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Senate

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

PRAYER

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

Holy Lord God, who has commanded Your people to have no other gods before You, we pray for the honesty to face any idols in our hearts that compete with You as absolute sovereign of our lives. We confess that sometimes we can slip into the idolization of the approval of people, the accolades our work can produce, the success that can become addictive, the human power that can become a seduction of the secondary.

As we begin this new day, we want to clear out the throne room of our hearts and evict all those things that clamor for the first place in our lives. We belong first, foremost, and always to You, and are here to glorify You by serving our Nation.

With our priorities clear, we pray in the words of William Cowper:

The dearest idol I have known
Whatever that idol be
Help me to tear it from Thy throne
And worship only Thee.

Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator STEVENS of Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Mr. President, on behalf of the majority leader, this morning the Senate will resume consideration of S. 672, the supplemental appropriations bill. Under the order, there will be 30 minutes of debate, equally divided between myself and Senator BYRD, with the cloture vote occurring on S. 672 following that debate. All Senators should anticipate that the vote will occur at approximately 10 a.m. this morning.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The PRESIDING OFFICER. The Senate will resume consideration of S. 672, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid/Baucus amendment No. 171, to substitute provisions waiving formal consultation requirements and ''takings'' liability under the Endangered Species Act for operating and repairing flood control projects damaged by flooding.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I now ask unanimous consent that it be in order to file second-degree amendments until 10 a.m. this morning.

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

Mr. STEVENS. Following that vote, additional amendments are expected to the supplemental appropriations bill. Rollcall votes will occur throughout today's session. It is the majority leader's intention to complete action on the bill as soon as possible, so Members who intend to offer amendments should be prepared to do so as soon as possible during today's session.

Mr. President, there are 109 amendments filed to this bill. I plead with the Senate to vote cloture on this bill so we will have a means of managing this bill. It is a disaster relief bill.

I now yield 5 minutes of the time allocated to me to Senator HAGEL for the purpose of making a statement as in morning business, and ask that the statement appear at the appropriate place in the RECORD after the cloture vote.

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

Mr. HAGEL addressed the Chair.

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

(The remarks of Mr. HAGEL pertaining to the introduction of S. 709 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

AMENDMENT NO. 140

(Purpose: To modify eligibility for emergency rail assistance funds in the bill)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BYRD, proposes an amendment numbered 140.

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

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

The amendment is as follows:

On page 28, line 8, strike the words ''in the Northern Plains states'' and insert ''in September 1996, and''.

Mr. STEVENS. Mr. President, this modifies the eligibility for emergency rail assistance funds under the bill. It has been cleared on both sides.

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

The amendment (No. 140) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, later this morning, the Senate is going to

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vote, as I said, as near to 10 o'clock as possible. I regret that this step is necessary. I didn't think it would be necessary to have cloture. Senator BYRD and I have spent 2 days trying to resolve difficulties on the bill regarding amendments. As I said, 109 first-degree amendments are pending with regard to this bill. We simply cannot wait to move on the legislation. It does have millions of dollars for assistance to victims of the disasters. Those disasters, Mr. President, occurred in 33 States.

The bill provides $1.8 billion to the Department of Defense for overseas contingency operations. This is for money that has already been spent on activities in Bosnia and Southwest Asia, and it replaces the funds that are critical to operating and maintenance accounts and personnel accounts to assure regular training and quality-of-life programs for the Department of Defense personnel through the remainder of 1997.

Let me make that clear. The money has been spent, but it was spent from very critical accounts under the power of the Presidency. We need to reprogram moneys into those accounts in massive amounts to assure that in the last quarter of this year, there is regular training and maintenance of our readiness.

Now, last night, we commenced a bipartisan review of all the amendments presented by 2:30. We hope we can work out or accept many of those. I urge any Member who is serious about the appropriations and has an amendment to this bill that is germane, to come to the floor so we can clear as many of the amendments as possible. It is my intention, after consulting with Senator BYRD, to take a very strict view to amendments in a post-cloture environment. I think that is what the Senate will want to do—consider germane amendments and move forward to this bill. Nongermane legislative amendments will be subject to a ruling by the Chair, and that will be taken up after cloture. But as I said, this is an emergency, although the funds—like the Department of Defense funds, money is being spent on the disaster now from other accounts available to the executive branch, so we must replace that money and make further money available.

We have placed the money to keep the Government going, where the money has been borrowed for a short period of time, under the procedures available for disasters. We must make these moneys available. This is a 500-year flood, Mr. President. This is one of the most severe disasters we have had since the Johnstown flood. If we are successful here, I think we can proceed very quickly.

The distinguished chairman of the Budget Committee has concluded the budget agreement. He will manage the budget presentation following the action on this bill. That is my understanding. We hope that we will be able to get that budget agreement through the Senate and then be able to proceed on the 1998 appropriations bills. So I ask Members to defer nonemergency matters until we bring up those bills.

Now that we have a budget agreement, we are certain we will be moving regular appropriations bills very quickly. Many of the amendments presented here to this bill are amendments that would be germane to the regular appropriations bills for the various agencies. But they are not germane to this bill. So I hope that there is a strict ruling by the Chair on the germaneness of these amendments that have been filed.

Now, we have worked several days to try and bring about compromises in several areas, such as the amendment pertaining to the continuing resolution concept that is in the bill, the census and endangered species. I hope that we can effect a compromise on each of those issues. If not, let's have the vote. We waited all afternoon yesterday to take up these issues. As the Chair knows, we were finally forced to recess last night so that we could get the control factor that will come from the cloture process.

As I said, I didn't think it would be necessary. As a matter of fact, I told the floor staff I didn't think we should even file that cloture motion. They thought we should, and I am glad we did. They were right and I was wrong.

Senator BYRD and I are going to work out the shortest time agreement possible on any amendments today. We expect to have many votes. I believe that we will begin to call up amendments from the eligible list as soon as the Chair rules on the amendments under cloture. As a matter of fact, we are available to take up amendments before 10 o'clock if anybody wants to come over and try to work one out before that time.

I have taken the bulk of my time, Mr. President. Let me, again, thank Senator BYRD for his cooperation. We have moved numerous amendments in a bipartisan fashion already. Later today, Senators CONRAD and DORGAN have asked us to meet with the mayor of Grand Forks, and we will do that. We are going to see some television footage. I saw some, as a matter of fact, on the news, but we intend to promise the mayor that we are going to finish this bill and get it to the President as soon as possible.

