Let us go to just last year and the campaign, when both Senator Dole and President Clinton used $107 billion, the unified deficit figure, like it was net. That was not the case at all. In order to get to a $107 billion deficit, they had to borrow from all the pension funds. Why not borrow another $107 billion and call it balanced? The actual deficit was $261 billion. You could not get that cited or printed in the press. We gave it to them time and time again. We will give it to them again this morning. I defy you to find it in the morning paper or cited in the evening news on TV. They do not want to say what the actual deficit is. They want to use this obscure figure of unified, trying to act like we ought to be encouraged. That is why they are getting together on a budget deal. They will get together on a deal that will obscure truth in budgeting.

This fraud has to stop somehow, somewhere, because it is not a bridge to the next millennium. We are going over a cliff by the year 2000. Our domestic budget is $266 billion. Our defense budget is $267 billion. Those two budgets together are slightly over $500 billion. But you will soon have interest costs exceeding the combined cost of both the domestic and defense budgets. We are not building a bridge, we are digging a hole.

The first order of business, they say, when you are in a hole and you are trying to get out, is stop digging. We continue to dig, and we do it in a dignified fashion around here and praise each other. The President and the Congress have gotten together on a budget agreement and all of that kind of stuff. But watch for the gimmicks in it.

The biggest gimmick that is never talked about is the fact people consistently obscure the actual size of the deficit. To get it down to $254 billion, we still have to find $110 billion, that is without any cuts, just continuing what we call current policy. I sat at the budget table today to try to get to a budget now of $1.632 trillion. That is current policy. That is domestic of $266 billion, defense of $267 billion, entitlements of $859 billion. That is $1.382 trillion. Just put in the minimal figure $360 billion, that is $1.742 trillion. To bring it down, then, to the $1.632 trillion, I have to find $110 billion. I have to cut entitlements, domestic, defense combined $110 billion.

That is my job, conscientiously going to the budget table to sit as a member of the Budget Committee, where I have been since we instituted the budget process in 1974. But, instead of discussing the cuts and how are we going to get on top of this downward spiral of interest costs or interest taxes being increased $1 billion a day, instead of that, we are getting letters now to do away with the inheritance tax. We are getting letters now to do away with the capital gains tax. We are getting letters now from Steve Forbes and that other crowd: Let's just get a flat tax and do away with the IRS, the Internal Revenue System, and everything else of that kind.

Mr. President, we ought to understand once and for all that we are engaged in a fraud that continues to be obscured, due to the fourth estate. The fourth estate has taken it on as a religion, almost, of reciting the unified deficit as if it were the actual deficit. The truth of the matter is, the actual deficit is substantially more. It has averaged $277 billion last year, the year before, and the last 16 years. We have been giving out some $277 billion in Government that we are not willing to pay for.

We had that Reaganomics. Yes, there is even talk about that—cut taxes and we will get growth, we will grow out of deficits. No mayor in his right mind of a city tries that. No Governor in her right mind has tried that. There was an exception up in New Jersey. Governor Whitman up there said, ''Whoa, tax cuts work.'' But look at the papers last week. She is now doing two things. She is borrowing, raiding the pension funds, just like we are doing in Washington. She has learned from Washington. And she is calling for a bond issue to cover her financial situation. It does not work.

There is no free lunch. Long since, we should have understood it. If I have to come every day and point this out, I will because these facts and figures are not disputable. They are not political. They are not Democratic figures or Republican figures. These are Congressional Budget Office figures. That is the actual debt that has gone to exceed $5 trillion.

I see from the Presiding Officer that my time is just about up. Let me just say one word. I thank the distinguished Chair and the distinguished Senator from Georgia for indulging me just one second more.

What we have is a fraud on the American public. We have to expose this fraud. We have to speak to truth in budgeting. We have to come up with an actual plan that will eliminate this deficit financing by raiding the trust funds in America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

LABOR LAW CHANGES BY EXECUTIVE ORDER

Mr. COVERDELL. Mr. President, as many of us in the Congress and in the country began to realize last week, the President and the administration are endeavoring to change 60 years of labor law by edict or decree. I spoke on the floor and reminded the administration we do not govern by decree in America. We have three branches. A major and fundamental change in labor law must be legislated. The President can sign or veto it, but he cannot write law. That is not a function of the Presidency.

I will probably visit some of these documents in a bit, but published reports show that labor leaders and the administration wrote the law that would essentially squeeze out all non-union subcontractors and employees from doing work on Federal contracts. It is a lot more complicated than that, but that is the bottom line. So this law was written somewhere in the offices of these labor leaders. It is the fundamental construction of what the administration purports will be an Executive order, bypassing the legislative branch and writing law in a very narrow confine.

You know, our forefathers were very careful in the construction of this Government to assure proper airing, thorough venting, debate on all sides. It is not easy to pass laws in America. It is not meant to be easy. The very thing for which this system was constructed was to prevent the very thing we are seeing from the administration.

I would like to begin our discussion on this by sharing with the Senate several letters that I have received from folks back home with regard to this.

Here is a letter dated March 13, 1997, from Large & Gilbert, certified public accountants. They are located in Macon, GA. It says:

DEAR PRESIDENT CLINTON: I am writing this letter to express my outrage regarding comments made by Vice President Gore in a speech to the AFL-CIO in Los Angeles on February 18, 1997. Vice President Gore announced the Administration's plans to change the nation's federal procurement policy through an Executive Order that would encourage union-only project labor agreements.

