers, Lt. Gen. Calvin A.H. Waller, U.S. Army (Retired), who died last Thursday. I was privileged to be at the Fort Myer Chapel today for General Waller's memorial service, conducted by Chaplain (Major General) Donald W. Shea, with Chaplain (Colonel) John Kaising. The homily was presented by Chaplain Shea, and eulogy were offered by General Waller's son, Mark, and General Waller's friend Lt. Gen. Julius W. Becton, Jr., U.S. Army (Retired). General Waller was then interred in Arlington National Cemetary. It was a very moving and inspirational service.

Born in Louisiana, General Waller was a product of the Army Reserve Officer Training Corps [ROTC] program at Prairie View A&M University in Prairie View, TX. It is approximately 45 miles from the place General Waller called home—Houston. His dad was also a Prairie View graduate, and General Waller attended college to study veterinary medicine, entering in 1955. Because Prairie View was a land grant college—part of the Texas Agricultural and Mechanical College system—the first 2 years of ROTC were mandatory. In 1957, young Cal Waller signed up for Senior ROTC status. As his friend and fellow Prairie View classmate, retired Lt. Gen. Marvin Brialsford, says, ''Being a senior cadet at A&M had a certain attractiveness to it; it was prestigious, and we all could put the $27.90 a month we were paid as senior cadets to good use.'' A life in the Army, however, was far from his mind.

After being commissioned into the chemical corps and detailed into the infantry, then-Lieutenant Waller attended the basic infantry officer's course at Fort Benning, and then served in the 8th Infantry Regiment at Fort Lewis, WA. Before his initial tour of duty was over, Lieutenant Waller had decided that the Army had the potential for a career, or, as Secretary of the Army Togo West puts it, ''Fortunately for us, he took a liking to the Army.''

To better utilize his love of science, Cal Waller returned to the chemical corps, serving at Fort McCellan, AL; he went on to serve in the Eighth Army in the Republic of Korea; and in the 82d Airborne Division at Fort Bragg, NC. It was in the 82d Airborne, the All American division, that the Army realized what a natural leader and exceptional planner he was. Cal was one of the youngest officers in Army history to be selected for the Army's Command and General Staff College at Fort Leavenworth, KS, and upon graduation was immediately assigned to the staff of

the U.S. Military Assistance Command, Vietnam.

After a tour in Washington, then-Major Waller began his career as an armor officer—a tanker in Army jargon. He attempted to stay assigned with soldiers and combat-ready units and served in the Federal Republic of Germany, Fort Carson, CO, Fort Stewart, GA, and Fort Bragg, NC. In those assignments, his natural leadership abilities blossomed. A former Army Chief of Staff Gordon Sullivan noted, ''Cal Waller loved soldiers. He had a natural touch with soldiers, and soldiers loved him. I believe there are some men who have the ability, by their very presence, to calm the waters in crisis situations. Cal Waller was such a man.''

In 1987, it was time to return to the Federal Republic of Germany and command of the 8th Infantry Division (Mechanized). It was there that I first met Cal Waller. I traveled with my staff director from the Senate Armed Services Committee, Arnold Punaro, and then-Colonel Frank Norton of the Army Senate Liaison, who I am now fortunate to have on my staff. We visited General Waller in Baumholder. After visiting soldiers and observing training on the multiple launch rocket system, we then had lunch together with some local German supporters of the U.S. Army. It was obvious they held Cal Waller in high esteem. For my part, I was greatly impressed with Cal Waller's professionalism and confidence, his technical acumen, his caring attitude for his soldiers and their families, and his wonderful, self-depreciating sense of humor. We developed a friendship, and I was grateful that our paths crossed on a number of occasions during his career and each time I was with Cal, I learned from him.

After his most successful tenure as Commander of the 8th Infantry Division, General Waller returned to Fort Lewis as the Commanding General of I Corps. He continued to be assigned to I Corps while deployed from Fort Lewis to serve as Deputy commander in Chief of the U.S. Central Command, with General Norm Schwarzkopf, for Operations Desert Shield/Desert Storm. General Schwarzkopf writes of his relationship with General Waller in his autobiography ''It Doesn't Take a Hero.'' He says (pg. 392):

> In mid-November Lieutenant General Cal Waller had reported to Riyadh as my deputy commander in chief: now I had someone to help me ride herd. Cal was a friend who had worked for me in two previous commands. Shrewd, soft-spoken, and given to quoting sayings he'd learned from his grandmother in Louisiana, he was also tough and effective. He'd been my first choice for the job: he'd come up through the Army as an armor officer and understood logistics; also I knew I didn't intimidate him at all. We trusted each other to such an extent that he could walk into my office and say point-blank, ''Hey, something's all screwed up, it's your fault, and you need to know about it.''

After the success of Operations Desert Shield/Desert Storm, General Waller returned to command I Corps, Washington, and began making plans to retire. His Army service spanned 32 years; he had gone from a platoon leader commanding 40 soldiers to commanding general of I Corps and Fort Lewis, where he was responsible for over 100,000 personnel.

After retiring in 1991, General Waller returned to his love of science and was active in environment restoration efforts for a number of companies. I last saw Cal in August 1995 at a conference in Aspen, CO. He drove down from Arvada, CO near Denver, where he made his home. He was, as always, in a great mood and enjoying life. We played a round of golf, and had the opportunity for a lengthy visit. He noted how he was both enjoying and contributing in his second life.

