

Senator DOMENICI wrote that was adopted by the Senate, and then subsequently was technically changed by the staff. Senator DOMENICI is seeking to get a technical change to correct this mistake. I think if you look through the 30 pages of depot language—what the Leader is looking at—you can see that we are asking for hardly any changes, but that these are changes the Secretary of Defense and the President believe are critical to their ability to operate the Defense Department efficiently and to meet the national security needs of the country.

So, while we are here today to obstruct, we are willing, with just a few changes, to allow the bill to go forward, and in the process we can get a guarantee that the President will sign the bill.

So I would like to urge my colleagues to work with us to correct this 30 pages of language which is aimed at preventing competition.

So, while we obstruct, we hope to make progress.

And, based on that hope, I object.

Mr. LOTT. Under his reservations, would the Senator withhold on his objection, and allow me to make a comment and ask a question?

Mr. GRAMM. Certainly.

Mr. LOTT. Madam President, if he would yield for a response, I understand that these few changes are about 30 pages.

Mr. GRAMM. No.

Mr. LOTT. I have been notified by four Senators that they have objections.

Mr. GRAMM. Those are the 30 pages in the bill. The only changes we are making are the changes that are written in black ink.

Mr. LOTT. Let me just say I have worked with this issue, as the Senator knows, and the other Senator from Texas, over the last 2 or 3 years. I know there are other Senators that have an interest in it and have different views. I know a mighty effort has been made on all sides. This is not a partisan issue. It is a difficult issue between some States, though, to try to resolve it.

I really felt like we were never to bring it to a head until we get this legislation started. That is my intent here. We are going to get it started off.

I have discussed with Senator DASCHLE the possibility that we at some point—we met this afternoon—we meet to see what else can be done. I am certainly willing to continue to work with both sides to try to find a resolution.

But we are running out of time in this session. This is a very, very important bill for national defense and the security of our country.

So I thought we should go ahead and get started. And hopefully that will cause us to try to find some way to resolve this one remaining—one remaining—very difficult issue to resolve.

I thank the Senator for withholding so I could make that comment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Does the minority leader seek recognition?

Mr. DASCHLE. I do, Madam President. But I would be happy to allow the distinguished Senator from Texas to complete his remarks.

Mr. GRAMM. I was seeking recognition, Madam President, both to complete my remarks, and to object. If the distinguished minority leader wanted to speak before I objected, I would be glad to withhold.

Mr. DASCHLE. I appreciate the accommodation of the Senator from Texas.

Madam President, just very briefly, because the distinguished majority leader made some comments relating to the ISTEPA bill, let me just say as succinctly as I can, there is a difference between desirable outcome and an essential outcome. A 6-year bill certainly is desirable. I have long favored a 6-year bill with my full support. But a 6-month bill is now essential. House leaders have said they are not taking up the desirable bill. They are taking up the essential bill—the 6-month bill that bridges the two legislative sessions to accommodate our Nation's highway, transit and safety needs. We have come to the recognition, given our current circumstances, that the essential bill may be all we can do.

So I do think it is important as we consider these bills to recognize that there is a difference between essential and desirable. We recognize the importance of getting the essential work done. That is the reason we would support this afternoon taking up that bill.

I again appreciate the accommodation of the Senator from Texas.

I yield the floor.

Mr. GRAMM. Madam President, I object.

The PRESIDING OFFICER. Objection is heard to the unanimous-consent request.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998—CONFERENCE REPORT

##### MOTION TO PROCEED

Mr. LOTT. Madam President, I now move to proceed to the DOD authorization conference report.

##### MOTION TO POSTPONE

Mr. GRAMM. Madam President, I send a motion to postpone the motion to proceed to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the motion.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], moves to postpone the motion to proceed until January 15, 1998.

Several Senators addressed the Chair.

Mr. GRAMM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Madam President—

Mr. GRAMM. Let me ask the Chair.

Mr. LOTT. Madam President, I am raising my hand to go ahead and give a second.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

##### AMENDMENT NO. 1526 TO MOTION TO POSTPONE

Mrs. HUTCHISON. I send an amendment to the motion to postpone to the desk, and ask for its immediate consideration.

Mr. LOTT. Madam President, I move to table the Gramm motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will first report the amendment from the Senator from Texas.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], proposes an amendment numbered 1526 to the motion by Mr. GRAMM to postpone the motion to proceed:

Strike the date and insert "January 18, 1998."

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I move to table the Gramm motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded, only to ask unanimous consent that a staffer be allowed on the floor.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered. The Senator from Texas.

##### PRIVILEGE OF THE FLOOR

Mrs. HUTCHISON. I ask unanimous consent my staff member, Karen Knutson, be allowed access to the floor.

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

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LOTT. I ask unanimous consent that, prior to the motion to table vote, there be 45 minutes of debate only,

equally divided between the time controlled by Senator GRAMM and Senator INHOFE, or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, and I will not object, so in essence what we are agreeing to is to set aside 45 minutes, half of which would be ours, for people to talk about the issue. At the end of that 45 minutes, we would then vote on the motion to table—

Mr. LOTT. That's correct.

Mr. GRAMM. The underlying amendment. OK. Fine.

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

Mr. LOTT. Madam President, just again for clarification of what we are doing here, there are very strong feelings and great ground for substantive disagreement on this issue. Before we start a series of procedural votes, I thought it made good sense for both sides, proponents and opponents of the position in the conference report, to sort of have a chance to lay out their positions. By doing it this way, the time will be actually controlled between the two sides. Then we will have some procedural votes. And it is my intent to also file cloture on this issue tonight.

Beyond that, we will see what happens. So, for the next 45 minutes, then, we will have debate equally divided.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, I yield the distinguished Senator from California 7 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 7 minutes.

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

Madam President, I rise to oppose the Defense authorization conference report. I oppose this conference report because it contains language that will effectively ban any further public-private competition of depot workload at McClellan and Kelly Air Logistics Centers. If this restrictive depot language remains in the bill, the President has said he will veto the bill. A letter is already in the RECORD, signed by Office of Management and Budget Director Franklin Raines, to that effect. I will read the letter in part:

The bill includes provisions whose intent is to protect public depots by limiting private industry's ability to compete for the depot-level maintenance of military systems and components. If enacted, these provisions, which run counter to the ongoing efforts by Congress and the Administration to use competition to improve DOD's business practices, would severely limit the Department's flexibility to increase efficiency and save taxpayer dollars.