An Executive Order encouraging union-only PLAs would immediately implement an anti-competitive, protectionist, and discriminatory policy that goes against the basic principles of free market, open competition, and equal opportunity upon which the country was founded.

Greater use of union-only PLAs will threaten job opportunities for the vast majority of America's workers. Union-only agreements discourage bidding by open shop, or merit shop, contractors and limit employment opportunities for workers who do not wish to be represented by a union. Union workers are less than 15 percent of America's work force. This kind of union-favoring tactic discriminates against the majority of American workers who choose not to join a union.

PLAs add significantly to the cost of construction projects, because union labor costs are generally 10 to 20 percent higher than merit shop. Competitive bidding on public projects is in the best interest of all taxpayers because it ensures contracts are awarded based on who will do the best work at the best price, regardless of labor affiliation.

And I might add that Georgia is one of about half the States that is a right-to-work State.

At a time of strict budgetary constraints, PLAs are certainly a step in the wrong direction.

Vice President Gore stated, ''If you want to do business with the federal government, you'd better. . .respect civil, [no one would take offense with that] human [no one would be offended by that] and [here is the kicker] union rights.''

In other words, if you want to do business with the Federal Government, the Vice President said, you better be in a union, you better point your direction toward a union or union membership or a union contract.

Unions do not have the basic right to preferential treatment.

That is what this gentlemen said. The union does not have the basic right to preferential treatment. They have equal access, but they do not have preferential access.

Every American has the right to make a living and have equal access to federal work, regardless of organizational membership.

How right he is.

No one's tax dollars should be spent to support discriminatory federal policies [or Federal policies that select who among the bidders would have the most opportunity to get the work].

He goes on to say:

Americans should at a minimum be guaranteed federal policies that support equal opportunity and free enterprises at the most basic level. Every American deserves the opportunity to compete, win and execute work based on merit—not because of race, gender, union affiliation, or any other discriminatory factor. It is not the role of the federal government to put our taxpayer dollars toward guaranteeing work for the unions or to help them increase their market share and membership.

Vice President Gore's blanket statement promising a presidential veto of any legislation the unions find objectionable, without any consideration of improvements to workplace opportunities, is an outrage. Americans would be better served by an Administration that supports efforts to improve fair, flexible and equal workplace opportunities that will help make companies and workers more competitive.

America has always been a leader for the rest of the world in the areas of a free market and equal opportunity, and this has always been a point of pride for our country. Please take the contents of this letter into account before making any Executive Order that would jeopardize the American peoples belief in our country, and the principles upon which it stands.

That is Thomas K. Savage of Large & Gilbert, an accounting firm in Macon, GA.

Some of these letters are very interesting and deserve a standing in the RECORD.

This is a letter from W.S. Nielsen Co., Inc. Skylight Systems, Alpharetta, GA, writing to the President. He says:

DEAR MR. PRESIDENT: Our small family owned business has grown over the last sixteen years to where it directly supports over 15 families.

That is not a big company. It is awful big to the 15 families, I might point out, though.

We have worked hard to train all our staff to be the best and safest in our field. Ours is a dangerous business. Our staff has earned an excellent reputation with our customers, many of whom work on federal and state construction projects.

Your signing an executive order to use union-only project labor agreements is not fair to the families associated with our company. You are depriving them of work that their tax dollars are paying for and depriving fellow taxpayers of highly skilled craftsmen.

Our employees believe that Americans should be guaranteed federal policy that support equal opportunity and free enterprise. They have earned the right to compete on a level field for any work they are qualified for. A union-only agreement has been earned in all the cheap ways to the detriment of all involved.

All of us strongly urge you to cease your plans to issue the proposed executive order.

Mr. President, we have been joined by the chairman of the Labor Committee, Senator JEFFORDS of Vermont. I would like to yield up to 10 minutes to the Senator for comment on this matter.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise to raise my concerns also as expressed by the Senator from Georgia. I rise to express my continuing and growing concerns regarding the efforts of President Clinton and his administration to bypass Congress and impose the ultimate in top-down union organizing—union organizing by the President of the United States—on Federal construction projects. I am speaking, of course, of the widely circulated draft of a proposed Executive order that would result in most, if not all, federally funded construction being performed under a union project labor agreement.

A project labor agreement would deter a major portion of the contractor universe—open shop or nonunion contractors—from bidding on construction work paid for by American taxpayers. Because the project labor agreement adopted pursuant to the proposed Executive order would require a contractor to enter into an agreement with a labor union as a condition of bidding on the Federal project, most open shop contractors, unwilling to impose a union on themselves and their employees, simply would not submit a bid. Thus, the union-only project labor agreement not only eliminates open competition for Federal contracts, an anticompetitive effect that would result in increased costs of Federal construction to the taxpayers, but also discourages open shop contractors from bidding on work that they are paying for with their own tax dollars.

In addition to its anticompetitive impact, the proposed Executive order also would deprive nonunion workers of jobs in Federal construction, again jobs paid for out of those workers' wallets. Union agreements invariably require job seekers to obtain work through a union hiring hall. Hiring hall referral traditions favor longstanding union members. Others, such as the nonunion workers of the open shop contractor, would find themselves at the end of the referral line. This Executive order would penalize the overwhelming majority—majority—of construction workers in this country, who have not chosen to be union members.

The proposed Executive order clearly is an effort by the administration to set national labor policy, a job that is delegated to the Congress by the Constitution—by the Constitution—of the United States and not to the President. The wisdom of this delegation of policymaking to the legislative process by the drafters of the Constitution is proven in the matter before us. The proposed Executive order raises many more questions than it answers, questions, I note, that, if subjected to the debate and factfinding of the legislative process, could be resolved.