I am happy to yield the remainder of the time to Senator BYRD, if he wishes time at this time.

Mr. BYRD. Mr. President, I thank my colleague. I do not need more than a minute or so.

I shall vote for cloture, and I urge my colleagues on this side of the aisle to vote for cloture. We have been on the bill now 3 days. It is an emergency bill. The people who have been stricken by floods throughout the several States are in need of help. We should not delay matters here very long.

I also hope that many of the 110 amendments that have been filed will go away without being called up. There are others against which points of order would lie, and I intend to join with my friend and colleague, Mr. STEVENS, in making points of order against amendments that are not germane as he sees fit to do so. He is the manager of the bill, and I want to cooperate with him as much as possible.

So I hope that we can get on with the bill today and make good progress and, hopefully, complete action on it earlier than the close of business tomorrow. Mr. President, I yield the floor.

Mr. President, I yield the remainder of my time to Mr. STEVENS.

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

Mr. STEVENS. Thank you.

Mr. President, I want to raise the issue of a provision that is in the bill concerning section 2477 of the Revised Statutes—43 United States Code 932.

Some groups have been alleging in the press that the provision in the supplemental bill before us regarding rights-of-way under section 2477 of the Revised Statutes is going to result in roads across our national parks and wilderness. That is simply not true. These false allegations are being made in order to scare our constituents and to convince Members to oppose our provision.

Rights-of-way under Revised Statute 2477 were granted by statute from 1866 to 1976, when the provision was repealed. At the time of the repeal, all existing rights-of-way were specifically protected.

Rights-of-way under R.S. 2477 are granted across Federal lands not reserved for public uses.

When Congress sets aside land for a park or wilderness, that land is reserved for that purpose. Once the park or wilderness is created, no new right-of-way can be created under Revised Statute 2477.

This means that only rights-of-way that were created prior to the reservation of the land for a park or wilderness are valid under R.S. 2477.

To create a right-of-way under R.S. 2477, there must either have been public use of a right-of-way or an affirmative act of a State indicating that it accepted the grant and intends to use it for a public highway.

Most of this Nation's most famous parks were created during the 110 years that Revised Statute 2477 was available. Yellowstone was created in 1872.

Yosemite, Kings Canyon, and Sequoia were created in 1890. The Grand Canyon was set aside in 1908.

Denali, then known as Mount McKinley, was created in Alaska in 1917. Katmai in Alaska was established in 1918, and Glacier Bay National Park was created in 1925.

Zion National Park in Utah was created in 1919, with Bryce Canyon following in 1923, and the Arches National Park in 1929.

Throughout the 50 or more years of each of these parks' existence, a Revised Statute 2477 right-of-way could

have been asserted, even before the provision was repealed. Yet, these parks have not been paved by public highways.

Congress began creating wilderness areas in 1964—12 years before Revised Statute 2477 was repealed. Section 5 of the Wilderness Act specifically preserves existing private rights.

It has been 20 years since Revised Statute 2477 was repealed and over 30 years since the creation of many major wilderness areas. During the 30 years of the policy of wilderness the same practice that the provision in the supplemental seeks to continue was in effect.

Yet, during those 30 years, we have not seen any of our wilderness areas covered with roads under Revised Statute 2477.

In Alaska, where 60 percent of the wilderness areas exist, we have already dealt with the issue. The Alaska National Interest Lands Conservation Act has numerous provisions that specifically deal with access to wilderness areas. Nothing in this provision changes the law regarding rights-of-way in Alaska.

On the contrary, the provision seeks to keep the pre-existing policy and specifically denies the Secretary of the Interior the right to unilaterally change the policy contrary to what Congress has said many times and what the courts have said many times. As a matter of fact, Congress has spoken three times in the past 2 years on this and stated that the Secretary cannot change the existing law and policy by regulation or by edict.

The people who claim this provision will lead to roads across wilderness areas and parks already created by Congress are just plain wrong.

What is at issue here are areas that are not yet wilderness or that have been recently added by Executive action to our parks and monuments.

Mr. President, every time Congress has addressed that subject, it has protected valid existing rights, even in the creation of national parks and wildlife refuges.

Wilderness areas by definition don't have any roads. The environmental groups and the Department of the Interior are seeking to cut off valid rights-of-way in certain areas of the West so that those areas may be proclaimed wilderness.

I hope that the Senate understands this. If the Secretary of the Interior and these groups are allowed to prevail, then areas that do have existing valid rights-of-way, which should by law be given some consideration and may ineligible to become wilderness areas, could be created as additional wilderness and national park areas by Executive order or secretarial edict.

If they can keep the R.S. 2477 right-of-way from being recognized under State law, as they have been created for the past 130 years, then those areas would be roadless and eligible for wilderness designation by Congress.

That is the issue here. There are valid, existing rights-of-way across some of these areas. They have been used for decades by the public in the West. Those areas are not capable of being established as wilderness areas. But that is not for us to decide here.

All this provision does is maintain the status quo. If there are valid existing rights under R.S. 2477, they had to be created more than 20 years ago, before 1976.

The provision simply prevents the Secretary of the Interior from prejudging the issue in the ongoing review of which remaining Federal areas should be wilderness. This only preserves rights-of-way that already exist. It does not create new rights or new roads.

I hope that the Senate will seriously consider the issue that is coming before us today regarding Revised Statute 2477. Our intent is merely to keep the policy that has existed in the past and which has been protected by every act of Congress that I know of. The valid existing rights were protected. Those rights have been defined as far as rights-of-way under State law for 130 years.

This Secretary of the Interior now wants to have them decided under Federal law that his regulations would establish. That is contrary to the policy of Congress. It is contrary to the decisions of the courts of the United States, and it should not be done by secretarial edict.

As I said, we have acted in the National Highway System Designation Act of 1995, in the 1996 Interior appropriations bill and in the 1997 Interior appropriations bill to prevent those regulations from being issued. Now the Secretary wishes to announce a policy. That policy is that in the future the validity of the rights will be determined by Federal law. That is contrary to a whole series of court decisions and contrary to the acts of Congress that specifically recognize valid existing rights under State law.