Both the Quadrennial Defense Review and the National Defense Panel recommended repeal of current laws constrain DOD's efforts to competitively outsource depot maintenance workload. Rather than facilitating DOD's use of competitive outsourcing, the bill attempts to further restrict it.

This so-called compromise essentially puts an end to the Defense Department's plan to conduct public-private competitions for the depot work currently done at both Kelly and McClellan. The possibility for a private company to win one of these competitions is the cornerstone of each community's reuse plan that resulted from the Base Realignment and Closure Act which will close both of these bases at the turn of the century.

Continuing to quote from Director Raines' letter:

The bill seeks to impose unique and inappropriate requirements on DOD's process for allocating the work now performed at San Antonio and Sacramento Air Logistics Centers. The Department is conducting a fair and open competition to determine the most efficient and cost-effective way to perform this work in the future. Both private contractors and public depots are competing for the work. By dictating how DOD should treat certain competitive factors, this bill seeks to skew any competition in favor of the public depots.

This skewing of the outcome of these ongoing public-private competitions is what is unacceptable, and we will fight it to the bitter end.

We tried to work with the committee toward an agreement. At one time, the Senators from Texas and California thought we had succeeded in reaching an agreement with the committee. We were ready to buy half a loaf. There were four points we wanted, but the agreement we thought we had only contained 2½ of those needs. We agreed to back off. Overnight those who wrote the bill put in technical language which essentially killed the ability for private contractors to bid. One of the ways they did it was by hiding their overhead costs.

I think the Senators from Texas can well explain how this has happened in the past, and how great a disincentive this would be to any private company who might want to bid on our workloads.

I find it amazing that this depot caucus language was still included, even after the first private-public competition held for Kelly's C-5 air work workload was won by Warner Robins Air Logistics Center in Georgia.

Members of the Depot Caucus have complained from the first day these competitions were announced by the Air Force that they would be unfair and biased. They said that public depots could not possibly win. But Warner Robins won. How did this happen?

One of the reasons is that public depots can hide their overhead in other accounts when they bid against private industry for work, and members of private industry on numerous occasions have said this is exactly why they cannot compete under current law.

Warner Robins, as I understand it, took advantage of this ability to hide overhead costs to help make their bid below that of their private competitors. In fact, the Air Force had to add approximately \$170 million to Warner Robins' bid for the 500 employees and

other overhead that had been shifted to other accounts.

The way the next two competitions are set up, under this bill, private industry will be very reluctant to bid, and probably will not bid, on the workloads at McClellan and Kelly. In fact, the Sacramento Bee quoted an industry representative who said, "I can't conceive of a company that would bid for McClellan and Kelly under these circumstances."

Supporters of the depot language say this is a compromise that will allow fair and open competitions at McClellan and Kelly. I say baloney. How can I or my colleagues from California and Texas believe that these competitions will be fair and open when one of the authors of this very language, a Senator from Oklahoma, believes that this language shuts the door on private industry's ability to compete. Quoted in the Daily Oklahoman he said, "I think it's highly unlikely any contractor would want to bid on it." Now, how are my colleagues and I supposed to believe it is a fair compromise with statements like this? We need fair and open competition for the depot work at McClellan and Kelly. As Secretary Cohen has stated repeatedly, this language just does not provide it.

We need to allow public-private competitions in order to achieve the kinds of savings necessary to reach the procurement levels needed to fund the modernization of our weapons systems.

Madam President, I have much more to say, but in the interest of time let me say this.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mrs. FEINSTEIN. We have tried to achieve a compromise. We are open to a compromise.

Mr. GRAMM. Madam President, I yield 1 additional minute to the distinguished Senator from California.

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

Mrs. FEINSTEIN. I thank the Senator from Texas.

We are open to a compromise. We are willing today to accept the very language that we thought we had agreed upon, which gave us the two and a half issues out of the four which would enable us to have public-private competition at these bases. In order for this to occur, we must return to the earlier compromise language, before the changes were made.

Madam President, I cannot tell you what a big deal this is in Northern California. The entire community has been mobilized around this concept of possibly being able to privatize the workload. All we are asking for is fairness. All we are asking is that the deck not be stacked against us. All we are asking is that public depots not have the opportunity to fudge bids by hiding costs. This conference report denies that, and we have decided that we will use every avenue open to us to fight

this bill until we either achieve a compromise or a veto.

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

Mrs. FEINSTEIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, I yield 7 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. I thank the Chair and I thank the Senator from Oklahoma.

I sat and listened to the senior Senator from Texas as I did some weeks, if not months, ago when he made similar speeches, and I want to respond to some of the comments he made.

He said that his primary interest in life is preserving competition. I want competition, too. He said he wants fair competition. I want fair competition, too. I remember in his previous speech he said he was so concerned about fair competition that he would be willing to write the law in such a way as to outline the requirements to make sure there was fair competition and then allow the depots a 10-percent cushion. He said, if they came within 10 percent of the private sector, they would be given the opportunity to hold the work.

We believe the language in this bill fulfills the requirement that he laid out on this floor at that time, that it does outline fair competition. He says many people think of depots as an entitlement, and he says, "I reject that."

I agree with him 100 percent. Depots, or any defense facility, are not an entitlement, whether it is in California or Texas or Utah or Arizona. However, there is the question of the core capability of the Department of Defense in establishments that they have created over time. It is an established rule that core work is to be done in Government-owned facilities.

What is core work? It is the work that has to be done in case we go to war, in case we are in the circumstance where a private contractor says, "I don't want to interrupt my commercial business to do this military business just because there is a war going on." There is core work that must be done.

Prior to the adoption of the language that is in this bill, the definition of what is core work and what is not was left entirely to the Secretary of Defense. That means if the Secretary of Defense wants to rule something as not core work and thereby rig the competition for political purposes, he has the right to do it.

One of the things that appeals to me most about this language is that it puts sunshine on the process of determining what is core and what is not and requires the Secretary of Defense to report to whom? To the Congress, to the people who are appropriating the money, as to what is core and what is not.

What can be wrong with that? The Senator from Texas wants competition.

So do I. I think we have responded to the Senator's call for competition, and we have crafted language that produces that.

Madam President, I have a document with responses to a floor statement that was made earlier by the senior Senator from Texas. This briefly addresses some of his primary objections, many of which have been repeated here today.

I ask unanimous consent that the summary of those 11 statements, plus the responses to them, be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. BENNETT. Now, Madam President, I have spent 5 years in the Senate. I have spent 40 years in the business community. I am a businessman who has run businesses. I would like to speak, in the remaining time, out of that experience rather than the political experience.