For example, what is the effect of the Employee Retirement Income Security Act, the ERISA, on a project labor agreement's provision that would require an open shop contractor to participate in a union pension plan? The contractor likely covers its employees in another plan, and the contractor's employees probably would receive no benefits from the union pension plan because they would not be vested before the completion of the federally funded project.

Another example of a question best addressed by congressional review is whether the anticompetitive and overly restrictive provisions of the proposed order violate the spirit, if not the letter, of the Federal Acquisition Reform Act of 1996, just recently passed.

The proposed Executive order, however, raises even more fundamental questions regarding the continued vitality of our national labor policy that provides for Federal Government neutrality in matters of labor-management relations, a longstanding policy. This neutrality has been at the core of the national policy since the passage of the Wagner Act back in 1935. The administration, without the benefit of studied review and debate inherent in the legislative process, would reverse this policy and ignore the over 60 years—over 60 years—of its fine tuning by Congress and the courts. The administration's approach, that of lawmaking by Executive fiat, would answer these, and other questions posed by the Executive order, by litigation, not legislation.

I expressed my strong support for S. 606, a bill introduced by Senator HUTCHINSON, that would prevent the exclusion of nonunion contractors from federally funded construction. I note that I am a cosponsor of this bill and look forward to its deliberation in the manner established by the Constitution.

I urge my colleagues to take note of what is going on. This is a gross example of the abuse of the authority of the President through the Executive order. He tried this before. The courts knocked it down with respect to striker replacement. Here they come again with another proposal.

This is extremely important for contractors, for the Nation, and for the taxpayer. I yield the floor.

Mr. COVERDELL. Mr. President, I thank Senator JEFFORDS for his comments and extensive work in this

arena. I want to compliment him on the statement he made last week, a very thorough description and outline of this circumstance. I think the Senator has done the debate a great service. The letter of you and your colleagues on the Labor and Human Resources Committee that was sent to the President was a noteworthy contribution to the debate.

I will read one more letter for the RECORD, Peachtree Interior Builders, another letter dated March 27, to the President:

The purpose of this letter is to voice my opposition to your proposed Executive order to require Federal agencies to use union-only project labor agreements on Federal construction projects. This order would eliminate the possibility of thousands of contractors like myself from bidding on Federal projects. As a contractor and a taxpayer I would expect a level playing field on government contracts so everyone would have the opportunity to compete, win, and execute work based on merit. The 50 families that derive all or part of their livelihood from this company should be given the opportunity to compete on any government project, regardless of their union affiliation, race, gender, or any other discriminatory factor.

Mr. President, I think it is somewhat useful to try to put this debate in context. I go back to Tuesday, February 18, of this year, when the Office of the Vice President issued a press release. It says: ''For immediate release, Tuesday, February 18, 1997.''

Vice President Gore Sends Message to Businesses.

''Record of Labor Relations and Employment Practice Counts in Contracting.

''In remarks to the AFL-CIO Executive Council, Vice President Gore today pledged that the Federal Government will change its rules''—now that is a key sentence—''will change its rules on Federal contracting to take into account businesses' record of labor relations on employment practices and policies.''

So, the Vice President, speaking to the AFL-CIO Council says, ''The Federal Government is going to change its rules.'' What he did not say was the President is going to change the rules arbitrarily, by decree, by edict, by fiat, as the Senator from Vermont said. To change the labor rules, which have been a condition of law for the last 60 years, requires a legislative act and not a decree.

He goes on to say, ''How you treat your employees and how you treat unions counts with us. If you want to do business with the Federal Government you'd better maintain a safe workplace,''—everyone would agree with that—''respect civil, human''—everybody agrees with that,—''and union rights.''

Well, that is not the law. You are not obligated to join a union in the United States.

''The Vice President said the old rules,'' what he means is the old law ''allowed Federal contractors to get reimbursed for the costs of trying to persuade employees not to join unions and fighting unfair labor practices allegations. 'But today we are going to start changing the rules because they're just plain wrong.' ''

They may be, they may not be. But the way you change the law is in the legislative branch. You do not do it because of your own opinion.

Shortly thereafter, on March 10, about 4 weeks later, lo and behold, John Sweeney, president of the AFL-CIO, issues a press statement that says ''Sweeney Blasts Avondale''—that is a shipbuilding company.

In the four years since Avondale Shipyard workers won a union election, management has waged a . . . campaign of firings, discriminatory layoffs and legal challenges.

In other words, they have been in a battle.

Today, AFL-CIO President John Sweeney met with the workers at the New Orleans shipyard and calls on Avondale management to end its attack. He will remind Avondale, which receives Federal funds, that two weeks ago Vice President Gore said companies doing business with the government must respect . . . union rights.

So the Vice President makes his statement. They have said they will change the rules. I am here to tell you, ''You better pay attention to me'' is what John Sweeney is saying.

We have been joined by the senior Senator from Texas who wants to speak on this matter. I yield up to 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, let me first congratulate our distinguished colleague from Georgia for his leadership on this issue. I came over today to speak on this subject because I think this is a very serious matter. It behooves us, and it is in the interests of the American people on issues like this, to speak before the President acts, rather than to wait for the action to occur and then complain about it.