Mr. President, I hope that this is going to be a short day. But I want to tell the Senate that it is our intention, as Senator BYRD has announced, to enforce the cloture motion. I call again on the Senate to vote for cloture. Give the managers of this bill the control that comes from the cloture process, and we will assure this bill passes to provide money to those in the disaster areas. The bill affects disasters in 33 States, Mr. President. We will give this bill to the conference and to the President as quickly as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 208

Mr. STEVENS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 208.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following:

None of the funds made available in the Foreign Operations, Export Financing, and Related Programs, 1997, (as contained in Public Law 104–208) may be made available for assistance to Uruguay unless the Secretary of State certifies to the Committees on Appropriations that all cases involving seizure of U.S. business assets have been resolved.

Mr. STEVENS. Mr. President, this is an amendment that we hope will bring about an awareness of Government officials of Uruguay of a very sad situation with regard to the fishing assets from Washington State and Alaska that were entered into in a joint venture with a seafood company in Uruguay.

What happened was that the assets of the Americans were seized after they were in Uruguay territory, and the joint venture that was supposed to be forthcoming was dissolved by actions of the Uruguay citizens.

I offer this amendment sort of in frustration, trying to see if we can work out with the Uruguay Embassy here and officials in the State Department at Montevideo a resolution of this problem.

I hope that it has the salutary effect of calling the attention of the Uruguay Government to a very unsatisfactory development with regard to our business relationships.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 208) was agreed to.

Mr. STEVENS. Mr. President, this is the time for filing of second-degree amendments, I remind Senators. It is also the time set for the vote on cloture motion.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will read.

The assistant 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 S. 672, the supplemental appropriations bill.

Trent Lott, Ted Stevens, Mike DeWine, Bob Bennett, Tim Hutchinson, Richard G. Lugar, Pete Domenici, Pat Roberts, Connie Mack, Frank H. Murkowski,

Richard Shelby, Craig Thomas, Chuck Grassley, Christopher S. Bond, Michael B. Enzi, and Jeff Sessions.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the call of the quorum has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 672, the supplemental appropriations bill, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—100

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

The PRESIDING OFFICER (Mr. ALLARD). The Senate will please come to order.

On this vote, the yeas are 100, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. STEVENS. Mr. President, Senator BYRD and I are overwhelmed by the support of the Senate for this bill. I hope that will be demonstrated in the hours to come.

Mr. CHAFEE. Mr. President, might we have order, please? It is very difficult to hear.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from Alaska.

Mr. STEVENS. Mr. President, we would like to work up a schedule, rotating from one side to the other with amendments. I want to state to the Senate the amendments that have been filed touch or concern every one of our 13 subcommittees. Those subcommittees' staffs are standing by now to confer with any Member who really wants to pursue one of these 109 amendments that have been filed.

I ask the Chair to help us keep order. We would anticipate, for the information of the Senate, with the concurrence of the two leaders, that we would proceed with the D'Amato amendment and then the Bumpers amendment and, if possible, another amendment and have our first series of stacked votes sometime around 12:30 to 1 o'clock.

We will keep the Senate informed, but I do want the Senate to know we will try to stack votes so that none will occur prior to approximately 12:30 to 1 o'clock.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

AMENDMENT NO. 166

(Purpose: To rescind JOBS Funds, extend the transition period for aliens receiving SSI funds, and for other purposes)

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Reid amendment be laid aside.

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

Mr. D'AMATO. I ask that amendment No. 166 be called up and that Senator FEINSTEIN's name be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. CHAFEE, Mr. DEWINE, Mr. SPECTER, Mrs. FEINSTEIN, and Mrs. BOXER, proposes an amendment numbered 166.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 44, strike all after line 19, through line 2 on page 45, and insert in lieu thereof the following:

''JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(F) of the Social Security Act (as in effect on October 1, 1996) is amended by adding after the '','' the following: ''reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),''.''

On page 75, strike all after line 10 through line 22 on page 80, and insert in lieu thereof the following:

''TITLE VI—SUPPLEMENTAL SECURITY INCOME AMENDMENT

''SEC. 601. EXTENSION OF SSI REDETERMINATION PROVISIONS.

''(a) IN GENERAL.—Section 402(a)(2)(D) of the Personal Responsibility and work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D) is amended—

''(1) in clause (i)—

''(A) in subclause (I), by striking the date which is 1 year after such date of enactment and inserting in lieu thereof September 30, 1997; and

''(B) in subclause (III), by striking the date of the redetermination with respect to such individual and inserting in lieu thereof September 30, 1997; and

''(b) EFFECTIVE DATE.—Subsection (a) takes effect as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Act of 1996 (8 U.S.C. 1612).''

Mr. D'AMATO. Mr. President, on behalf of myself, Senator CHAFEE, Senator DEWINE, Senator FEINSTEIN, and Senator SPECTER, I call up this amendment because, notwithstanding the attempt—and I appreciate it—by the Appropriations Committee initially to deal with a very vexing problem, the problem of immigrants and the problem of legal immigrants and the problem really dealing with legal immigrants, most of whom are, a good percentage are disabled and who are elderly who would otherwise be cut off August 22, notwithstanding that they came into the country legally, that they are currently receiving benefits, that if these benefits were to be cut off in some States, they would be faced with little, if any, help.

In other States, the burden would be a tremendous one on some of the local municipalities and the States. This amendment would continue the existing funding of those legal immigrants—let's understand, we are talking about people who came into this country legally; we are talking about people who obeyed the law; we are talking about, for most cases, senior citizens, elderly, and disabled—to continue their SSI benefits.

Mr. President, it seems to me that this is a prudent way in which to handle what could otherwise be a very disastrous problem for 500,000 people, most of whom are elderly, in this country. That is a half-million people. That is a lot of people who would be facing tremendous hardship, many who have no one in a position to be of any kind of assistance. For others, without their SSI payments and cut off from food stamps, their families would be in perilous situations even attempting to give them modest help.

Let me say that I am deeply appreciative of the leadership that has been displayed by the Senate majority leader, the chairman of the Senate Appropriations Committee, and our distinguished colleague from West Virginia, in attempting to deal with this problem in a way that will give us additional time.

Again, we are not talking about people who came into this country illegally, people who are trying to take advantage of the system. We are taking an opportunity to give the Congress of the United States and the President sufficient time to work out a program that will see to it that the system is not abused but, by the same token, see to it that people are not disadvantaged as a result of the significant work of the Congress in bringing about workfare as opposed to welfare.