What we are dealing with here from a business standpoint is a factory that is at overcapacity. The question is, How do we as competent managers deal with that excess capacity? Do we have competition? Of course, we do. If we have items that can be taken out of the factory and built more cheaply someplace else, we want them out of the factory and built more cheaply someplace else. But if we have the capital investment in the factory itself and we have excess capacity, we would not be wise stewards, we would not be intelligent businesspeople if we did not go out and look for things to be built in the factory to soak up that excess capacity as our first responsibility to the shareholders.

We here in the Senate are responding not to shareholders but to taxpayers. We are responding to military people who are depending upon these facilities to provide the necessary skills in time of war, and we are facing a circumstance where we have excess capacity.

I am as dedicated as anybody else to the idea that we need to move ahead with competition and save taxpayers' money. But to ignore the question of our existing capacity and overcapacity in the name of a theoretical argument in favor of competition, which sounds good in the classroom, is to be irresponsible.

One final comment, Madam President, and then I will yield back the remainder of my time. The Senator from Texas has said on this occasion and repeatedly that this for him is not a parochial issue, that it is a matter of principle and that he is standing on this principle even if a base in Texas were not involved. I will accept that. I will respect that. I want to make it equally clear, however, Madam President, that there are those of us on the other side of the argument who feel just as strongly that we are standing for a principle where the principle is

integrity in the contracting process in the Department of Defense, which integrity we feel has been attacked.

I was asked, on the record, would you still be fighting this fight if Hill Air Force Base were not involved, and would you stand to protect Hill Air Force jobs if it cost the taxpayers extra money? I said to the reporter in the hometown where Hill Air Force Base is located, if we cannot demonstrate that the Air Force is better off financially by having the work done at Hill Air Force Base, I cannot as a Senator say the work should still be done at Hill Air Force Base at a higher price.

I believe the position we are taking is sound management practice, sound business practice. It is what I would do if I were a businessman charged with the responsibility of running this factory that is at overcapacity, and I believe that we have just as solid reasoning to stand on principle as the Senator from Texas believes he has.

I hope everyone will recognize that it is not appropriate to attack anybody else's motives. Now, if he attacks the motives of the folks in the House, that is fair game. I will let him do it with the people in the House; that is kind of the way we do it here. But I wanted to make my statement with respect to where we are in the Senate.

#### EXHIBIT 1

#### COMPETITION—STATEMENTS OF SENATOR PHIL GRAMM

1. "What the Department of Defense wants to do is have a competitive bidding between the three depots in the Air Force that are doing maintenance work and private contractors." (The bill specifically authorizes such competitions and requires that the Department allow all qualified bidders and teams to participate.)

2. "Now, what Senator Hutchison and I want is simply to allow private contractors in our State or anywhere else to have the right to compete for this work and, if they can do it better, if they can do it cheaper, they would have an opportunity to do it." (The bill specifically authorizes such competitions and requires that the Department allow all qualified bidders and teams to participate.)

3. "Why should we not have price competition." (We should, and this bill makes that happen. The compromise language requires that the Department has to take into account the total direct and indirect costs when comparing the offers.)

4. "If Republicans believe in anything, it is competition." (The bill reflects this belief, and specifically authorizes such competitions and requires that the Department allow all qualified bidders and teams to participate on an even playing field.)

5. "Obviously, if you wanted to be reasonable on this issue, you would simply say to the Defense Department, look, here are a set of criteria for looking at a fair competition with a level playing surface." (The bill does this. It authorizes competitions and establishes a few of the criteria that must be considered in evaluating the various proposals. The Department of Defense would retain the flexibility to establish any additional criteria that the Department believes would ensure a level playing surface.)

6. "But we could set out simple criteria for a level playing surface to have competition between the public sector and the private

sector to do this work." (Again, this bill does this. It establishes a few of the criteria that must be considered in evaluating the various proposals. For example, it states private and public bidders can team. This is good for competition. The Department of Defense would retain the flexibility to establish any additional criteria that the Department believes would ensure a level playing surface.)

7. "Have competitive bidding after you first set out the criteria for competitive bidding. If you want to look at the cost of facilities they are using, to make adjustments for it, then look at everything—look at retirement costs, look at every single cost, come up with a way of measuring it, and have a competition. And then, even if the depots lose the competition by less than 10 percent, give it to them anyway." (The criteria specifically includes the cost of facilities (land, plant, and equipment) from a military installation that are proposed to be used by a private offeror. The Department would retain the flexibility to include the cost of facilities that are proposed to be used by a public depot if they can justify their decision. The criteria also include the total estimated direct and indirect costs (including retirement costs) and the total estimated direct and indirect savings to the Department of Defense. The only thing the language does not do is give the public depots a 10-percent price preferential, as was proposed by the Senator from Texas.)

8. "But what I want the workers there to have a chance to do is to go to work for private companies that might have a chance to compete for the work. So I am not asking for anybody to give anything to San Antonio, TX. But I am demanding that we have an opportunity to compete." (The compromise language gives them this opportunity.)

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. GRAMM. Madam President, I want to yield to my colleague from California, but I want to make two points that I think will be telling.

I would like people to note that in trying to find a compromise, I made an extraordinary offer which the Senator alluded to, and that is I said, look, don't have a fair competition between the private sector and the depots. Have a competition that says if the depots can do it at only 10 percent more than the private sector, then give them the work and let the taxpayer pay 10 percent more for the same work. But if they, if the private sector, can do it with savings of at least 10 percent, then let them have it.

I would just note to my colleagues that was an offer on my part to have less than a flat playing surface, and that offer was rejected.

Second, I would just go back to the newspaper article reporting on the amendment and those who had crafted the language of the bill saying, "The requirements put on contractors"—that is private contractors—"in the new language would likely keep them from wanting to bid on the work."

Well, if the language keeps them from wanting to bid, how do you have competition? It seems to me that those two points show we were not even insisting on any kind of level playing surface. And second, they say of their own provision that it will prevent private contractors from wanting to bid.

How do you have competition if there are no bidders?

I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. I thank the Chair. I thank Senator GRAMM for yielding me this time. I thank Senator HUTCHISON for her being so kind to me to allow me to precede her in these remarks. I will not go over my 5 minutes because I know she has much to offer and has been struggling with this issue for quite a while.

I wonder if the public is confused about what this debate is all about. They see colleagues across party aisles, from Texas and California, joining hands—we don't often do this on many issues—and complaining that, in fact, a compromise that was supposed to occur in the committee to work out the problems we all had with this depot language was abandoned. Had that language been held to, had we been able to work it out, we would all be here without holding up this bill.