I want to be very emphatic today on this issue because I think this is a fundamentally important issue. First of all, the Constitution is very clear in article 1 that Congress shall have the power to make law. Now, granted, within the parameters prescribed by law, the President has the ability, through Executive power, to implement those laws, and has from time to time used Executive orders to implement the laws passed by Congress and enacted by the President's signature.

Many of you will recall that 2 years ago the President attempted to put into operation by Executive order a provision that had already been rejected by Congress. Though it is a very important issue, the principle is what I want to deal with today.

Basically, Congress had refused to pass a law that said that if workers refuse to work, the employer could not hire other workers to take their place. I never viewed that issue as a labor-management issue. I always viewed it as a freedom issue, as I believe most Americans do. Simply stated, I have a right, if I do not want to work for you, to quit. If I want to stop supplying my labor, or in concert with others, stop supplying my labor, I have a right to strike. But you have rights, too. One of those rights is hiring somebody else who is willing to work.

After an extended debate, the Congress refused to enact a law denying employers the right to hire other people when their current workers refuse to work and a strike drags on and on. The President, by Executive order, tried to do what Congress had refused to do, by mandating that companies not be permitted to replace striking workers. The courts properly stepped in and said that the President had overstepped his bounds and had no authority to make such law by Executive order. In fact, Congress had already refused on exactly that same subject to take legislative action.

If we can believe what the Vice President has said in a speech before the AFL-CIO, it appears that the President is about to do the same thing again. Now, he is going to try to do it a little bit differently. He is going to allow the individual Federal departments and agencies to take action if they choose. The net result is that through Executive order, the President is going to be violating the constitutional powers of Congress. This Executive order has been alluded to before, but what it boils down to is this: If the President goes ahead with his Executive order, he is going to be saying that in order to bid on a contract, a company is going to have to hire union workers.

Now, 89.1 percent of all private workers in America are not members of unions. So what this Executive order would do is say to almost 90 percent of American workers in the private sector of the economy, ''You can't work on a Federal Government contract. You are precluded because you are not part of a privileged group empowered by the President to have rights beyond anybody else's rights. That is, you are not a member of a labor union.''

Now, Mr. President, if the President's Executive order and new regulations went forward we would mandate union representation of all workers on all Government projects. We would mandate that all workers on all Government construction projects be hired out of union halls. We would require that all workers on Government construction projects pay union dues. We would eliminate competition. Mr. President, 89.1 percent of all American workers would be precluded from working on contracts funded by their tax dollars. Finally, we would impose on contractors doing work for the Federal Government union rules, including restrictive rules that limit the ability of workers to carry out their functions officially. So the first thing the President's order would do is say to 89 percent of all workers in America, ''You can't do work for the Federal Government on contracts.''

Second, if the current contractors switched and required mandatory union membership by their workers, the President's proposed Executive

order, in one swoop, would increase the number of people who are members of unions by at least 13 million members. Let me repeat that: If the President's Executive order is put into place and it stands, and if existing contractors, rather than lose their livelihoods and businesses, employers would be forced to say OK, we will pay tribute and force our workers to join unions whether they want to join and pay dues for services they do not want or not. That one action alone would mandate at least 13 million people to pay tribute and earnings to organizations they have chosen not to join.

That does not sound like America to me. I have a right to join a union. I have always supported that right. But I also have a right not to join a union. And I ought to have a right not to join a union and still do contract work for the Federal Government, which is run in small part by my taxes.

As my final point, if the President puts this Executive order and new regulations into effect, and we are then forced to pay union scale on every construction project undertaken on behalf of the taxpayers, it will add 17 to 21 percent to the cost of Federal projects, according to the General Accounting Office, which is the accounting arm of the Congress and the Federal Government. The President's Executive order and new regulations would add $42 billion of additional expenses on the backs of the American taxpayers.

So what the President proposes to do by Executive order, in summary, is deem 89.8 percent of Americans ineligible to work on Government contracts. And at least 13 million Americans, if they choose to work on Government contracts, would be forced into involuntary union membership. Finally, the taxpayer would be forced to pay union wage levels higher than the level typically paid in the private sector and often above the level paid to many people who are paying the taxes that fund the project.

Now, I wanted to make two points today, and then I will yield the floor. First, this is a terrible Executive order. This seems to be little more than political payoff. Those are strong words to say on the floor of the U.S. Senate, but it is hard to find any other justification or any other rationalization for barring almost 90 percent of American workers from working on contracts for their Government, mandating that at least 13 million people join a union they do no want to join, and paying an additional $42 billion per year in new labor costs. If that does not give the appearance of a political payoff, I would like to know what does. It is hard to think of any other explanation.

Second, and probably the most important point that I want to make, is that sometimes things occur between branches of Government that create ill feeling and hinder the ability to engage in bipartisanship. They make it more difficult for us to do our job. If the President follows through with his Executive order, it will seriously jeopardize bipartisanship cooperation in this Congress. There is no way we could let this stand and little possibility that we could act as if nothing had changed when our very powers prescribed in article I of the Constitution are being usurped by the President. It difficult to imagine us acting as though we simply disagree with each other and then go on working together hand-in-hand doing whatever we might be doing. There is little chance of that happening.