Let me say what the situation is in terms of New York. In New York, we are talking about 80,000 legal immigrants who now would be facing termination of benefits—80,000. Again, Mr. President, the vast number who are senior citizens, many of them have tremendous language barriers, many of them have been in this country for a number of years, some not long enough to qualify for Social Security benefits, all of them here legally. Mr. President, 70,000 of these people are in the city of New York.

What an incredible impact that would be to the city, to the State, and to other communities. As I look around, I see my colleagues from California, who have the same kind of problem. I see my colleague from Rhode Island. It is a tremendous problem that would be created. That was never our intent in terms of reforming the welfare system. Ours was to create an opportunity for workfare, not a system that entraps people. Ours says to those who are capable of going out and holding a job or getting into a job training program that you just cannot take advantage of the system. But I do not believe it was one in which we envisioned just cutting off those people who cannot do for themselves. We are a compassionate country. We are a country which is ready and recognizes the need to help those citizens who cannot do for themselves.

So, let me say this. The Social Security Administration estimates that SSI recipients who received notices of possible termination of benefits are made up of—let me just give you an idea who these half a million people are: 72 percent are women; 41 percent are over the age of 75; 18 percent are over the age of 85. Are we going to say to those people, 18 percent over the age of 85, ''go out and get a job''? What are we going to do?

Mrs. BOXER. Will the Senator yield on that point for a question?

Mr. D'AMATO. Certainly.

Mrs. BOXER. Mr. President, I thank the Senator from New York for offering this amendment. I say to him, and I am sure Senator FEINSTEIN will amplify this, that this is so crucial to our State, as he has said, and I know the Senator is aware—and I will put this in the form of a question—that in the budget agreement that was reached among all parties, this issue was recognized. What the Senator from New York is doing is carrying over this agreement, that these people need the certainty of assistance because they are very old, they are very frail, they are very disabled, and what the Senator is doing is, in essence, saying that that agreement ought to really apply right now and these people should not be under the threat of a cutoff. So he is restoring SSI to legal immigrants until all the new details are worked; am I correct in that?

Mr. D'AMATO. That is correct. What we are doing is providing the Congress, as well as these people, an additional 6 weeks from August 22. A good number of these people during this period of time will be qualified as citizens, understanding, if you look at the age category of them, many of these people are elderly, there was never an impetus. It is very difficult. They have language barriers, disabilities, problems in communication and transportation. The immigration offices are swamped with those people who are attempting and who are eligible for citizenship.

When you look at this, if close to 20 percent are over 85, we are talking about almost 100,000, and most of them women, who are over the age of 85, who may have disabilities, who may have language problems just trying to qualify them for citizenship. In some cases, they will not have to take the ordinary test. But how do we get them that information? How do we get them there in time? It cannot be done between now and August 22. New York City Mayor Giuliani is engaged in an outreach program to contact many of these elderly immigrants and give them an opportunity to qualify for full citizenship; therefore, they would not have to be concerned with the cut off in benefits.

So for all of those reasons, this additional time will also give us and our colleagues an opportunity—as well as the administration—to examine what the program will be in the fullness of time after October 1.

Mrs. BOXER. Mr. President, I ask the Senator to add me as a cosponsor.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from California, Senator BOXER, be added as an original cosponsor.

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

Mr. D'AMATO. Mr. President, I thank Senator CHAFEE for his support and leadership and, again, the leaders of the Appropriations Committee, Senator STEVENS, and the ranking minority member from West Virginia, Senator BYRD, for their leadership, for their compassion in understanding and finding the resources to make this extension available. Senator BYRD has always demonstrated a great compassion and concern for senior citizens in particular, and they are the ones who would be most victimized if we were not to continue this action. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I rise to support the D'Amato-Chafee resolution. I am very pleased to be a cosponsor. I want to point out that two cities in this Nation are impacted more than any other, and that is the city of Los Angeles and the city of New York. In California alone, there are 310,000 legal immigrants currently receiving SSI benefits. Under the present law, they all go off on August 22, regardless of need.

I want to clear the air somewhat, because the administration proposal, accepted by the Budget Committee, does not cover elderly legal immigrants. In other words, if you are 85 years old and monolingual in another language, you cannot get a job, but come August 22, under the agreement, you would be out on the streets. Either you are homeless or else it is a transfer to the local government to be picked up by the counties' general assistance grant.

This proposal of Senator D'AMATO's essentially takes that August 22 deadline and extends it to October 1, giving us time to work with the administration, work with the Appropriations Committee and try to see if there is not a better solution.

If only disabled are covered, which is currently the case under the proposed bipartisan agreement, this means that only refugees and asylees who have exhausted the 7 years would be eligible for SSI only if they are disabled. This impacts 61,360 people in California; 60 percent of those who are disabled and 40 percent of the elderly would not be affected by this legislation.

So we have a ways to go in reconciling what is really out there in terms of problems of people who are elderly and the proposal that is part of the bipartisan agreement. The D'Amato proposal extends that deadline by 2 months and gives us an opportunity to work this out. I think it is extraordinarily important that that happen.

Additionally, I pay my compliments to the Senator from Rhode Island. Senator CHAFEE and I have a bill which would extend SSI for all of those who are presently covered by SSI, not prospectively, not for newcomers, but for those people already in this country for whom we have certain responsibilities who are unable to have any other source of income to support themselves. Our bill, I think, is the long-term solution that is the most viable.

So I thank Senator D'AMATO—he is also a cosponsor of the Chafee-Feinstein bill—for offering this, and I am very hopeful that a dominant majority of this body will see the wisdom in adopting it.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 145

(Purpose: To rescind JOBS Funds, extend the transition period for aliens receiving SSI funds, and for other purposes)

Mr. D'AMATO. Mr. President, for the purpose of technical adjustment, I ask unanimous consent that the clerk instead report No. 145 in place of amendment No. 166 and that that be the pending amendment.

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

Mr. D'AMATO. Mr. President, so that the RECORD properly reflects the cosponsors, in addition to myself, they are Senator CHAFEE, Senator DEWINE, Senator SPECTER, Senator FEINSTEIN, Senator KOHL, Senator MOYNIHAN, and Senator KENNEDY as well.

The PRESIDING OFFICER. Without objection, amendment No. 166 is withdrawn.