I really think what is at stake is very important not just to those workers at McClellan, 2,000 strong—it impacts 2,000 families—4,000 workers at Kelly, at least that many and their families, but also, as Senator GRAMM has pointed out, to taxpayers throughout the Nation.

But the fact is, either you are for competition and the best deal for taxpayers or you are not. We are for competition. We are for allowing the private sector to come in with a fair and level playing field. The language in the bill which we now oppose would thwart competition.

In the Senate, we managed to keep all harmful language off the bill, but the House had very restrictive language. We hoped going into the conference there could be a compromise.

What you are going to hear from some of the folks who don't want competition from the private sector is that this group of us from Texas and California want to undo the BRAC, want to undo the Base Closure Commission and their recommendations vis-a-vis Kelly and McClellan. This is false.

If you turn to page I-85 of the BRAC report, you will find that right there it says the DOD is instructed to "consolidate the remaining workloads to other DOD depots or to private sector commercial activities."

So very clearly the BRAC said the DOD should have the flexibility to work with the private sector, and the administration very much wants to do this. The Department of Defense very much wants to do this.

We already heard from Senator GRAMM that the President will veto this bill if we do not move forward toward a compromise. I don't think the Senators from California and Texas want a veto. We could stop talking at this very moment and go into one of the cloakrooms and work this matter

out. We think we almost did work this matter out, but overnight, something changed in the language. We are unable to look our constituents in the eye and look the taxpayers in the eye and say they are going to get a fair deal, because they are not.

That is really all we want on behalf of our constituency: a fair chance to compete, to do the work at a lower cost. You wouldn't think we would have to struggle over such a commonsense proposition.

I really have to say that the passage of this bill has been jeopardized. The adoption of this conference report is jeopardized, and there is no reason for it. We were so close. We ought to go back again.

What happened in the end, to use an analogy, was like a footrace in which the committee basically said, "Line up all the private sector people who want to be involved in depot work; line up all the public depots in Utah, in Oklahoma, in Georgia, and everyone will sprint as fast as they can for 100 yards. The first person to cross the finish line wins."

Unfortunately, the committee put 100-pound weights on those from Kelly and McClellan, so they can't win a race or even compete in a race if they are so burdened. That is what this conference committee has done.

I say in the name of fairness, to those working families at Kelly and McClellan, I say in the name of fairness to taxpayers who want to see us move forward and save as many tax dollars as we can, and in the name of a strong national defense where the Defense Department has the flexibility it needs in this case and many others to move to the best way to meet our national defense needs, in the name of all of them, I suggest that we go back to compromise mode. We can resolve this problem and move this bill forward.

That is the spirit in which I speak to the U.S. Senate today. I do want to say this. I am as determined as my colleagues from Texas and my senior Senator, Senator FEINSTEIN, to do everything in my power to make sure—to make sure—that the commitments made to the people at Kelly and McClellan and to the taxpayers are, in fact, kept. We will use every parliamentary tool at our disposal to make sure that fairness and justice will win out in this debate. Thank you, very much. I yield back my time to Senator GRAMM.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I yield 6 minutes to the distinguished junior Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Madam President, I certainly understand the position of the Senators from Texas and California. They have worked long and hard on this issue. I understand where they are coming from. I congratulate the

Senator from Oklahoma, Senator INHOFE, and others, who have worked just as hard to make sure this is a fair bill. The bill is consistent with the targets of the bipartisan budget agreement.

On the major issues such as Bosnia, the B-2 bomber, and cooperative threat reduction, the bill is much closer to the Senate position than the House position. The most difficult issue to resolve in the conference was the depot maintenance provision. These provisions are the product of intense communication, diligent coordination and diplomatic negotiations of the issues to the fullest extent possible. We have actually been working on these issues some 9 months. We made numerous significant concessions in order to reach an agreement.

In the final analysis, the major concessions were:

We agreed to the Department of Defense request to continue free and open public-private competitions for the workloads at Kelly Air Force Base, TX, and McClellan Air Force Base, CA, with public-private partnerships.

We agreed to the Department of Defense request to lower the 60-40 rule to 50-50.

We agreed to the Department of Defense request to solicit a single contract for multiple workloads having been certified by the Secretary of Defense.

And we agreed that it is critical to maintain a core capability at the public facilities with a surge capacity that supports our mobilization needs at a moment's notice.

In spite of all the concessions made in this agreement, the opposition believes this should be an all-or-nothing deal. To do so, I think, would truly negate the rules of fairness and the competitive market, and it undermines the credibility of DOD's stated financial priorities. It also risks the future of legitimate privatization efforts by the Department of Defense.

I am satisfied with the depot provision in the conference report. The Department of Defense is satisfied with the provision. And the provision has the unanimous support of the Senate Armed Services Committee on which I serve.

The provision does not include everything that either side really wanted, but it is undoubtedly a fair and unbiased bill that places bidders on an equal footing.

I find it hard to argue against fairness. So, Madam President, I suggest this body finally act on the defense authorization bill, and it has my support. Thank you very much. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 7 minutes and 5 seconds remaining.

Mr. GRAMM. Madam President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President. I thank all of the Senators who are trying to do what is right in this bill. I hope very much that we will be able to come to an agreement that will allow free and fair competition.

We are not asking for something special. We are not asking for an advantage. In fact, we have gone so far beyond where BRAC, the Base Closing Commission, was that I think we have gone overboard to allow the public depots to even compete, because the Base Closing Commission report in 1995 states specifically, and I am reading from the report:

Therefore, the Commission recommends the following: Realign Kelly Air Force Base, including the Air Logistics Center, consolidate the workloads to other Department of Defense depots or to private sector commercial activities as is determined by the Defense Depot Maintenance Council.

"As determined by the Defense Depot Maintenance Council." By the law that this Congress passed in adopting the Base Closing Commission report in full, the Department of Defense has total discretion about whether to move the depot maintenance from Kelly and McClellan or whether to privatize it in place. The concept of competition came forward in the intervening years, and we all believe that is fair. Why shouldn't the public depots be able to compete? We think that is best for the taxpayers.

So, of course, there we were trying to get a fair and level playing field so that the public depots could compete, so that there could be private competition in the depots that were closed, and that is what is right for this country. It is what is right for the Department of Defense, and it is what the Department of Defense wants. So we have added a huge measure of support for the public depots to be able to compete.