Our message today is a warning to the President: Mr. President, don't do this. This is wrong for America. If you do this, it is going to be very difficult for us to work together.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank the Senator from Texas, Mr. President. I am going to yield to the Senator from North Carolina for up to 10 minutes. I thank him personally for his extended work and contributions in the formulation of the Right to Work Act, which has now been introduced. He has a long, long record in this arena. I welcome him to the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I am here today to join the Senator from Georgia in letting the American people know what a costly and dangerous paragraph the President of this country has proposed on behalf of the labor unions, its bosses. What I am referring to is the President's Executive order, first announced to great applause by Vice President GORE before a recent gathering of union bosses. It would force all contractors doing business with the Federal Government to be unionized. To be specific, Clinton has issued an Executive order in draft form—he hasn't issued the order—which would require that anybody that sells goods to the Federal Government become a party to a labor agreement—in plain language, become a unionized closed-shop company. These agreements are nothing more than a clever device proposed and written by the union bosses that all contractors would have to be unionized if you do business with the Federal Government.

Now, this is a union-only mandate for anyone who sells to the Federal Government. But that isn't as far as it goes—not by a long way. These agreements would force the contractor to have a union, but, in turn, it would force anybody he buys from to have a union. Anybody that sold him a pencil would have to be a union contractor, if it were going to be used in Government business. So 13 million people, as Senator GRAMM said, would be forced to join unions. But I think it would run a lot more than that because this thing goes to the ultimate end of who would have to join the union. Big fleas have little fleas upon their backs to bite them, and little fleas have lesser fleas. So this would go down to the ultimate end of who would have to join a union to comply with this proposed order.

Now, Sweeney, president of the AFL-CIO, said, ''In any given year, Federal contracts total as much as $200 billion, and Federal contractors employ one-fifth of the Nation's work force.'' And with great glee, he says, ''If properly implemented . . .''—referring to President Clinton's order—''. . . it would affect hundreds of billions of dollars every year.'' What he could have said and didn't say, but was thinking, is: Think of the money that it will bring into the unions and how much more money we will have to play with.

What we are talking about is the President, by the stroke of a pen, changing the laws of this country. Government contracts have always been awarded on the basis of the low bidder and the company that was capable of doing the job. Unions have never held a special claim to Government contracts. But, under this, everybody else would be excluded and the unions would be totally in charge.

What we are saying is that all of the $200 billion the Federal Government spends would go to 20 percent of the work force, or probably a much smaller percentage than that; probably closer to 10 percent of the work force in this country is unionized. And to the other 85 to 90 percent, we would say: Tough luck, you simply don't qualify. You pay the taxes and keep working, but any Government contracts will go to union members only.

Now, the General Accounting Office has said that union labor will run the price of a contract up 20 percent or more. I think they, very simply, underestimated the amount. That is certainly a low figure, that 20 percent of the cost will be added to every Federal contract because of this requirement.

I am troubled by the fact that no committee of Congress has had the opportunity to review proposed language. There have been no hearings. None of the millions and millions—13 million-plus—of American workers who are going to be affected by this mandate have had an opportunity—or their representatives—to be heard on it. The President has shown no interest in the American people or in what they think. He is simply putting a proposal up as a payback to the unions. It is just simply that. He has not submitted it to Congress, and from what it would appear, he doesn't plan to. If he wants to do it, this is the place he needs to do it—bring it before the Congress and then see what happens to it. It would pass through the normal checks and balances between the Congress and the administration. The Congress is bypassed and this would impose unions on businesses across the country, without the American people or the Congress having anything to say about it.

As the Senator from Georgia has so eloquently stated, in America, we didn't elect a President to rule by decree. My State of North Carolina is a right-to-work State. I am sure that nonunion employees in North Carolina would be forced to become unionized

because of what the President has done. They would have to join a union. I understand that the checks and balances may be inconvenient to the President. He would rather do it by decree. But that system has served us well—the system of checks and balances—for over 200 years. The proposed Executive order is a payback to the labor union bosses, who spent hundreds of millions of dollars on behalf of the President in last year's election, and who do not want to subject their plans for American workers and employers to congressional scrutiny. They know it would lose in the Congress.

I am opposed to compulsory unionism. No worker should be forced to join a union, and no employer should be forced by the Federal Government to be unionized as a condition of doing business with the Federal Government—particularly, not by an Executive decree that has never seen the light of day in the Congress of the United States, or given the Members of the Congress an opportunity to oppose it or to speak on it.

Mr. President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I yield myself 10 minutes from the time controlled by the Senator from Georgia.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COATS. Mr. President, I appreciate the efforts of the Senator from Georgia in bringing to light an important issue that this Congress clearly needs to examine and examine quickly.

Two basic problems exist with the President's attempt to unilaterally overturn a 50-year-old law. The first is that it usurps the very function of the legislative branch, and appears to be a payoff, a payoff to a special interest group—big labor.

The President, knowing that he can't secure the support of a majority of the Congress, simply decides to bypass the Congress. I think it is a pure usurpation of the role of the legislative branch. Second, it will cost the taxpayers hundreds of millions of dollars, if not billions, in additional expenses. To mandate that each agency seeking to contract with the Government needs to get big labor's seal of approval before making a contract award clearly is going to add substantial cost to Federal construction and to Federal contracting.

If the Clinton administration wants to change the laws governing the awards of Federal contracts, it ought to have the courage to send the legislative changes to this Congress for consideration. If then it can make the case to the American people that the changes are justified, so be it. But it is simply unacceptable for the President to cut a deal with a special interest group that has been supportive of him politically, with such a deal having tremendous ramifications for the American economy and, arguably, circumventing the law. We simply cannot allow this kind of power grab to go unchecked.