The amendment (No. 166) was withdrawn.

The PRESIDING OFFICER. The clerk will report amendment No. 145.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. CHAFEE, Mr. DEWINE, Mr. SPECTER, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mrs. BOXER, Mr. KOHL and Mr. KENNEDY, proposes an amendment numbered 145.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 44, strike all after line 19, through line 2 on page 45, and insert in lieu thereof the following:

''JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

''Of the funds made available under this heading in Public Law 104–208, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year.

''Section 403(k)(3)(F) of the Social Security Act (as in effect on October 1, 1996) is amended by adding after the ',' the following: 'reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),'.''

On page 46, after line 25, insert the following:

''Public Law 104–208, under the heading titled 'Education For the Disadvantaged' is amended by striking '$1,298,386,000' and inserting '$713,386,000' in lieu thereof.''

On page 75, strike all after line 10 through line 22 on page 80, and insert in lieu thereof the following:

''TITLE VI—SUPPLEMENTAL SECURITY INCOME AMENDMENT

''SEC. 601. EXTENSION OF SSI REDETERMINATION PROVISIONS.

''(a) IN GENERAL.—Section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D) is amended—

''(1) in clause (i)—

''(A) in subclause (I), by striking 'the date which is 1 year after such date of enactment' and inserting in lieu thereof 'September 30, 1997'; and

''(B) in subclause (III), by striking 'the date of the redetermination with respect to such individual' and inserting in lieu thereof 'September 30, 1997'; and

''(b) EFFECTIVE DATE.—Subsection (a) takes effect as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612).''

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I congratulate Senator D'AMATO for his work on this amendment which will mean so much to so many people who he has well described as being the frailest in our society.

I also pay tribute to Senator FEINSTEIN with whom I have worked on a program similar to this for the long-term solution, as she pointed out. It may well be that we will turn to that when we start the new fiscal year.

I also want to salute Senator DEWINE, who is not on the floor at this moment. I hope he will be here soon. But I wanted to pay tribute to him because he has worked very hard on it.

Mr. President, I would like to extend my thanks to the distinguished chairman of the Appropriations Committee, the Senator from Alaska, and the distinguished ranking member of that committee, the Senator from West Virginia, who have agreed to accept this amendment. I am very appreciative of that.

I am speaking on behalf of 3,750 legal immigrants—legal immigrants—in my State who would face the loss of these SSI benefits but for the passage of this legislation, which I hope will be accepted in the House likewise. That group of 3,750 Rhode Island seniors, as the Senator from New York has described, fits in that typical pattern of 18 percent being over 85 and so forth.

Mr. President, this is a good amendment. What it does, it gets us through the remainder of this fiscal year and gives us a little breathing time.

Mr. President, as you know, in the underlying bill there is a block grant of $125 million. This replaces that. I think that is wise because a block grant would cause a lot of problems in its distribution, trying to set up a new system to get the money out. The continuation of the existing system of the SSI benefits is, I believe strongly, the right way to go.

So this is an occasion where I think we can all celebrate a little bit. I was strongly supportive of the welfare reform bill that we passed last year. I believe in it. I think it is working.

At the time when we foresaw the difficulties that were going to come up under this particular group, I supported legislation to take care of them. That did not pass. I believe it was the legislation of the Senator from the State of California. It did not pass. But now we are attacking that problem.

As I mentioned before, I think it is coming out in a very satisfactory way. So I want to thank the Chair. And, again, I do want to point out that Senator DEWINE is deeply interested in this, as is Senator SPECTER. Senator DEWINE may be on the floor a little later. I want to extend my appreciation to his work on this and also to the leadership of both parties in the Senate for permitting this to be accepted.

Thank you very much.

Mr. D'AMATO. Mr. President, I understand that there may be somebody in opposition. But at this point, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, let me simply say, I am just going to look at one statistic again and put it in terms of not just saying 18 percent of all of those are over the age of 85. We are talking about 90,000 people, seniors—90,000. Many of them, again, are disabled. Many of them have problems with the language. All of them are here in this country legally. Let us understand that. Let us understand that three-quarters of those people, better than 65,000, are women.

Are we really going to say to grandmothers, grandparents, to the elderly, to the frailest of the frail, ''No more will we meet even your minimum needs''? That is not what this country is about. That is certainly not what I intended nor do I think any Members intended when we voted for the reform of the welfare system. I voted for that. I think we did the right thing.

I think we can make this bill a much better bill by not only continuing this program now, but then we will argue, and it will give us an opportunity for those to come forward and have a fuller discourse in the future. But certainly, certainly, we should not terminate it now.

Again, I want to thank the chairman of the Appropriations Committee, Senator STEVENS, and the ranking member, Senator BYRD, for their understanding and their support of this legislative correction. It is a correction. It is one. And there is nothing wrong with saying we can do it better, we erred at this point in time. I did.

Let me tell you, I was concerned that there were many people who were taking advantage of the system. There were those who said and pledged, ''Yeah. We'll take care of our elderly, our relatives,'' and instead of doing that, they gamed the system and put them right into SSI. Well, that is wrong. We should see to it that that does not take place. But for us now to say, with one fell swoop all of them will be disadvantaged who are presently receiving, that is something that I would not in good conscience support.

I yield the floor.

Mr. DEWINE. Mr. President, I am pleased to join with my colleagues from New York and Rhode Island, Senator D'AMATO and Senator CHAFEE, in offering this amendment to extend Supplemental Security Income [SSI] coverage to disabled, legal immigrants until the end of the fiscal year. This amendment is consistent with the recent agreement between the congressional leadership and President Clinton to allow disabled, legal immigrants to continue receiving SSI and Medicaid benefits.

First, let me commend my friends from New York and Rhode Island, Senator D'AMATO and Senator CHAFEE, for their extraordinary efforts on behalf of legal immigrants. It is safe to say that the bipartisan agreement to restore SSI and Medicaid benefits to disabled, legal immigrants would not have been made without their leadership.

Plain and simple, this is an issue of fairness—fairness to those who played

by the rules to become legal immigrants, only to see those rules changed to their detriment.