But he never really left the Army, and the Army never left him. As Army Chief of Staff Denny Reimer notes, ''The performance of our soldiers throughout the world * * * have their roots in (his) concerned leadership—making sure soldiers were properly trained for the task at hand and ensuring their families were well-cared for while they were gone. He was a patriotic American, a consummate soldier and a wonderful human being.''

His friend and fellow soldier, Gen. Colin Powell says, ''His ability to touch the lives of so many in such meaningful ways was legendary. We will miss him greatly.'' I certainly agree.

Mrs. Waller and her sons Michael and Mark know better than any of us the great loss our Nation has experienced. They bear their grief with dignity and courage—I know that Cal Waller is proud of them.

His unselfish service to the Army and our Nation is a testament to Cal Waller's sense of duty and honor. Our military forces have been strengthened by his contribution, and America has been enriched by his many accomplishments. I can offer no farewell to Cal Waller better than that extended by his son mark in his eulogy: ''Ride swiftly, great Buffalo soldier.''●

ORDERS FOR THURSDAY, MAY 16, 1996

Mr. DOMENICI. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Thursday, May 16; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the Senate then resume consideration of Senate Concurrent Resolution 57. That is at 9:30 a.m. At such time, the Democrat leader, or his designee, will be recognized to offer the President's budget.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Tomorrow the Senate will resume consideration of the budget resolution. Additional amendments are expected to that resolution, and it is still the intention to complete action on the budget resolution this week. All Senators can therefore expect late night sessions and rollcall votes throughout the remainder of the week.

MORNING BUSINESS

Mr. DOMENICI. I ask unanimous consent that there now be a period for morning business for Senators to pay tribute to our dear friend, the majority leader.

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

Mr. EXON. Reserving the right to object, and I shall not object, I just want to emphasize what the Budget Committee chairman has said. There is great determination, especially on that side, to complete action this week on this budget. Whether or not that is going to be possible, we run over into Saturday or Sunday, as was indicated to me as a possibility by the chairman of the committee, I simply emphasize if people could get their amendments to us, as he has indicated, by noon tomorrow so that we would know at least preliminarily where we are on these things, then we can possibly allot and cut down some time on some of these things to expedite the proceedings which I think we all would like to do. So I endorse the statement that was made by the chairman of the committee and thank him for his cooperation.

Mr. DOMENICI. I say to all Senators, there is another full budget going to be offered by Senators CHAFEE and BREAUX in behalf of themselves and many Members from both sides in due course sometime later tomorrow or Friday. They will have an opportunity to offer that also. So there will be three total proposals that we will have considered.

ORDER FOR ADJOURNMENT

Mr. DOMENICI. Madam President, if there is no further business to come before the Senate, I now ask that following morning business, which we have just agreed to, the Senate stand in adjournment under the previous order.

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

Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Wyoming is recognized.

Mr. SIMPSON. I thank you, Madam President.

TRIBUTE TO BOB DOLE

Mr. SIMPSON. Madam President, apparently at this point in the order of the day, it is appropriate to make some remarks about a very special man who

has made a very dramatic announcement today. Let me just say that I speak from perhaps a little special vantage point because I served as the assistant leader to BOB DOLE for 10 years. Those were 10 of the finest years I have spent in public life, and I have had some very exciting times, and some less exciting times, in public life. But the 10 years serving as first lieutenant to BOB DOLE as he served as our captain were tremendously satisfying and gratifying years for me.

Let me just say that the decision he has made today is one that is typical of BOB DOLE in that he thought that thing through for a long time. He talked with people he respects and admires and cares for, and he came up with a decision which is going to be very good for him and very good for the United States of America because the greatest part of it will be that he will be out in the land and the people of America will see him and the people of America will see Liddy Dole at his side. BOB DOLE and Liddy Dole will be deeply impressive to the American people.

The greatest pleasure I have is knowing that they will get to know him in the same way that we here know him, in the same way that I know him as an extraordinarily deep, complex, competitive, compassionate, complete man, a steady man of great, great sensitivity. I have seen all those attributes. Many of us who have worked with him have.

So it is going to be a wonderful thing to see him go forward from this place where we will no longer have the usual stuff. We would pull the same tricks if we would have had the same lay of the land. It is no reflection upon the fine leadership of the minority, Senator DASCHLE. I wish to compliment him in a very class act in being there at the press conference today, along with Senator BRADLEY, along with Senator KERREY of Nebraska, along with Senator HARKIN and Senator WELLSTONE. Those were acts of political grace. We do that with ourselves and among ourselves.

You have to remember that when we do this act, and we do some of that—a little bit of theater—as I say, we would have been doing some of that had the tables been reversed, but finally it does get to be rather an exhausting process. It is like getting pecked to death by ducks and you want to get away from it as fast as you can. He has, and he is smart to do it, and now the show can start.

For me, it has a western vernacular. It is like taking the hood off of a hunting falcon and now the prey is being observed and the prey is right there at the end of 1600 Pennsylvania. That is a pretty dramatic reference, but it is like an eagle with the tether off. It is like a race horse without the leg irons, and that is BOB DOLE. Boy, I tell you, he is going to run quite a race, and the people of America are going to be very proud and very, very impressed by BOB and Liddy DOLE as they leave this particular arena and go out into the land, not as the Senator from Kansas or the majority leader of the Senate but as an American citizen from Kansas, who, as he said so very beautifully, is either headed for the White House or home. I intend to invest a great deal of my efforts in seeing that he gets to the former location rather than the latter.

I thank the Chair.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The distinguished assistant majority leader.