In the last 2 years, I have heard Member after Member who represents a depot State saying, "There can't be fair competition between the public sector and the private sector." In fact, the first competition that was held for part of the work that is now being done at Kelly went out for competition and, in fact, the bid was awarded to a public depot in Georgia. In fact, the Department of Defense personnel say that they don't think there was a level playing field in that bid. But nevertheless, the bid was won.

Did the people of San Antonio stand up and whine about not getting the bid? No, they didn't. Even though they were told it wasn't fair, even though they were told that their bid was better, they did not whine about it because they believe that if they have a fair chance, they will be able to compete the next time.

Now we have a bill before us that does not allow them to compete on a level playing field once again. At some

point, there has to be integrity in the process. At some point, the people of San Antonio or the people of Sacramento must know that there is a fairness because the Base Closing Commission recommended that the Department of Defense be given the option of privatizing in place or going to a public depot. They have competed fair and square, and they have been beaten. They have been beaten. So you can have a fair competition. It has been shown.

Who was the winner in the C-5 competition? It was the taxpayers of America, because there was competition. The taxpayers of America and the men and women in our military gained \$190 million because that is the efficiency that would be gained because there was competition.

If you take the other competitions that are left to go during the years, think of the hundreds of millions of dollars that will be available for a better quality of life for our men and women in the services, for the equipment and the technology that would protect them when they are in the field, and that would make our security of our shores intact. Those hundreds of millions will go for our national security rather than on wasted depot space.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. HUTCHISON. I ask Senator GRAMM for half a minute.

Mr. GRAMM. I yield the Senator a full minute.

Mrs. HUTCHISON. Just to end my remarks, if you want to have the argument on fairness, I will just quote from the junior Senator from Oklahoma who says in the newspaper that the requirements that are in this bill put on contractors new language which would likely keep them from wanting to bid for the work. He says contractors will have to include in their bids millions of dollars in costs that weren't previously required. "I think it's highly unlikely any contractor would want to bid on it," he said.

Madam President, that is *prima facie* evidence that they are not looking for a level playing field. If they will sit down and work with us, we will provide the level playing field, the winners will be the taxpayers of America, the winners will be the Department of Defense, the winners will be our men and women in the military, and the winners will be the secure Americans who will have the hundreds of millions of dollars that competition will give us in national security rather than in Government waste. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Madam President. I ask how much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator has 12 minutes and 22 seconds remaining.

Mr. INHOFE. I yield 3 minutes to the Senator from Utah, Senator HATCH.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I have been very interested in this debate because we went through three BRAC processes and, now, all of a sudden, we find it turned upside down.

Let me respond to the Senators from Texas, especially Senator GRAMM. I have always appreciated his dogged defense of competition. Generally, I am right there with him. That is why I truly regret that I must differ with him on his interpretation that the conference report is, in his words, anti-competitive.

There is fair competition and there is unfair competition. The conference report proposes fair competition.

Let us look at how the conference report differs from the privatization-in-place language initially proposed by the Clinton administration.

First, the conference report requires that all the costs of operation be factored into the bids.

What honesty is there in a bid that excludes certain costs? Well, you got that right—none. Privatization in place, as originally proposed, would have permitted certain contractors from excluding the costs of the facilities themselves in Texas and in California. Naturally, these contractors would be able to submit artificially low bids. This would be an unfair disadvantage to the successful depots, which had already justified their existence through three separate BRAC processes, because excess capacity will inflate their hourly costs.

Second, the Base Closing and Realignment Commission, the BRAC, recommended the closure of Kelly and McClellan and that the work be distributed to the three remaining depots.

Instead of consolidating work as BRAC recommended, privatization in place merely masks greater inefficiency. Privatization in place may sound like competition, but it is not fair competition.

And it is not very prudent. Let me ask my colleagues: How is it a cost saving if private companies are able to take over the work of Kelly and McClellan under contract to the Government? I realize that this is something of a sleight of hand, so let me review the concept.

If you have a subsidiary plant that is not working to capacity, the normal business decision would be to close it down and redistribute the work to the other more efficient plants, which was what BRAC was all about. But under the original Clinton plan, the work would simply be bid out to others. There is no closure of the facility, and you are paying others for the work. And, you have to ask, what in the world is going on here?

The conference report language is a compromise. Those of us referred to by the Senators from Texas and California as the depot caucus are not getting what we wanted—which was the validation of the BRAC process, whatever that may bring.

I know that I went to every one of those meetings. It was a pressure-packed, difficult time. All of us were concerned.

Frankly, the BRAC Commission did make the tough decisions in determining which ones should survive, which ones should not. But for the other three to do their job, they must have this work in fair competition. I have every confidence that Utahns can compete with anyone in a fair competition.

At least by leveling the playing field for bidding on depot work, everyone has a fair chance. May the best bidders win. And let us keep integrity in the process. What the Senators on the other side seem to be arguing for is a system that really stacks the deck.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time does the Senator from Oklahoma have?

The PRESIDING OFFICER. The Senator from Oklahoma has 8½ minutes.

Mr. GRAMM. How much time do I have?

The PRESIDING OFFICER. One minute.

Mr. GRAMM. I would like to reserve my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I am going to reserve the remainder of my time. The Senator from Texas can use his minute.

Mr. GRAMM. Mr. President, parliamentary inquiry. If there is a quorum call at this point, how is that time counted?

The PRESIDING OFFICER. The quorum call would be charged against whichever side put in the request.

Mr. GRAMM. Well, Mr. President, I will be happy to go ahead and take my minute. The normal procedure would be both sides would run off their time equally. I think we are the challenger here and should go last, but that is not of any real significance.

I think, Mr. President, I can sum up what this is about very simply. We have 30 pages in this bill that were written with one and only one purpose, and that purpose was to derail price competition, to prevent price competition with the depots.

The people who wrote the provision are quoted publicly as saying that that was the objective. They say in the newspaper that it would be virtually impossible for a private firm to compete with a Government depot under their language. That is not me talking, that is not the Senator from California talking. That is the proponents of this language and the people who help write the language.

Second, it has to strike you as funny that this language only applies to competition that would involve private companies who would choose to locate either at Kelly or at McClellan.

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

Mr. GRAMM. We have 30 pages that are limited simply to that. So I hope

nobody is deceived. And I am sure they are not.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. INHOFE. Mr. President, let me just real quickly cover some of the things that have been said in the last 10 or 15 minutes.