While the budget agreement provides hope to legal immigrants, a temporary measure is needed to protect those immigrants who would stand to benefit from the budget agreement. That's the purpose of the amendment we are offering today. As my colleagues know, the 1996 welfare law bans legal immigrants from receiving SSI benefits beginning August 22, 1997—1 year after the day the law was signed. This 1-year transition period was designed to give legal immigrants time to obtain citizenship without losing eligibility, and to provide State and local governments time to adjust to increased demand for general assistance.

The Social Security Administration estimates that roughly 525,000 legal immigrants currently receiving SSI could lose benefits under current law. Of that number, roughly 3,000 are from Ohio—and more than half of those immigrants, roughly 1,700 reside in Cuyahoga County. Many of these immigrants will seek and obtain citizenship and thus, can still receive SSI. However, many disabled immigrants currently receiving Federal support may not be able to become citizens. It is this population that stands to lose the most if current law is not changed.

The Jewish Community Federation of Cleveland brought to my attention several families that would be affected if the law is not changed. Lev and Ada Vaynshtock, ages 64 and 60 respectively, came to this country from Moldova in 1991. They reside in Cleveland.

Ada has passed her citizenship exam and is eagerly waiting to become a U.S. citizen. Lev's memory is getting worse and worse after open-heart surgery, and may never become a citizen. Both currently are eligible for SSI. Ada certainly will be able to retain her SSI eligibility when she gains citizenship, but Lev stands to lose this eligibility. If he outlives Ada, he will have no benefits at all—unless we act to change the law.

They are just one of many elderly Russian families—families that because of mental or physical disability, stand to lose their SSI benefits later this summer. It is for them, and for countless others, that compelled a bipartisan group of Senators to seek changes in the law to protect elderly people.

Let me emphasize to my colleagues that our efforts on behalf of disabled legal immigrants does not alter the key policy changes made in last year's welfare and immigration reform bills. Our efforts do not alter the basic policy change made last year that sponsors of legal immigrants need to take more financial responsibility for legal immigrants. Newly arrived immigrants still will have to abide by the 1996 welfare and immigration laws.

Again, we're here to help those already here, those already disabled immigrants who played by the rules. Although Congress and the President have made a commitment to help this population, it may not be until the beginning of the fiscal year before that relief is provided. We cannot hold disabled, legal immigrants hostage to the legislative process, especially when they stand to lose benefits in a few short months.

Again, our efforts have been bipartisan. I want to commend the chairman of the Appropriations Committee and the chairman of the Finance Committee, Senator STEVENS and Senator ROTH, and of course our majority leader, Senator LOTT, for working to place a temporary measure in the existing bill. The amendment we offer today simply expands that effort, to ensure that all immigrants who stand to retain their benefits because of the budget agreement are not denied benefits while the details of this agreement are worked out. What this amendment offers is certainty—the certainty that these immigrants will continue to receive benefits for an additional 6 weeks.

In short, the budget agreement reflects our long-term commitment to fairness. By passing this amendment, we can take a short-term first step to realize that long-term goal.

Mr. MOYNIHAN. Mr. President, I rise as an original cosponsor of the amendment offered by my colleague from New York to extend Supplemental Security Income [SSI] benefits to elderly and disabled legal immigrants through the end of September. Under last year's welfare legislation, which I opposed, these individuals are to lose their SSI benefits in August. The budget agreement recently reached would restore SSI benefits to many of these individuals. I support that effort, although more should be done. This amendment will ensure that there is no interruption of SSI benefits while legislation necessary to implement the budget agreement is considered.

It is a welcome measure of compassion where there has been too little of late.

Mr. KOHL. Mr. President, I rise today as an original cosponsor of the Chafee-D'Amato amendment regarding SSI benefits to legal immigrants and refugees. I am pleased to support this important first step to correct a significant mistake of last year's welfare bill.

As you know, this amendment would extend the eligibility of disabled and elderly legal immigrants to the Supplemental Security Income Program. These people, including approximately 5,000 in my home State of Wisconsin, were scheduled to lose their SSI benefits in August of this year. As my colleagues from California, New York, Rhode Island, and elsewhere have explained, many others would have been similarly affected all across the country.

While many legal immigrants will become citizens by the August deadline, without this amendment, State officials estimate that approximately 3,000 elderly and disabled legal immigrants living in various Wisconsin communities would have been cut off from their only source of support. These are people who cannot work and who would not be able to live or take care of their families without outside help. If the Federal Government abandoned them, their most basic needs—shelter, food, medical help—and the accompanying costs, would have fallen on the shoulders of, and quite potentially overwhelmed, State and local resources.

Wisconsin has already decided to continue medical assistance to SSI recipients. And the recently hatched budget deal contains even more comprehensive remedies for the next fiscal year—two encouraging bits of news. Nonetheless, the extension of benefits from August to October will provide crucial help until those long-term remedies take effect.

Mr. President, I supported the new welfare law. Policy reforms to move people from welfare to work were laudable and long overdue. Yet throughout the welfare debate I also supported numerous attempts, all of which failed, to soften the bill's restrictions on benefits to legal immigrants and refugees.

Simply put, the welfare bill went too far. It was too harsh on legal immigrants who come to this country with every intention of working hard and contributing to our economy and cultural melting pot. It also was too harsh on refugees and asylees who come to this country to escape persecution in their native lands. To this latter group, the United States made and continues to make a unique commitment of assistance and guidance to help them rise above adversity and build a new life for themselves and their families.

Wisconsin has been enriched by many different ethnic groups throughout its history. That said, I would like to take this occasion to discuss a population that has been hit particularly hard by the welfare changes—the Hmong and other highland peoples—who came to Wisconsin and other parts of the country as refugees from Southeast Asia. Since coming, they have faced the challenges of integrating into American society. Many arrived in this country illiterate because they did not have a written language at home and have had a difficult time fulfilling the educational requirements of the citizenship application. In August, many of the Hmong would have lost the SSI benefits that they have relied upon to cope with these challenges.

Like most legal immigrants before and since, the Hmong and their children have strengthened our communities. But some of my colleagues may not know of the Hmong's invaluable contribution to the United States before ever setting foot in Wisconsin or anywhere else on American soil.

Mr. President, Americans owe a debt of gratitude to the Hmong. Most of them fled their native country at the

end of the Vietnam war, fearing retribution for having fought for the United States alongside American soldiers and helping us through what was a very difficult time in our history.