Mr. LOTT. Madam President, I, too, rise to join in expressing my great respect and admiration for our majority leader, BOB DOLE. We all know here in this institution of his great leadership. We know that he already holds the record of being the leader of the Republican Party longer than any other man in the history of the Senate. We know he has been in the Congress some 35 years, I believe, and that he has been elected six times to be the leader of the Republican team, having already served 11 years in that very critical position.

But there is a lot more to BOB DOLE and his career than those records. His is a remarkable career that will go down in history, I think, as one of the ones who will be remembered and pointed to as exemplary as a Senator and a leader who really loved the institution and did the job magnificently.

There are some words that come to mind when I think about what I have observed in BOB DOLE serving these past 16 months as his whip, and I have come to really appreciate the tremendous insight and leadership that he does have. So leadership clearly is one word that BOB DOLE has exhibited over all these years. He has never shied away from the tough issues, whether it was bipartisan efforts to save Social Security, to tax reform, to critical foreign policy responsibilities our Nation has had to face. Many times he stepped up and endorsed a position which might not necessarily have been the popular position in the country or here in the institution with his own colleagues, but he did what he thought was right and the responsible thing to do for our country, particularly in foreign policy.

BOB DOLE is clearly recognized on both sides of the aisle as a man of his word and a man of fairness. When BOB DOLE tells you you can count on something, whether it is in the Finance Committee or between leadership, you do not have to worry about it. He will stick to his word. Fairness is a cornerstone that I have seen.

Certainly we all know of his courage, both on the battlefields in Europe and the rough and tumble of American politics. BOB DOLE has fought the good fights. He has been a local elected official. He was in Congress. He was head of the Republican National Committee.

As a young Senator he was the patrolman back in the back of this Chamber who was willing to get involved in the fights that sometimes it takes a young Senator to wade into. Then he has had these distinguished leadership positions as minority leader, as chairman of the Finance Committee, and now as majority leader. But always he exhibited the will to fight and he showed the courage to get the job done.

Knowledge is a word that comes to my mind with BOB DOLE. I have been absolutely amazed at the awareness and the knowledge he has of the intricacies of this institution. They are not easy to understand and very difficult to master, but he has a sixth sense of how this body works, has worked, and, maybe even more important, should work. So I think his knowledge of this institution, his great reservoir of memory and experience, will be something we truly will miss.

And humor: Those across the country who do not see BOB as we see him every day may not be so familiar with that Kansas wit that he has, that crack, that moment when he says something that breaks the tension. He has a unique sense of humor and it has been greatly, mightily employed to help this place work over the years.

Now he has made another tough and courageous decision, to leave the life of public service that he has known so well and loved so much here in the Senate. As our Republican nominee, he has decided to leave the Senate and focus all of his time and attention on the quest for the Presidency, and that is as it should be. Up and out—he has taken the ultimate political risk. He has given up his Senate seat and his position of leadership to energize his efforts and to focus his attention on the needs of our Nation. It is an act of principle. He has made a personal sacrifice that we all know means a great deal to BOB DOLE and tells us so much about the man.

Serving his country in wartime and peace, BOB DOLE has sacrificed for America. He has taken a bold action and, as he said today in his speech when he announced that he was making this move: With all due respect for Congress, America has been my life.

I think that truly speaks well of what BOB DOLE has done today. I do not believe we have seen the last of BOB DOLE in the Senate or in service to our country. We will see and hear much more from him. And we all join in expressing our great love and appreciation for what he has done for us individually, for this institution, for our party, and for our country.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The senior Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am very pleased to be able to join my good friend and State colleague, and the distinguished Senator from Wyoming, in saying how sincerely and deeply we respect the decision that BOB DOLE has made and announced today, that he will resign his seat in the U.S. Senate to seek the Presidency of the United States.

I think this truly does signal the beginning of the race for the Presidency. Obviously, as majority leader of the Senate, BOB DOLE has had an enormous responsibility for the schedule of the Senate, for doing all the things that are required of a leader in the Senate to do. He has done them all with great skill and in a way that has reflected an enormous amount of credit on the U.S. Senate.

I am confident the decision to resign did not come easy to him. We have all had an opportunity to be with him today in meetings, first a small group in the leadership, then in the Republican conference, and then to hear his public statement that he made in the Hart Senate Office Building. Throughout all of those conversations it became obvious to us what a difficult decision it had to be. But I think it also shows the willingness of BOB DOLE to do what he has been selected to do and that is to be a candidate for President of the United States. His party has, in effect, nominated him as our candidate, and he has said, ''You have my full commitment. All of my energy, all of my effort, without distractions, no more ambushes here in the U.S. Senate from our friends on the other side of the aisle, or from wherever—all of my energies and my commitment will be directed to achieving success and winning the election campaign.'' And I predict that he is going to win this election campaign.

We are going to miss him very much as our leader. He has been a true friend to so many of us, and certainly to me, during the time that I have had the honor of working with him here in the Senate, and even before.

I never will forget when he came to Mississippi as a new Member of the Senate to defend those who were in charge of disaster benefits after Hurricane Camille had struck our gulf coast in 1969. There were some in the Senate who were prospective candidates for President who were on the other side of the aisle who chaired the committees. They came down to investigate how our State was disbursing disaster benefits and suggested, with a lot of national attention, that we were discriminating in our State against some of our citizens in that process. And it really was blatant posturing and trying to take advantage of an emotional situation, to curry favor in the national political arena.