First of all, I do not like the way this ended up because we had to agree, in order to bring everyone in and to have a unanimous vote in the Senate Armed Services Committee, to allow the President of the United States to interfere and to politicize the BRAC process for the first time since it went in place in the round of 1989.

Second, a quote has been attributed to me that I do not think that the private sector is going to want to bid on this. I think that is accurate, because the private sector would have liked very much to bid if they could get free—for maybe a dollar a year—a huge facility down in Texas or one in California. Sure, that would be certainly to their advantage, but the taxpayers would lose.

All we are saying is: If you want to have free and open competition, let us take all costs, direct and indirect costs, to the Department of Defense and throw them in there.

Two big costs: No. 1, the cost of the installation that would be used if privatization in place took place; and, No. 2, the cost of the excess capacity in the remaining three air logistics centers, which the GAO said would be about \$468 million a year.

Third, in terms of charges that have been made about competition, no one in this Chamber is going to be able to stand any higher than I do on my background in privatization. When I was mayor of Tulsa, I privatized everything that wouldn't move.

This is different. This is our Nation's defense. However, this bill provides for privatization. It just says that we are going to have to take all costs into consideration.

Fourth, there is one other area in the bill. It is called "teaming." Right now under the current law, if this should be defeated, the private sector would not be able to go to the air logistics center in Georgia or anyplace else and compete because they are precluded from doing so. This defense authorization bill provides for much greater opportunity for the private sector to compete.

The issue that the junior Senator from California brought up on privatization in place—she was not in here when I covered the details in that. The BRAC recommendations specifically precluded privatization in place for the air logistics centers. She quoted words out of the BRAC language, but she neglected to read the last sentence, which I will read to you: "Move the required



equipment and any required personnel to the receiving locations."

Mr. President, you, of course, are a businessman. We have already heard your pitch. I agree with everything that you said. But the cost of keeping three air logistics centers at 50 percent capacity is a huge cost and has to be considered in the consideration of this.

I came to the House of Representatives in 1987. That was my first year. One of the persons I had the most respect for was a Congressman by the name of DICK ARMEY. And DICK ARMEY, for the first time, convinced me that we have a real serious problem with excess capacity. We have never been able to do away with it because of the political interference of the local Congressman, of the Senators, and sometimes of the President.

So he set up a system called the BRAC process. This process was to be free of any political interference—any political interference. He said, "Some day I'm going to regret this because I'm going to have to go against my own State when we have to close down some type of installation."

But you know, Mr. President, it worked. We went through, not three, as the senior Senator from Texas suggested, but we went through four BRAC rounds—1989, 1991, 1993, and 1995. During these BRAC rounds, we closed over 100 major installations.

I suggest to you, Mr. President, that we would not have been able to close one of them if it had not been for DICK ARMEY from Texas, the Congressman who established the whole BRAC process. So while we talk about not having parochial interests, I can assure you that I do not. In fact, I am on record in the State of Oklahoma, in 1994, in my election to the Senate, the first time I was elected, they used it against me, because I said, "I will not use political interference and will not try to politicize the system." That was used against me.

So Congressman ARMEY prevailed. As a result of that, we have been able to close a lot of excess capacity. The other day he made a speech on the floor. Mr. President, I do not have the time—I was going to read the entire speech, but there isn't time remaining to do that. But I will just read one paragraph out of it. This is Congressman DICK ARMEY from the State of Texas:

We had three rounds in base closing, and we are all very proud of the process because politics never intruded into the process. That ended in round four. And all of my colleagues knew at the time, and we know now, that the special conditions for McClellan and Kelly, California and my own State of Texas, where you might think I have a parochial interest, were in a political intervention.

We talk about this being privatization. No, it is not. It is a new concept. It is privatization in place, created specifically for these two bases in an election year for no purpose other than politics.

That is a quote from Texas Congressman DICK ARMEY, the founder of this system.

Finally, Mr. President, they keep talking about, "We had a deal." There was never any deal that was had. We have been negotiating this thing now for well over a year. And we negotiated it in years prior to this. We are trying now to get a defense authorization bill. We have caved in. We have provided for privatization in place so long as we take all costs into consideration.

When it has been stated several times by the distinguishing senior Senator from Texas that only a small number or group of people are concerned about this, I suggest to you that this bill that we are talking about, this conference report was passed out of the Senate Armed Services Committee by a vote of 18 to zero—18 to zero.

A couple of nights ago—last night I guess it was—it was voted on in the House of Representatives. The vote was 286 to 123. I suggest to the senior Senator from California, if she is convinced that the President is going to veto this, we have the votes to override a veto. We are not going to allow the President to say, "I'm vetoing a bill because I want to politicize the system for the first time since its inception in 1988."

So, Mr. President, I feel very strongly that we have an opportunity here to have a defense authorization bill that does far more than correct a problem that has been there in the depots. It takes care of many, many needs to try to keep America strong. I agree with the Senator from Texas when he talks about the fact that our defense has been decimated. It has been decimated. We are going to try to do something about saving, in this case with this change in the air logistics centers, some \$468 million a year.

Mr. President, there are two individuals who are here who have not been heard from. I ask unanimous consent that both the chairman and the ranking minority member of the Senate Armed Services Committee be allowed to speak for 1 minute each.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, of course, I will not object. I would like to suggest that they have an opportunity to speak for more than 1 minute. I amend the request to ask unanimous consent that each of them be given 5 minutes.

The PRESIDING OFFICER. Is there objection to the underlying request as amended?

Without objection, it is so ordered. The chairman and the ranking member are each permitted now to speak for up to 5 minutes.

Who yields time?

Mr. THURMOND. Mr. President, I will not take 5 minutes.

Mr. President, I would just like to take a few moments to address the outcome of what was the single most controversial issue in the conference—depot maintenance. The bill contains a

fair compromise that was drafted by the members and staff of the Senate Armed Services Committee after consulting with all interested parties, including the administration and the concerned delegations. It is fair to assert that none of the parties involved are completely happy with this compromise language; however, that is what happens when you have to compromise. If we all insisted on getting everything our way, nothing would ever be accomplished by the Congress.

Mr. President, Senator LEVIN, the ranking member of our committee, and I worked together in a totally bipartisan manner to achieve this compromise and we both agree that this compromise enables the Department of Defense to conduct fair and open competitions for the workloads currently performed at Kelly and McClellan. In fact, the compromise language specifically authorizes competitions for these workloads.

Mr. President, during the drafting of this compromise language the Department of Defense, as well as the staff of the concerned delegations, were provided numerous opportunities to review this language and identify their concerns. We made significant changes to this language in order to alleviate many of the concerns they raised.