While no disabled or elderly legal immigrants should be left without help, I am particularly pleased to cosponsor the Chafee-D'Amato amendment on behalf of the Hmong. It would be unconscionable to abandon the Hmong in their time of need. They put their lives on the line in defense of all that Americans hold dear—our freedom, our prosperity, and our way of life. Today, Congress has taken a very small step toward repaying their priceless service to all Americans.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator from California sought recognition on this amendment?

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Chair.

I would just like to add to my earlier comments with some of the specific numbers from each of the big States of people that would not be covered by the bipartisan budget agreement.

These are elderly people.

In California it is 163,900. In Florida it would be 44,310. In Illinois 13,360; in Massachusetts 13,410; in New York 65,340; and in Texas, 32,640. These are people who are above the age of 65.

It is my understanding that the administration, with Members in the other House, may have reached an agreement whereby they would agree to try to certify some of these people as disabled. But, nonetheless, these are the people, at least in the statistics of the Social Security Administration, who would be dropped off come August 22 for sure right now.

I think this is living testimony, in terms of numbers of people, to the argument that Senator D'AMATO, Senator CHAFEE, and I are making that: Let us extend this by 2 months and see what we can do to effect a reasonable system where people will not become homeless or a major transfer onto county general assistance rolls.

I thank the Chair and yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I hope all Members understand, however, we are entirely in agreement with statements made so far concerning these legal immigrants who will be covered by this procedure. Hopefully, pursuant to the budget agreement, we will continue a policy of caring for people who are here legally now.

But I hope everyone, including the Immigration Service, is on notice it applies to those who are here now. In the future, I hope that we will enforce the commitment made by those who sponsor legal immigrants to maintain those people that they sponsor in the event they become indigent and cannot support themselves. That is the commitment that we must see carried forward once again in our basic law of protecting immigration.

Again, it is my desire at this time, Mr. President, to ask the Senate to set aside the D'Amato amendment. This amendment and the Bumpers amendment will be voted upon sometime before 1 o'clock today. That is our hope. There may be further proceedings with regard to the D'Amato amendment. I do not want to jeopardize them. But I do ask unanimous consent that we temporarily set aside the D'Amato amendment at this time so we may proceed with the Bumpers amendment.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Reid amendment be temporarily set aside while I offer an amendment.

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

AMENDMENT NO. 64

(Purpose: To strike section 310, relating to R.S. 2477 rights-of-way)

Mr. BUMPERS. Mr. President, I call up amendment No. 64.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 64.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 50, strike lines 1 through 11.

Mr. STEVENS. Will the Senator yield at this point?

Mr. BUMPERS. Yes.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Anne McInerney be given privileges of the floor during the duration of this bill.

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

Mr. BUMPERS. Mr. President, for Members of this body who have not dealt with this issue on the Energy and Natural Resources Committee, this is a slightly complex amendment. I am going to simplify it as best I can. We have had several hearings in the Energy Committee on it, but it deals with an issue that sounds so bizarre you would not believe it was actually on the statute books of this country.

In 1866, Congress passed a bill which has become popularly known as R.S. 2477, Revised Statute 2477. What that law did, as part of the 1866 mining law, was to validate public highways built across unreserved public lands.

That does not mean much, so here it is. The United States owns 350 million acres of land in the lower 48 States. Since 1866, we have set aside millions and millions of acres in wilderness areas, national parks, monuments, all kind of things since 1866. But bear in mind, the R.S. 2477 statute said ''unreserved lands,'' so that meant all of the public lands the United States owns that have not been set aside for another purpose. The effect of that, of course, was, from 1866 until 1976 when it was repealed, anybody who claimed a footpath, almost a cow trail, a sled trail, hiking trails, almost anything would qualify as a highway under the language in this bill.

A lot of highways were built under these R.S. 2477 rights-of-way between 1866 and 1976, and we are not contesting a single one of those.

What we are saying is, the provision put in this bill by the Senator from Alaska [Mr. STEVENS] simply says we are going to let State law determine what is and is not a public, valid right-of-way.

This, admittedly, is primarily an Alaska, Utah, and probably Idaho issue. It does not affect my State. There are some of the Western States that have these rights-of-way. But in any event, here is what the law said as we passed it in 1866. ''[T]he right-of-way for the construction of public highways across public lands, not reserved for public uses, is hereby granted.''

As I say, that includes dogsled trails, that includes footpaths, it includes any kind of a path. And there are literally thousands and thousands of them that have been claimed.

Mr. President, I will come back to how the language in this bill will work in just a moment. But listen to this. The State of Alaska has passed a law making every section line in Alaska a right-of-way and subject to having a highway built on it. I am reluctant to say this, but if you build on just half the rights-of-way that Alaska is claiming, you would not be able to travel. There would be too many roads to get around.

In any event, I want to make it crystal clear that this amendment has nothing to do with existing highways that have been built under the 1866 law.

Mr. President, there have never been regulations crafted to deal with this issue. In the 1930's there was sort of a half-hearted regulation, but not really anything.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. 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. BUMPERS. Now, Mr. President, I want to make another point crystal clear, and it is this: When I said a moment ago that the effect of this amendment would allow State law to determine what constitutes a valid existing

right-of-way, it would take away the Secretary of the Interior's ability to determine what was a highway. In short, all of these thousands and thousands of so-called R.S. 2477 right-of-way claims all over the West would become valid.

Now, bear in mind, there is another facet to this, and that is the Secretary in January of this year set out a policy which effectively repealed a policy established by Donald Hodel when he was Secretary of Interior in 1988. The Hodel policy—it is not a regulation; we have never had a rule or regulation, it was simply a policy statement—was that just about anything could qualify as a highway.

Now, whether the Hodel policy stated that the States shall have exclusive rights to determine what a right-of-way is, I do not really know right now, but I can tell you, if section 310 passes, State law will determine what is going to happen to thousands of rights-of-way in this country that cross national parks, wilderness areas, monuments, and any other land in the West that was set aside after these claimed rights-of-way existed.

Let me give an example. Assume that there are 20 rights-of-way that the State of California would claim cross Yosemite National Park. They claim those rights-of-way were established before Yosemite became a national park. It was unreserved Federal land before, and these rights-of-way were across that Federal land. Later on, we establish Yosemite National Park. Under this section, if the Stevens language stays in this bill, which has absolutely no business being in this bill, but if my amendment is defeated, that means that California law will dictate what highways can be built across Yosemite National Park—not the National Park Service, not the Federal Government, but the State of California.