INHERITANCE TAX

Mr. President, I also want to bring to the attention of the Senate an item that I found this morning in the Washington Post. I got up thinking it was going to be a good morning, poured myself a cup of coffee, got out the Post and the Washington Times, and was thumbing through and happened to come across a headline that certainly grabbed my attention. The Post article, written by Clay Chandler says, ''Treasury Official Slams Estate Tax Rollback Effort. Changes Sought as Part of Budget Pact.'' Deputy Treasury Secretary Larry Summers, senior member of the Clinton administration, and someone whom the Post says is clearly becoming one of the key players in the President's economic agenda, and certainly in the budget discussions, has indicated that the efforts to roll back the inheritance tax as part of this year's budget agreement is ''motivated by selfishness.'' He goes on to say, ''When it comes to the estate tax, there is no case other than selfishness'' for providing relief to families from this death tax. Further, he asserts that the evidence put forth in support of repealing the burdensome tax ''is about as bad as it gets.''

Mr. President, I would like to review for the Senate the evidence that currently exists about the effect of this so-called inheritance or death tax and let the Members of the Senate and the public decide whether or not this is ''as bad as it gets'' or is ''selfishness'' on the part of the American people.

Currently the death tax would take as much as 55 to 60 percent of a small business owner's assets at death. Whether you are a farmer who has worked for years to build an estate, a small businessman, or an individual who has worked successfully and achieved some success and self-reliance and prudence in terms of how you use your money, or are someone who has planned for the future, upon death the family will find itself in a very unseemly situation, one that requires, immediately after the funeral, that the family move right on down to the IRS office to try to figure out how to deal with the extraordinarily difficult problem; that is, the Federal inheritance tax, or the so-called death tax.

It is particularly difficult for those who have run a farm, those who have run a small business, those individuals who have paid a great price, and at great sacrifice, to accumulate some degree of wealth, to pass it on to the family. Clearly, the situation that exists today is that in many cases the farm or the business has to be sold instead of passed on through the family from generation after generation just to garner the funds necessary to pay the estate tax. When you are paying a 55 percent to 60 percent rate, it usually forces the sale of a particular business.

The White House Conference on Small Business indicated that 70 percent of all family businesses do not survive through the second generation, and 87 percent do not make it to a third generation. The reason for this is pretty simple. The primary cause of the demise of family farms and businesses after the death of a founder and the founder's spouse is the death tax.

When a tax can take more than half of the current valuation of the assets—many of these assets are invested in machinery, in buildings, in land, and in farm equipment, and the tax is more than half of that total valuation—very few families have the liquid assets available to pay the immediate tax and, therefore, have to liquidate the farm, have to sell off acreage, sell the entire farm, sell off the business, or sell ownership in the business, and it can't be passed on to the family.

Recently the U.S. Department of Agriculture estimated that between the years 1992 and 2002, more than 500,000 farmers will retire and that 95 percent of these farms are sole proprietorships, or family partnerships, and that every one of these estates, unless they are under a very low threshold, are subject to death taxes.

On average, 75 percent of the farms in America today consist of nonliquid assets, such as I mentioned—real estate and farm equipment—making payment of the death tax extraordinarily difficult to achieve without liquidating capital.

For small business owners, 33 percent report that they expect all or part of their businesses will be liquidated when death taxes come due.

Among a survey of black-owner enterprises, nearly one-third say their heirs will have to sell the business to pay the death tax, and more than 80 percent report that they do not have sufficient assets to pay the death tax.

If that wasn't bad enough, look at the average cost of just paying those taxes. The average family business spends nearly $20,000 in legal fees, $12,000 in accounting fees, and $11,000 for other advisers in order to do the paperwork and the processing to compute the tax and to sell the necessary assets to pay the death tax.

Mr. President, the point here is not how many examples we can give of ''bad and selfish'' evidence that Mr. Summers cited. I don't think any of this could be categorized as ''bad and selfish'' evidence. That doesn't serve the point to castigate Mr. Summers. The bottom line is that the Congress owes it to all Americans, and particularly the American farmer and the American small business men and women and their families, to get relief from the current estate tax, which is a perverse tax that goes against the very things that we want Americans to strive for. We want Americans to be self-reliant. We want them to save and to invest. We want them to build up their businesses and their farms. We want them to be prudent. We want

them to be self-reliant. And we want them to have the ability to pass that farm on to the next generation and the next generation.

I have a very close friend who runs a farm in western Kansas. It is a typical farm that you find in the West with thousands and thousands of acres because of the sparse amount of rainfall—raising hogs and cattle, a great investment in equipment and land, barely making it from year to year, depending on the weather. Some years are better than others. When this individual dies—and their farm has been in the family now for two generations—his son's dream has been to continue the farm within the family. Yet, my friend is faced with what farmers and business men and women all across this country are faced with: The reality that, upon the death of he and his spouse, most of the farm will have to be sold or liquidated in order to pay the taxes. It is a double form of taxation because the earnings from that farm have been taxed on a year-to-year basis.

So it is a governmental grab.

Is it selfish to want hard-working Americans to be able to keep the assets they have accumulated through their ability or good fortune, hard work and dedication? Is it selfish to say that they can't pass that on to their family but they are better off giving it to the Government so that Government can make better use of that money than the family to continue the business or continue the farm?

I think we have all heard the horror stories about how $1 comes into Washington, comes into the Government, and suddenly disappears. We can't trace where it goes. Of the money which goes into fighting poverty, 65 percent never makes it to the people who are the recipients, who are at or below the poverty line. It gets eaten up in bureaucracy. It gets eaten up in other special designations.