Mr. President, no one knows the amount of work that was put into this compromise. We worked night and day. The staffs worked night and day. If this compromise doesn't go through, all of those States will suffer, in my opinion. It is better for us to pass this bill. This is a very important bill. It means a lot to our whole Nation, not just any one State or a few States, but all of the States.

I ask the Senate to pass this compromise and stand by what has been done and reached heretofore on this important matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I hope we will move to this conference report. This conference report contains hundreds of legislative provisions, thousands of funding provisions which had to be resolved. The issue that took us the longest to resolve was the difference about depot maintenance work at the closed air logistic centers at Kelly and McClellan. Probably the last month was taken up trying to resolve that issue. No agreement was ever reached.

So we, the members of the committee, had to do the best that we could to try to reach a fair and a just conclusion that would not tilt this toward either direction. That is what we attempted to do.

Otherwise, we would give up on getting a defense authorization bill to the floor and we were not willing to give up that. There are too many issues at stake in this bill that are important to this country not to bring this bill to the floor and not to bring the conference report to the floor.

We know there are very strong feelings on both sides of the depot issue, and it is understandable. To ever denigrate the strength of any Members' feeling about regulating the interests of their State—I think all of us have to accept that feelings are very strong on this issue. Representatives of some States felt that the President had ignored the spirit of the base closure process by pursuing a policy of privatization in place at Kelly and McClellan. Others felt equally strongly that the work should remain at the closed depots.

I will state candidly that I disagreed with the assertion of the depot caucus that the Base Closure Commission prohibited privatization in place at Kelly and McClellan. The 1995 Base Closure Commission left it up to the Department of Defense to decide how to distribute the Kelly and McClellan work. The Commission's recommendation directed the Department of Defense to "Consolidate the workloads to other DOD depots or to private sector commercial activities as determined by the Defense Depot Maintenance Council." That "or" is a critical "or" in the BRAC report.

I also disagreed with the legislation proposed in the depot caucus and included in the House bill which would have prohibited the department from privatizing in place until the three remaining Air Force depots were operating at 80 percent of capacity—in effect, prohibiting the Air Force from keeping any of the work at California or Texas. I voted against that proposal in our committee and I voted against it in conference because it was one-sided and unfair. Had that provision been included in this bill, I would have strongly opposed the conference report.

Mr. President, that provision is not in the conference report. But what we have instead are provisions aimed at providing a level playing field for competition between the closed depots and the depots that remain open. I have always believed that competition results in the best value to the Department of Defense and to the taxpayers, and I believe that is the right answer to the depot dispute.

The conference language includes seven specific criteria to help ensure that the Air Force does not unfairly tilt the playing field.

I ask unanimous consent a brief summary of these seven criteria for a fair competition be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. LEVIN. These requirements were written by Members and staff who are neutral in the fight between the closed bases and the remaining air logistic centers. Our sole objective was to ensure a fair competition, and each of these requirements was included for that purpose.

We had complaints from both sides of the issue from the Congress, from the

administration, about every single proposal that was put on the table. It went on for months. But the bottom line is that sooner or later those of us who were not involved in this struggle had to reach a conclusion as to what would be a fair and just competition. We believe we achieved that, and that the Defense Department can make it work to achieve a fair and open competition.

I say that after many consultations between my staff and myself and the Defense Department. I support this compromise because I believe it will lead to a fair and open competition that is the only answer to this dispute. Keeping this dispute going and going and going is not going to resolve this dispute. We learned that from months of fruitless effort.

#### EXHIBIT 1

##### KEY ELEMENTS OF THE FAIR COMPETITION PROVISION

Section 359 of the bill requires the use of competitive procedures in contracting for performance of depot-level maintenance and repair workloads formerly performed at closed or realigned military installations. This provision includes a number of requirements and conditions to ensure that any such competition is conducted on a level playing field.

First, the source selection process must permit both public and private offerors to submit bids. It goes without saying that these bids must be considered on the merits by the source selection authority.

Second, the source selection process must take into account the fair market value (or book value) of any land, plant, or equipment at a closed or realigned military installation that is proposed to be used by the private offeror in the performance of the workload. This provision is intended to ensure that closed military installations are not given an unfair competitive advantage as a result of facilities provided to them free of charge by the federal government (under the base closure laws, we generally give closed facilities to the local communities without charge). Although this provision does not address the value of facilities available to the depots that remain open (or other private sector facilities), it does not preclude the Department from giving appropriate consideration to the value of those facilities as well.

Third, the source selection process must take into account the total direct and indirect costs that will be incurred by the Department of Defense and the total direct and indirect savings that will be derived by the Department of Defense. Such savings would include overhead savings that might result from the consolidation of workloads to the remaining public depot activities. The Department of Defense and the Air Force should establish the ground rules for evaluating these savings and for considering any other indirect costs or savings that may be associated with performance of the work by various offerors as a part of the competition plan and procedures required by this section.

Fourth, the cost standards used to determine the depreciation of facilities and equipment shall provide identical treatment, to the maximum extent practicable, to all public and private offerors. Such standards shall, at a minimum, include identical depreciation periods for public and private offerors. The qualification "to the maximum extent practicable" was added at the request of the Department of Defense, which argued that the evaluation of depreciation requires the application of an extremely complex set

of rules which are necessarily different, in some cases, for public and private entities. We anticipate that these rules will be modified for the purposes of public-private competitions under this provision to make them as close as possible.

Fifth, the solicitation must permit any offeror, whether public or private, to team with any other public or private entity to perform the workload at one or more locations. It is our expectation that such teaming will ensure the best possible result for the Department and the taxpayers. While a decision by the Air Force to prohibit any teaming arrangement between an Air Logistics Center and a private sector entity would be inconsistent with this provision, the Air Force retains discretion to determine whether a particular teaming proposal is in the best interest of the Department of Defense and the taxpayers. We expect the Air Force to establish substantive and procedural guidelines for the review and approval of proposed teaming agreements as a part of the competition plan and procedures required by this section.

Sixth, no offeror may be given any preferential consideration for, or in any way be limited to, performing the workload at the closed or realigned facility or at any other specific location. This provision guarantees a level playing field for public-private competition, without any preference for either Kelly and McClellan or the depots that remain open. The Department would be expected to consider real differences among bidders in cost or performance risk associated with relevant factors, including the proposed location or locations of the workloads. The weight given to such differences would not be considered "preferential treatment".