BOB DOLE, young, new U.S. Senator, could see through that and he defended our elected Governor and the other officials in Mississippi who were working very hard to try to take care of a situation and deal with an enormous disaster. Huge money damages had been lost, a lot of personal suffering; lives had been lost. BOB DOLE was willing to come down and stand up for what would have been a politically incorrect cause, defending the State of Mississippi. I remember that, and all of Mississippi remembers that. If they wonder why the numbers are like they are in the Presidential polls right now, you look at our State. He is way out in front and he is going to stay way out in front.

But he has been a man of courage all of his life. We are familiar with his war record and what he suffered in World War II as a young man, and it just makes your heart ache to think about what he has been through and what he has overcome, to do with his life what he has done with his life and to really give it to the United States in public service—not to privately enrich himself in any way. He said, I am not a person where Congress is my life. America has been my life and it is my life. And it truly is his life.

So it is with a great deal of respect and some heartfelt remorse, too, that he will be leaving the Senate, that I stand tonight to salute him as a great American, a great Senator, a great statesman. We are all very proud of BOB DOLE.

The PRESIDING OFFICER. Who seeks recognition? The distinguished Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is with a sad heart that I join these comments about the majority leader. I have known Senator DOLE for a long time and I have known him as a man whose is unquestionably a leader.

There are people who have mannerisms that come from various experiences in their lives. Whenever I think of BOB DOLE, I think of a great many men I have known in my life who were tested in war. He not only was tested but he was severely injured and really came back in a miraculous way, through the support that he got from his own townspeople in Kansas, through, really, the skill of a great surgeon in Chicago. But he came back and decided that the country that had given him that opportunity to recover from the effects of war was a country that he owed something to, and he has committed his life, really, to trying to make America a better place.

I really do not—it is not too often when I sort of puddle-up in public. When I think about BOB DOLE, I do, particularly after this decision today. I remember being with BOB DOLE when we met with people who were disabled. Everyone knows that BOB was disabled coming out of the war. But he has, because of his own experience in coming back, committed himself to help those, not only get a chance for recovery, but help those who did not have the same miracle of recovery that he had. And the disabilities laws we have now are laws that, as the preceding speaker said, future generations will look to. They will look to what we did during our watch here in the Senate and they are going to find a great many marks made by Senator BOB DOLE, even beyond being a leader.

The work that he did, along with others, in saving the Social Security System involving a bipartisan solution, although it is not totally permanent, was historic. What Senator DOLE did, working on the Finance Committee, and what that law did, in fact, preserved the Social Security system.

But Senator DOLE goes beyond that, in my mind, because I see him with the Secretary of Transportation, when she came to Alaska, standing on the back of a railroad car, the type of railroad car that former Presidents have used, or Presidents or candidates have used, as they made whistle-stop campaigns through the country. I hope BOB DOLE does that as a candidate.

Clearly, I saw the way that he met with our Alaska Native people, with Alaskans, and the way he enjoyed the outdoors and really has been quite supportive of those of us who represent our State.

The BOB DOLE I know is a man who you never have to ask him twice where he stands. You can take his word to the bank. And the decision he made today literally brings tears to my eyes, because I know that he has committed himself to service in the Congress and distinguished himself here.

He has been willing to set that aside and to tell the country, as he did, that he has two destinations after he leaves here on or before June 11: either to the White House or back to Kansas. I think that took great courage and real determination and commitment, the kind of commitment that other people may not understand, but we understand what it means to us.

I have been here when several people ran for the Presidency. They did not resign. They left their seat vacant and missed vote after vote, and there were decisions made here that should not have been reached if they had been here. I was thinking back to President Kennedy and his campaign. He was gone a long time. Lyndon Johnson was gone a long time. Many others had been out campaigning, and they had been gone and missed votes.

This candidate, as leader, has not missed many votes. But now he has decided he must commit his full time to his quest for the Presidency. He has made a very courageous decision. I salute him. I will say other things later after he does leave. Unfortunately, we sometimes wait too long to say them. But I think that BOB DOLE has a love for the Senate and the Senate has shown its love for him in responding to his leadership. We are going to miss that leadership, and I hope that those who follow him understand the Senate the way BOB DOLE does.

Thank you, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, by any standard, this has been the kind of day that takes your breath away, one of those days that you will always remember.

Everyone on this side of the aisle had an opportunity earlier this afternoon

to sit down with the majority leader as he explained this momentous decision. I looked around the room, and I do not think there was a dry eye in the place. Not a one. Everyone sensed that this was a moment of historical significance, and, indeed, it is. We witnessed one of the great men of American history make a dramatic and important decision that virtually everyone I know thinks was the right decision, to put this magnificent congressional career behind him and to move on to the next challenge.

My oldest daughter happened to have been in town today, and I said, ''Your timing couldn't have been better. Come with me. I'm going to let you experience something you will remember for the rest of your life.'' We walked over to this crowded room, 902, that we were all sort of huddled around in to listen to what one of the skeptical commentators, who usually finds no good in politicians, uttered tonight on the evening news was the finest speech BOB DOLE ever made.

So, Mr. President, we are here tonight to celebrate the end of a remarkable career and for many of us to look forward to the next challenge, which is BOB DOLE, unencumbered by past responsibility, stepping forward to present to the American people his plans for the next 4 years.

I would be less than candid if I did not say this is probably the most exhilarating moment that people on this side of the aisle have enjoyed in the last 3 months. It is no secret this has not exactly been the height for the Republican national campaign the last few weeks. So it has provided an opportunity to take a second look at what this man would do for America in the next 4 years.