So, Mr. President, the American dream is not to die and pass everything you have worked so hard—Mr. President, I ask unanimous consent for 3 additional minutes.

Mr. COVERDELL. Mr. President, I yield 3 additional minutes to the Senator from Indiana.

Mr. COATS. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. COATS. Mr. President, the American dream has been to be prudent, to save, to try to make life better for your children and your grandchildren than it has been for you. The current inheritance tax system takes away that American dream—the dream that one generation can build upon the success of another to build a better life for themselves and their children.

The current tax sends a message that the Government will take away what you have earned and not allow you to pass it on. That is a disincentive to work hard. It is a disincentive to be successful, a disincentive to pursue the American dream because when you die the fruits of your labors will be taken away from you and away from your family and given to the Government. This is selfish?

Mr. Summers, who speaks for the President and the Vice President, says this ''is about as bad as it gets;'' that it is about as selfish as it gets; that it is selfish to want to retain the fruits of your labors; that it is unselfish to give it to the Government, which in many instances wastes the money that you have worked so hard for.

The President campaigned on repeal of the exemption for the estate tax, and Senator Dole when he was running for President on his proposal to lower the estate tax. Now that we are debating this in the budget, Mr. Summers comes along and says it is a selfish thing to want to do. I don't think it selfish, Mr. President, to allow the American taxpayers to keep the fruits of their hard-earned labors and not to have it taxed away to the point where they have to sell their farms, to sell their businesses, or to sell their assets just to pay the tax to the Government.

Mr. President, I am a proud a cosponsor of legislation—in fact, four pieces of legislation—that call for repeal or at least reduction in the amount of estate tax to counter the efforts that are currently underway to eliminate even the exemption. I am pleased, and I hope that the Congress will hold firm on this issue as we go through our budget negotiations.

I would like to, in closing, invite Mr. Summers to visit some mom and pop businesses in Indiana that are hard hit by this devastating tax. I would like them to visit some farms of some friends of mine who want to pass it on to their children and grandchildren but have to liquidate the farm in order to pay the estate tax. Come out to Indiana and tell the family that is forced to sell the farm or the business that has been in the family for more than 100 years that they are being selfish for wanting to keep that farm in the family and not to turn that money over to the Government.

Mr. President, the Federal Tax Code is the only part of this debate that can truly be labeled selfish. The Government has no right to take unjustly the fruits of its citizens' labors.

I hope the President and the Vice President will quickly disavow the statement made today, or reported today in the Washington Post, by Mr. Summers when he calls it selfish on the part of the American people to try to retain the business of a farm that they have worked so hard to acquire.

Mr. President, I yield the floor. I thank the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I yield the remainder of my time to the Senator from Oklahoma, the assistant majority leader.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I want to compliment my colleague from Georgia for his managing this past hour. I hope that my colleagues have had a chance to listen very clearly.

I would also like to compliment my colleague from Indiana on his very forceful statement denouncing the statement that was in the paper today, reported to be made by Mr. Summers, Deputy Assistant Secretary of the Treasury, when he said that those who want to cut inheritance taxes are wanting to do so for greedy individuals. I just totally disagree. I am one of those individuals who wants to reduce the inheritance tax, and I don't think I am trying to do it for greedy individuals. I think the tax is unfair. It is too high.

The Senator from Indiana mentioned the fact that farmers and ranchers worked hard in their lifetime to build up a ranch, farm, or estate, and find that Uncle Sam is taking 39 percent, maybe 45 percent, or 55 percent of that estate. I think it is too high. It is higher even than the income tax.

If you have a taxable estate of $1 million and you are at the 39 percent tax bracket, that is too much. Why should the Government be entitled to take 39 percent of a farm or ranch that has a value of $1.6 million—there is a $600,000 exemption and a $1 million estate—why should Uncle Sam be entitled to take 40 percent, or, if you have a taxable estate of $3 million, maybe two or three restaurants or businesses that you put together and the taxable estate is $3 million, why should Uncle Sam be entitled to take over half?

Mr. Summers may think you are being greedy because you don't want to lose half of what you have built and worked all your life to accumulate, and you want to pass it on to your children. He thinks maybe you are trying to be greedy because you want to keep it in the family. Mr. Summers is wrong.

I concur with my colleague from Indiana. I hope that the administration will denounce, renounce, or disassociate themselves from his remarks because trying to reduce the inheritance tax is not being greedy.

I tell my colleagues that this is one Senator who is going to be very energetic in trying to make sure, when that tax bill comes up this year, that we are going to have estate tax relief.

I hope we will cut estate taxes for everybody. I hope we will increase the exemption because I do not think the Federal Government should be entitled to take part of the property that people have worked their lifetime to pass on to their children. I do not think Uncle Sam should be entitled to take 40 or 50 or 55 percent.

Mr. President, I am not sure what time remains of Senator COVERDELL's time, but I ask unanimous consent to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER (Mr. COATS). Is there objection? The Chair

hears none, and it is so ordered. The Senator from Oklahoma is recognized to speak as if in morning business for 10 minutes.

LEGISLATING BY EXECUTIVE ORDER

Mr. NICKLES. I would like to follow up on some of the statements that have been made by our colleagues concerning the executive branch's current willingness to legislate by Executive order. I have talked to the White House two or three times now. I have let it be known that I want to use whatever tools are available to get their attention and make sure they quit attempting to legislate by Executive order.