Seventh, the provision would authorize the bundling of unrelated workloads into one contract only if the Secretary of Defense determines in writing that individual workloads cannot as logically and economically be performed under separate contracts. This provision permits the Secretary to bundle workloads together only if he determines that such bundling will result in the most favorable bids from public and private sector offerors. We do not expect the Secretary to bundle workloads together if the result would be to substantially reduce competition or eliminate qualified offerors who might otherwise be able to submit advantageous offers.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to postpone. The yeas and nays have been previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

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

The result was announced—yeas 78, nays 20, as follows:

[Rollcall Vote No. 285 Leg.]

#### YEAS—78

Abraham	Brownback	Conrad
Akaka	Bumpers	Coverdell
Allard	Burns	Craig
Ashcroft	Chafee	D'Amato
Baucus	Cleland	Daschle
Bennett	Cochran	DeWine
Bingaman	Collins	Dodd



Domenici	Inhofe	Nickles
Dorgan	Inouye	Reed
Durbin	Johnson	Robb
Enzi	Kempthorne	Roberts
Faircloth	Kennedy	Roth
Feingold	Kerry	Santorum
Ford	Kyl	Sarbanes
Frist	Landrieu	Sessions
Glenn	Lautenberg	Shelby
Gorton	Levin	Smith (NH)
Graham	Lieberman	Smith (OR)
Grassley	Lott	Snowe
Gregg	Lugar	Specter
Hagel	Mack	Stevens
Harkin	McCain	Thomas
Hatch	McConnell	Thompson
Helms	Moseley-Braun	Thurmond
Hollings	Murkowski	Warner
Hutchinson	Murray	Wyden

## NAYS—20

Biden	Feinstein	Leahy
Bond	Gramm	Moynihan
Boxer	Grams	Reid
Breaux	Hutchison	Rockefeller
Bryan	Jeffords	Torricelli
Byrd	Kerrey	Wellstone
Campbell	Kohl	

## NOT VOTING—2

Coats	Mikulski
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The motion to lay on the table the motion to postpone was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, it appears that the Senator from Texas, Senator GRAMM, is not prepared at this time to give agreement on the DOD authorization conference report.

In an effort to try to resolve the depot issue, it seems to me that having endless motions to postpone consideration of the conference report is not constructive at this time.

## CLOTURE MOTION

Mr. LOTT. Having said that, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the conference report to accompany H.R. 1119, the National Defense Authorization Act:

Trent Lott, Strom Thurmond, Wayne Allard, Pat Roberts, Judd Gregg, Robert F. Bennett, Rod Grams, Spencer Abraham, Don Nickles, John Ashcroft, Rick Santorum, Tim Hutchinson, Paul Coverdell, Bob Smith, James Inhofe, Chuck Hagel, and John Warner.

Mr. LOTT. Mr. President, this cloture vote, for the information of all Senators, will occur on Friday. If cloture is not invoked on Senator COVERDELL's A-plus education savings account bill, all Senators will be notified as to the time of the cloture votes, and we will discuss that with the Democratic leader to be able to inform the

Members on Thursday about what time these cloture votes will occur.

Did the Senator wish to comment?

Mr. DASCHLE. Mr. President, for the purposes of scheduling, could I inquire of the majority leader, is this the last vote anticipated tonight, given the schedule?

Mr. LOTT. I believe that would be the last vote tonight, given the schedule.

We have some other matters we are working on on the Executive Calendar that may require some recorded votes. But in view of some other meetings that are occurring, we will have to schedule those. We will try to schedule them early in the morning. I will consult further with you on that.

Mr. President, I now withdraw the motion.

Mr. FORD. Mr. President, may we have order?

What was the motion?

The PRESIDING OFFICER. The motion was to withdraw the motion to proceed.

Is there objection? Without objection, it is so ordered.

## MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there be a period for the transaction of morning business until 5:30 p.m. this evening with Senators permitted to speak for up to 10 minutes each.

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

Mr. BURNS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, is the Senate now in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DORGAN. I ask consent to be allowed to speak for as much time as I consume.

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

## UNFINISHED BUSINESS

Mr. DORGAN. Mr. President, I know that there is some business that the majority leader will take up in a few moments. When he desires the floor I certainly will yield to him. But I wanted to take this moment to describe a couple of the things that I think we still need to do, unfinished items, before the Senate leaves following this first session of this Congress. Among those is the issue of campaign finance reform, which we have been debating back and forth here for some long while. There is not any reason, in my judgment, that we cannot take up and

at least have a vote on the substance of campaign finance reform.

Second, it seems to me that we cannot leave town without having done something on a highway reauthorization bill. I know there are some who say we brought a highway bill to the floor of the Senate and we had plenty of opportunity and now we had to pull it, but I want to make the point the bill that was brought to the floor of the Senate was brought here under procedures designed to block legislation, not pass legislation. And we have a responsibility, whether it is a 6-month bill or a 6-year bill, we have a responsibility to address the issue of highway construction and the highway reauthorization bill. So my hope is that through negotiation the leaders of the Democrats and the Republicans here in the Senate can deal with both of these issues in a thoughtful way.

But I did want to make the point that we also are probably going to deal with the issue called fast-track trade authority in the coming week or so. To the extent we do that, I want Members of the Senate to understand this will not be an easy issue. There are a number of us here in the Senate who feel very strongly about the issue of trade. It is not a circumstance where we believe that our country should put walls around the country and prevent imports from coming in, or that we should ignore the fact that we now live in a global economy or that we should decide, somehow, that trade is not part of our economic well-being, it is unimportant—that is not the case at all. Trade is very important. It is a critically important component of this country's ability to grow and to prosper. But the right kind of trade is important, not the wrong kind of trade.

The wrong kind of international trade in this country is trade that results in ever-increasing, choking trade deficits, because those deficits, now totaling nearly \$2 trillion, trade deficits which in this last year were the largest merchandise trade deficits in the history of this country—in fact, that was true for the last 3 years and will be true at the end of this coming year—the largest merchandise trade deficits in this country. To the extent that is the kind of trade we are involved in, trade that is not reciprocal, trade that is not two-way trade that is fair, trade that substantially increases our deficits and takes American jobs and moves them abroad and overseas—that is not trade that is beneficial to our country. Many of us feel it is time for us to have a debate on the floor of the Senate about what is fair and what is unfair trade.

I have said many times that it is very difficult to have a discussion about trade. A discussion about international trade quickly moves into a thoughtless ranting by those who say there is only one credible view on trade and that is the view of free trade. You are either for free trade or you are