So it is with a great deal of excitement, but also sadness, that we mark the movement of BOB DOLE on to a new plateau.

When the history books are written about this institution and they pick out the few Senators who really made a difference for America, there is not a doubt that the Senator from Kansas will be near the top of the list. We wish him Godspeed in the challenges ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, on December 5, 1992, President-elect William Clinton resigned his position as Governor of Arkansas. On that date, of course, he was assured of another job, after having remained as Governor through at least the full year in which he devoted very little time and attention to that governorship. On this day, May 15, 1996, Senator ROBERT DOLE announced his resignation not only as majority leader of the U.S. Senate, but as senior Senator from the State of Kansas.

Mr. President, I cannot think of any two facts taken in juxtaposition which illustrate better the respective characters of the two candidates for President of the United States, any statement of fact that can better illustrate the different direction in which ROBERT DOLE will take the United States as President.

So, for him, while some have characterized his action as principled, others as unprecedented, the word that comes most quickly to my mind is principles, the same kind of principles which have actuated his entire life—his childhood, his military service, his recovery from a terribly debilitating injury—and his entire political career.

Of course, Mr. President, from a strictly campaign point of view, this gives Senator DOLE the opportunity full time to share his vision of the future of the United States and his ideas about the widest of our public policy questions with the people of the United States who most unfortunately do not know him in the way in which you and I and our other colleagues here in this body know him. That, I believe, will be an advantage to his campaign, a clear advantage to the people of the United States and a terrible loss to all of us who serve here in this body.

We will miss his wisdom, his sound counsel, his never failing sense of humor more than any of us can possibly state on the floor of this body here this evening. But we give him up to a greater cause, the cause of sharing these qualities of character and personality and of purpose with the American people. This is the contrast, the contrast in character and the contrast in direction for America, that this day and this action have so magnificently illustrated.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I rise to join my colleagues in paying tribute to our leader and in just saying from our hearts how much we respect the decision that he made, this bold and courageous decision, and how much we will miss him.

As has been mentioned, there was not a dry eye in our caucus today when he made this announcement. He and Elizabeth and Robin came in, and it was just the Republican Senators, and they said, ''This is like family. It's like saying good-bye to family.'' But this is a man that America is now going to be able to see, who is deeply rooted in this country, and who knows exactly what he wants to say to the American people.

He made the decision by himself. But he could not speak on the Senate floor, talking about amendments to amendments and quorum calls and cloture votes, and get across to the American people how very important his goals and his mission and his vision for this country are.

He knew that he had to go out into America as an American, not as a Senator, and speak from the heart. He made that decision. As usual, he always livens everything with his humor. He said to us today, ''I've been thinking about this for 2 months. I made the decision about 30 days ago. The reason that it didn't get out, in a town that is known for leaking, is because I didn't tell one U.S. Senator about it.'' Of course, we all laughed, because that was true.

He had kept his counsel. He had made this decision, as he so often does, by himself with his wife Elizabeth. He knew it was right. When we first started hearing about it today, many of us said, ''Oh, no; that must be a mistake. He's going to step down from leadership, but not from his seat.'' Then the more we heard about it, we thought, ''Well, of course. That is BOB DOLE's genius that he would see so far ahead of the rest of us that, yes, indeed, he was going to give up his seat because he began to see that this election is a crossroads, and he must show the American people who he is, what he stands for, and what integrity and character he has.'' He knew that he could not do it talking about amendments to amendments. He knew it had to come from the heartland and from the heart.

So every one of us are thrilled for him, thrilled that he has made this decision because we know the mission is the highest of all. That is to make the changes in America that will give every child in this country the same benefits and opportunities that BOB DOLE himself has had by having the great good fortune to grow up in this country.

He grew up in Russell, KS, in a working family. He has known hardship. He has known tragedy. He has stood the test of extreme injury and pain, being told that he probably would not walk again, being told that if he walked, it would be with a limp, knowing that he could overcome this with the grit and determination that the great upbringing in the heartland of America would give him.

He has never forgotten that opportunity. As I go on the campaign trail with him or as I walk down the hall with him, jaunty as he is, I always see that BOB DOLE knows his bearings. He has never had anything easy in his life. He has fought hard. He has stood the tests that have been thrown at him time after time.

He wants every American child to have the same opportunity that he did. His mission is to make sure that they do. So we love him. We are going to miss him. But every one of us are going to be with him on the campaign trail talking about the message that Americans want to hear: What are you going to do for our country? What he is going to do for our country is prepare for the future, to go into the 21st century without a deficit, saving Medicare, with welfare reform, making sure that we take care of the truly needy but making sure that we look to the future for our children and grandchildren.

That is what this man is going to do. He has put that ahead of his own career

and his own life, because he knows how important this is to the American people. God's speed, our friend.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore.

Mr. THURMOND. Mr. President, today Senator BOB DOLE announced that he will be stepping down as a Member of the U.S. Senate. He has announced his resignation. I have been in the Senate for 40 years. I have been here with many leaders, majority and minority leaders. I can say that he is one of the ablest and finest leaders that this country has ever had serving in the Congress of the United States.

He is a man of principle. He stands for what is right. He felt it his duty, since he is going to run for President, to give his full attention to that campaign. He felt he could not do both, look after the Senate's work and run for President, too.

Unlike some people who have attempted to do both, he will give up all of the power in the Senate. He, as the majority leader here, has served the longest term, I believe, of any majority leader in history.