Some of our colleagues may not be aware of what we are talking about, but we have had two or three disputes—maybe we should have had more—with the administration over the last few years about executive actions that clearly should be implemented through legislation by Congress, the body elected by the people for legislative purposes. This administration, the Clinton administration, has tried to bypass Congress and legislate by Executive order. I think they have done so knowing full well in many cases they could not get their desired objective through Congress so they just decided to do it by fiat.

I am here to say all of us, Democrats and Republicans, should reject that approach. We should uphold this institution, the legislative branch, the branch of the people, and say this is why our forefathers had separation of powers. The Constitution is very clear. If you read the Constitution, it states in article I, ''All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of the Senate and the House of Representatives.'' ''All legislative powers.'' It does not say some. It does not say that if the administration cannot accomplish its objectives through the Congress it can go ahead and pass them by Executive order.

In the 10th amendment it says all other powers are reserved to the States and to the people. So the executive branch has the power to enforce the law but not to write it. That is the responsibility of the legislative branch. And then if people do not like the laws we pass, they can vote for someone else. They have a chance to do that through the election process.

There are a couple of cases where the administration has overstepped its bounds, and I think where Congress has spoken up, or should have spoken up. One example was a case where the administration tried to give organized labor a gift and issued an Executive order to prohibit hiring replacement workers during a strike. They tried to get Congress to pass a bill that would do that in 1993 and 1994—and actually passed legislation through the House but could not get it passed through the Senate. So after the 1994 elections, the administration tried to change the law by Executive order in March 1995. That was contested in the courts.

I might make note that in the November elections of 1994, Republicans took control of the Senate and it was obvious that this legislation could not pass Congress. So President Clinton, in my opinion, overstepped his bounds and issued an Executive order in 1995 barring management from hiring replacement workers during a strike—a perfectly legal practice under the National Labor Relations Act. He issued this order knowing that Congress had twice rejected legislation that would have done the same thing. The courts didn't let him get away with it.

On February 2, 1996, the U.S. court of appeals threw out President Clinton's Executive order ruling that the President's action was clearly unlawful and was preempted by the National Labor Relations Act. Clearly, the court's message was a reminder that the President does not have a blank check to adopt policies in direct conflict with Federal laws established by Congress.

The President does not have legislative authority. I think that is what we are finding in a couple of his other Executive actions. Another example deals with the Grand Staircase-Escalante National Monument where the President in September 1996 unilaterally took a 2 million acre coal-rich block of land in Utah and made it a national monument. He did it without talking to Congress. He did it without consulting the Utah delegation. He did it without consulting the people who live and work in that area. He did it without consulting the Governor of Utah. He basically said we are going to take that 2 million acres and declare it a national monument.

Maybe I would support such a thing, but again we have a committee, the Energy And Natural Resources Committee, that considers such bills. We should have had a hearing on that legislation. There has never been a hearing. There has never been a chance for the Utah delegation to speak out on that legislation. Is it good or not? I am not sure how I would vote. Maybe I would vote with the President.

My point is he usurped congressional responsibility and basically said we are going to declare this a national monument by Federal fiat.

I might mention that when he did this—it was in September 1996, during a campaign—he had a press conference around the Grand Canyon in Arizona. He did not do it at a press conference in Utah because his decision was quite unpopular.

My point is not whether his decision is popular or not. He did it clearly for political purposes. But he did not allow the people to speak. The President is not king. He cannot do that. And maybe this will be contested. Probably we did not speak out enough on it.

Another example where I seriously think he has exceeded his Executive authority and I think legislation is required, is the President's Executive action requiring that if you are under age 27, if you buy cigarettes, you are required to show an ID wherever you are buying them. And if retailers are found selling to minors or anybody under the age of 27, they face civil penalties of $250 or more and could be subject to other sanctions. Retailers reported to have sold cigarettes or smokeless tobacco to someone under 27, without checking their photo ID, risk compliance checks being conducted in the future.

Maybe we should do that. I will tell my colleagues, I do not want kids smoking. I have four kids. I absolutely do not want them to smoke. This is hazardous to their health. I have a mother who has emphysema, lung cancer, which is very serious. I absolutely do not want anybody to smoke. But if the President wants to have ID checks for anybody under age 27, or age 40 for that matter, he can introduce it in Congress and maybe we can pass it. I think that is a proper prerogative of the States. But at least it should go through the legislative route. He did not do that.

He has advocated other Executive rules dealing with advertising. I supported banning smoking on airplanes. I may support banning various types of advertising. But we should go through the legislative process. We should have hearings. We should let elected people make a decision. I think the President's Executive action goes so far as to ban outdoor billboards or baseball caps that say Marlboro, and so on. I think the President's actions and the FDA's rules have exceeded the constitutional authority of the executive branch. I think that is wrong.

Finally, Mr. President, let me bring up the latest proposed Executive order, and I say proposed because it has been announced by the President that he is going to issue an Executive order that deals with Federal construction projects which will in practice screen out nonunion businesses from participating in Federal construction projects or force their employees to join a union, the so-called project labor agreements.

Mr. President, this is an egregious power grab by organized labor. If they want to try to do this they should do it through the legislative branch. They should see if they have the votes. We have $239 billion of Federal construction spending available between now and 2002, and to come up with an Executive order and say you need not apply unless you have a union is totally wrong. Totally wrong. More than 80 percent of the workers that are doing Federal work on construction projects now, according to this proposal, need not apply; or if you are going to apply you need to join a union. What about free competition? What about competitive bidding? What about the taxpayers?

For the administration to try to make this kind of behind-the-scenes