He has made a fine record. He will give all that up because he wants to do his duty and feels he could not run for President and also look after his duties here in the Senate.

Mr. President, he knows what responsibility means. He felt he could not be responsible to run in the campaign and run the Senate, too. So what did he do? Since he is going to run for President, he decided to resign from the U.S. Senate. He is giving up all of his power, as probably the most influential Member of the U.S. Senate, in his position as majority leader, and as an able Senator giving it all up. How many people would do that? Most people would hang on, say, ''Well, I can run for the Senate, I can run for the President, and stay in the Senate and still do my job.'' Not BOB DOLE. He is not that kind of a man. He does not do things halfway. He puts his heart and soul into whatever he does. That is the reason he resigned from the Senate.

Now, in my opinion, that shows character. I do not know of any quality about any person, man or woman, that is better than that of character. His behavior in public life and in private life has been exemplary. He does not know how to do wrong. We are proud that he is such a man. We are proud that he has lived the life he has and one with such outstanding service to this country.

He is a man of courage. In World War II he served in the armed services in Italy. He was shot in the arm and other parts of his body. They thought he was going to die but he managed to survive. So many people felt he had no chance to recover but he would not give up. He is a fighter. He kept on keeping on until he finally restored his health and then returned to private life again.

Yes, not only did he have physical courage with the enemy but he has moral courage. Sometimes I think moral courage is even greater than physical courage. He could stand up to people when he knew they were wrong and tell them so in a courteous way. I just feel that his courage was one of the strong factors in his life.

Then, too, he is a man of great capacity. He could not have done what he did here in the Senate as majority leader if he had not been a man of great capacity, a man of great ability, who has led this Senate so wise and so well for so long. Yes, his capacity has been a great asset to this Nation.

BOB DOLE is a man of conviction. He knew what he stood for and he stood for it. He knew right from wrong and he followed the right. A man whose ideals were high, a man we could all be proud of because of his exemplary conduct and ideals.

Also he is a man of compassion. He could walk with kings, yet he felt most at home with the common people. I have seen many instances in which he showed great compassion here with employees and with members of the public, with the unfortunate, with the disabled, with the troubled. Everybody at times has a problem. He took pleasure in helping people to solve their problems. He is a man of compassion and a man who loved people.

In all of these things he was courteous. In his position here as majority leader he could have been short with people and he could have said things and gotten away with it. That would not have been characteristic of BOB DOLE. He was always nice to people. He always tried to help people. For that reason, we highly respected him. Because of all these good qualities, the Senate has lost an ideal person. This country has lost a wonderful public leader.

I predict it will not be long until he will, in his campaign, be successful and become President of the United States and render an even greater service. I predict that history will record him as one of the great persons of this century and of history, known for what he has done in the past but also for what he will do as President of the United States. I am proud to claim his friendship. I am proud that he is an American. I am pleased that he took the step he did today which shows strength, courage, and principle. We look forward to his coming back to the Government as President of the United States.

BOB DOLE is blessed with a devoted and lovely wife, Elizabeth. She is a great person in her own right and serves as president of the American Red Cross, former Secretary of Labor, and former Secretary of Transportation.

She has been an inspiration in his life and will continue to be a great asset to him in every way possible in the years ahead. God bless her.

Mr. BROWN. Mr. President, I rise also to pay tribute to Leader DOLE and join my colleagues, the distinguished Senator from South Carolina, as well as others who have spoken out.

Mr. President, there can be no doubt for those of us who listen to Senator DOLE's remarks today that this was truly one of the great events in American history. One had the sense and the feel that great things were taking place.

Great, I suppose, partly because we admire and respect BOB DOLE so much, but I think truly great because what he did is so unusual. Here is someone who has achieved more success in the Senate than just about anyone who has ever served in this body. Here is someone who has been elected Republican leader more times than anyone in the history of our Nation. Here is someone who was willing to risk it all for a higher calling. It is a little like a trapeze artist who goes up to the high wire then instructs the folks to cut down the safety net. Not many people do it.

Yes, there are some, but most political leaders are happy to be secure in a job, to have the paycheck, to have the staff, to have the strength of the office while they run for another. They are not shy about using where they are at to get where they want to go.

What was so unusual about today is BOB DOLE cutting the safety net and putting it all on the line. For those who remember Rudyard Kipling's great poem ''If'' you are reminded of the line ''and risk it on one turn of pitch and toss.'' That is what BOB DOLE has been doing. He has put everything he has on the line. He said it best: ''I'm either going to go to the White House or I'm going to go home.'' It is so typical of the kind of human being that BOB DOLE is, one cannot help but be thrilled and exhilarated by the sheer determination and the courage that he shows.

This is not a normal politician. This is an extraordinary American who has left the leadership of the greatest deliberative body in the world to champion and seek out the Presidency of the United States. He is different. One cannot help but recall Lyndon Baines Johnson running both for the Senate and for Vice President at the same time. The people of Texas elected him in both offices. They understood someone's desire to have a safety net, to be secure, to be safe, to have a forum before they moved ahead.

While we did not condemn those that seem to be safe, to take the safety route, to preserve their spot, strength of power and influence, we cannot help but admire those who are willing to risk it all, whose commitment to the American purpose and the American cause is so great they put that ahead of their own safety, of their own security, and of their own beloved career. No one should doubt that BOB DOLE loves the Senate. It shows in the way he conducts himself and the things he accomplishes.

Also, it would be a mistake for anybody, anywhere, to think that BOB DOLE is not serious about the Presidency. This is someone who has not

been halfhearted in his commitments. He was not halfhearted when he put his very life on the line in World War II. He was not halfhearted when he won a chest full of Purple Hearts. He was not halfhearted when he faced a lifetime of being handicapped. He was not halfhearted when he determined in his own mind and in his own heart that he would walk again and that he would move again and that he would overcome that handicap.

This is not the average person or the normal person who would take the safe way. This is someone of incredible commitment and dedication and personal courage. This is someone who threw down the gauntlet in the Presidential campaign today in a stronger, clearer way than I have ever seen before. This is someone who put behind him not only his beloved Senate, but all of his safety net, to say that what he ran for and what he sought to do for America was more important than anything that affected BOB DOLE.

It is very typical of the kind of human being that BOB DOLE is, because I believe BOB DOLE is a real thing. He is a Kansan —a Kansan who grew up in a way so that he never complains. He is a Kansan who has grown up in a way so that he does not seek excuses. He is a Kansan who grew up being taught to say what was on his mind, to say what he means and mean what he says. That is partly why he is so beloved in the U.S. Senate. Unfortunately, it is partly why he is somewhat unusual in modern American politics.

Some will say there is quite a contrast in the race that BOB DOLE has joined. I am one who thinks so. But anyone who has doubts about that race best look further than the current poll numbers, because BOB DOLE is the real thing. He was the real thing on the battlefield. He was the real thing when he faced a lifetime of being handicapped. He was the real thing when he rose to the heights of politics. Yet, he never let politics be his master.

I suppose I will remember him for his judgment, both now and in the campaign ahead. I recall, specifically, an issue that I think many of us felt very strongly about, and that is the President's commitment of troops to Bosnia. I opposed that with all my heart, and BOB DOLE opposed it as well. He spoke out frankly and honestly about the mistake of deploying American men and women in a way that we did not stand behind them. When the debate was done, and when public opinion was clearly on the side of us who were reluctant to deploy U.S. troops into that theater, and when the President, in spite of all of it, had sent American men and women into that zone, we had the chance to vote on the floor on a vote that would have embarrassed the President by undercutting the funding he would have for an action he had taken. I considered it a tough vote. I did not want to embarrass my President, but I did not want them to have to go and serve in an area where we had not made a clear commitment. I believe BOB DOLE shared my concern about the deployment. He said so, frankly and honestly. But he also was concerned about America's influence and prestige and the President's ability to deal with others around the world. He passed up a chance to embarrass the President of the United States by voting for that resolution, by voting to sustain the President on a policy that he did not like. For BOB DOLE, it was more important to support this Nation and support its Commander in Chief than it was to gain a political advantage.

Some could disagree with his vote. I did. But none could disagree with his motivation. For him, what was important was America and the viability of the Commander in Chief, even though he was someone BOB DOLE disagreed with. That kind of integrity, that kind of honesty, and that kind of commitment to our Nation are surely qualities that are not only rare, but desperately needed.

I do not know what our Maker has in mind for BOB DOLE. He has tested him in ways that many of us have never been tested. But I cannot help but believe that BOB DOLE's service is not finished yet. In an hour when our country desperately needs his integrity and character, I am glad there is a BOB DOLE—the real thing.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I first got to know BOB DOLE well 18 years ago when I went on the Finance Committee and he was the senior Republican on the Finance Committee. The chairman at the time was Senator Russell Long, a Democratic Member, of course, from Louisiana.

During those early years on the Finance Committee, I was struck by several characteristics of BOB DOLE. I had known him to some degree when he had been running for Vice-President, but not intimately. During those early years in the Finance Committee, I had the privilege to get to know BOB DOLE and see him in action. I was struck by several things. First of all, he is very bright. Not only did he know the intricacies of the Tax Code, but when different matters would come up, it was obvious he was a quick learner.

Second, the characteristic that struck me was his seemingly inexhaustible energy. When he became chairman of the committee after several years, he would manage those bills on the floor—tax bills—and, as we all know, in those days, tax bills would sometimes last 2, 3, 4, 5 days, with all sorts of amendments coming from every direction. BOB DOLE had the capacity to stand here always looking fresh and fit, everybody else looking a little bit bedraggled as we would go late into the night, accepting amendments, rejecting those, calling for votes, tabling this, and moving on in totally admirable fashion.

And so, out of that, I came to have a great admiration for BOB DOLE as I saw him in action on the Finance Committee. Then came his leadership here in 1984, succeeding Howard Baker. And, again, BOB DOLE had exerted those extraordinary characteristics of leadership—paying attention to the needs of all of his members, his flock, as it were, and leading us with clear direction and with zest and always with good humor. I suppose there is nobody who made us, as Senators—whether we were in our caucuses, or whether on the floor here—laugh so much, with his quick wit and one-liners, as BOB DOLE.

And now, of course, he has announced this afternoon that he will be leaving the floor of the Senate, where he has served with such distinction for many years. As others have pointed out, he is the longest-serving majority leader in the history of our Nation. To me, it is not surprising that he is leaving. Yes, I was surprised, as everybody was, by the announcement that came today. But when one thought about it, there is no reason for surprise, because it seems to me that BOB DOLE's life has been marked by a sense of duty. And he saw a duty here.

He has received the nomination of the Republican Party for President. But he looked on and weighed the factors and saw he could not be serving the people of Kansas while he was still here trying to do two things at once. Nor could he serve the people of the United States in the fashion and style he felt they were deserving of. And so, in responding to this sense of duty that he give his best to the office he was seeking, while he could not continue to give his best to the people of Kansas and the United States, he chose to resign. It has been pointed out that that is a big decision. But it is a decision that I think we have all come to expect in the style of BOB DOLE.

So I join others in wishing him well, looking forward to doing whatever I can to help him, as he has helped each of us. He came to my State three times to campaign on my behalf in the different elections. I think each Senator on this side could say the same thing. So we wish him well. I share the sense of optimism that others have voiced. I know that with his tremendous energy, with his quick learning ability, with his ability of retention of matters that he has studied, and with the sense of duty I previously remarked on, he is going to conduct an absolutely marvelous campaign that is going to be a great credit to him, to all who nominated him, and a wonderful reflection on the people of the United States of America.

I thank the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

I know it is getting late and my colleagues would like to go home and have dinner, but I am sure that we all share

in this extraordinary opportunity to say a few words about our leader, Senator BOB DOLE, and his announcement today of his resignation.

I was there, along with Mrs. Dole and BOB DOLE's daughter. I think all Senators—all 53—there was not a dry eye in the house when BOB DOLE announced his transition from majority leader, relinquishing the office that he loves so dearly. Basically, he laid out for us an all-or-nothing campaign. I think it took a great deal of courage. It was a bold action, and one that indicated, clearly, to those of us who were privileged to be there, an expression of love for this body that he holds so dearly.

I think, too, he cleared the air on the issue of some of the partisanship that we have in this body. I think it is fair to say no longer can some on the other side of the aisle use the excuse of his candidacy and majority leader as a reason for some of the issues that have not moved before this body. It is my opinion that we have lost a great leader in the Senate, but the country has gained a great opportunity to know BOB DOLE as we know him.

Mr. President, over the next weeks and months BOB DOLE is going to be out in America taking his campaign to the American people. I think he is going to be laying out very clearly the differences between himself and President Clinton. He is going to provide, I think, mainstream conservatives and conservatism moral leadership and will be able to point out the differences between the big Government philosophy, which is currently emanating from the White House, and that of the best Government is the closest Government to the people and most responsive.

I have had an opportunity to know BOB DOLE over the 16 years I have been in this body. I first recognized him as a true American hero. He is one who has always put America first. When he was called to battle in World War II—and now, I think, as he leaves the leadership of the U.S. Senate—he certainly has shown sacrifice and what it takes basically to be President.

BOB DOLE has always been there when America has called him, and America is calling him today. He is a man of courage, strength of character, and patriotism. He is gracious.

He came to Alaska to campaign for me. He has been accommodating to me during my 16 years in this body. One of the things that I have always marveled at about BOB DOLE is his patience in trying to accommodate some 99 other egos that are relatively high from time to time. Some of us have encouraged that he discipline—like, perhaps, that which occurs in the 6th grade—those of us who occasionally fall off the turnip truck. But BOB has always maintained an evenhanded approach towards leadership, giving each one of us an opportunity to express ourselves regardless of how our feelings may be in conflict with his own. Instead of, in effect, chastising on occasions when leadership did not receive the support it was entitled to, BOB has always been above that and set, I think, an extraordinary example of what true leadership is all about. That is being subjected to the equivocation and the contradictions that we all have on various issues, but being able to hold fast and stand above it as tall as BOB DOLE has been and will be as he campaigns for the highest office in our country.

So where are we today? This Nation will now have the privilege of seeing and knowing the BOB DOLE that we have come to know and love and, in my own case, have been privileged to work with for the last 16 years. There is no question in my mind, Mr. President, that the electorate will soon be able to define the character of our two Presidential candidates and make the choice that is right for America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I do not believe I will ever look at the desk directly in front of me, or the podium on it, ever again without thinking of the Senator from Kansas. Senator DOLE is a living American hero. He is a Senator of the century. Whenever I have been around Senator DOLE, somehow I always felt that I was close to the heart and the soul of America. I used to introduce him that way. I still introduce him that way. You cannot miss it when you are near him.

I want to thank the other side. It was great seeing them standing behind this great American Senator—Senator DASCHLE, Senator BRADLEY, Senator HARKIN, Senator KERREY, and others. I think it signaled what the entire Nation feels about this man.

I loved what Senator SIMPSON, his great friend from Wyoming, said. He said: Now America will get a chance to know Senator DOLE like his colleagues do. And I think they are going to make him President of the United States.

This has really been a magnificent day—difficult but magnificent. I think on our side we feel a little bit like a family sending off a son or daughter to work on a higher mission. I know that is how I feel.

I have enjoyed so much this evening listening to the remarks of his friends and colleagues. I join them in saying bon voyage, God bless, safe journey, and much success to the Senator from Kansas.

EXECUTIVE CALENDAR NO. 585 REREFERRED TO THE COMMITTEE ON ARMED SERVICES

Mr. COVERDELL. Mr. President, as in executive session, I ask unanimous consent that Executive Calendar No. 585 be rereferred to the Committee on Armed Services.

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

Mr. COVERDELL. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Thursday, May 16, 1996.

Thereupon, the Senate, at 8:28 p.m., adjourned until Thursday, May 16, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 15, 1996:

THE JUDICIARY

CHRISTINA A. SNYDER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE EDWARD RAFEEDIE, RETIRED.

THOMAS W. THRASH, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA VICE ROBERT L. VINING, JR., RETIRED.