Think of all the thousands of rights-of-way that could be claimed in Alaska. Mr. President, just for openers, here are some of the claims that have been filed. These are not all the claims that Alaska, Utah, Idaho, and other States have as to what constitutes a valid right-of-way. These are the ones that have actually been filed with the Secretary of Interior and requested to be declared an existing valid right-of-way on which they can build a four-lane superhighway, if they desire. Alaska has 256 claims on file, but they have God knows how many—thousands that they could claim. Idaho has 2,026 on file, and Utah has 6,173 claims filed in the Secretary's office. Those are a lot of potential highways across Federal lands, and the Federal Government could not stop them no matter what kind of highway they wanted to build.

When I started off telling you how bizarre this was, just think about that. When we held our first hearing in the Energy Committee on what to do about these so-called R.S. 2477 rights-of-way, I may have been dense, but it took me a long time to understand that we were really talking about something serious. I never heard of anything so bizarre in my life. Yet, the chairman of the Appropriations Committee—we all represent our States, and I am not holding him guilty of anything. I am just saying the rest of us do not have to follow suit. He is chairman of the committee and he puts this in a supplemental appropriations bill designed to aid areas hurt by natural disasters, including help for the people of Arkansas. There is $6.5 million for debris removal in streams as a result of a tornado on March 1 in Arkansas. There is $3.5 million in this bill to allow an all-black community just outside Little Rock to tie into the Little Rock sewer system. Virtually the entire community of College Station was wiped out, a community of less than 500 people, and they cannot build new homes or borrow money to build new homes until they get on the sewer system. And the chairman, very graciously, and the committee, very graciously, accepted my amendment to put $3.5 million in there to accomplish that. How many nights did we look at the Dakotas and Minnesota, which was a veritable lake?

Mr. President, do you know the name of the bill we are considering? It is the emergency supplemental appropriations bill. The R.S. 2477 issue is no emergency. The language I am trying to strike was put in there and it had nothing to do with any kind of disaster or emergency. It was put in there to accommodate primarily the States of Alaska, Utah, and Idaho. I have nothing against any of those States, but I tell you what I do have, I do have a strong feeling about protecting the citizens of this country and the Federal lands which they all own. Some of it is in my State—admittedly, not as much as in Alaska and some Western States—but every single Member of the U.S. Senate has a solemn obligation, occasionally, to stand on their hind legs and say no to such things as this.

Every Senator has or will have a letter on his desk from Secretary Babbitt saying he will strongly urge the President to veto this $8 billion bill if this provision is left in it. Why wouldn't he? My point is, why are we, U.S. Senators, holding the people of North Dakota, South Dakota, and Minnesota hostage to an amendment that should not be on this bill? It is not an emergency. It is not even an appropriations measure.

Mr. President, I get terribly exercised about things like this because I think I have a solemn duty to bring this to the attention of the Senate. In January of this year, Secretary Babbitt, not popular with Western Senators—but that has nothing to do with this amendment. What it does have to do with this amendment is whether or not we are going to allow every single State who can identify a pig trail that was used by human occupants any time between 1866 and 1976, across lands that have subsequently been made national parks, monuments, and wilderness areas, whether we are going to allow those States to determine that those trails are now highways and then build highways on them with no input from the Secretary.

So Secretary Babbitt, in January of this year, issued a policy—not a rule, not a regulation, but a policy. Here is what his policy said. It defines a highway to be ''a thoroughfare used by the public for the passage of vehicles carrying people or goods.'' Now, Secretary Babbitt's policy also allows for the abdication of State law to the extent consistent with Federal law, which, of course, makes Federal law dominant, as it should be.

Nobody is trying to punish Alaska. Nobody is trying to punish Idaho. Nobody is trying to punish Utah. What we are trying to do is say these sacred parks and monuments that we have developed over the years—Yellowstone, Yosemite, Bryce Canyon, Saguaro, you name it—you cannot let the States just walk in and willy-nilly start building highways across those places. If you do not vote for my amendment, that is precisely what you are voting for.

Mr. President, I hope the Senate will pay attention to this issue—as I say, this is an arcane issue. Most people in this country do not have a clue that a law such as R.S. 2477 ever existed. I want to get help to the people of my State who have been devastated by tornadoes. I want to get help to people in California who have suffered from floods, to the Dakotas and Minnesota, one of the most awesome things we have ever watched on television. This bill is designed to help them. That is what a compassionate, caring government does.

One of the reasons I voted against the constitutional amendment to balance the budget is because it would have prohibited the Congress from appropriating money to help people who had suffered that kind of disaster because it would unbalance the budget. You could not do it without a 60 percent vote of both Houses, and if you did not get it, they just suffered. That is what would happen a lot of times.

I am not going to belabor this. I have made the point as well as I can. I see the junior Senator from Alaska on the floor. I yield the floor.

Mr. MURKOWSKI. Mr. President, I appreciate the remarks of my friend from Arkansas. But the Senator from Arkansas says that this is not an emergency, and, as a consequence, this particular provision that is in the appropriations supplemental should not be here. Well, he is absolutely wrong because this is an emergency. It's a raid on the Western States of this Nation. The reason it is a raid, Mr. President, is because we are going to change the rules all of a sudden. Why are we changing the rules? Because the Secretary of the Interior doesn't want the States to continue to have the rights that we have had for 130 years. We have had a law for 130 years, a law that ensures access across public lands, which

specifically addresses that there was some kind of a highway, some kind of an access in existence prior to October 21, 1976.

Now, the Secretary of the Interior proposes to take this authority away from the States and give it to the Federal Government. That is why it is an emergency. We are fighting for survival. Here is a picture of my State of Alaska. I hope the Senator will take a good look at it, because here is Alaska today, Mr. President—a State with 33,000 miles of coastline. You can see our highway system here. We had one new highway built in the last 20 years, the Dalton Trail, which parallels the pipeline. This is an area one-fifth the size of the United States, Mr. President.

If the motion to strike prevails by the Senator from Arkansas, our traditional access routes will be eliminated. Let me show you a map, Mr. President, of the State of Arkansas. There is the highway system in Arkansas, Mr. President; it's a fully developed State. It has been a State of the Union for over 100 years. My State has been in existence for 39 years. Here is a map of Arkansas today—roads all over the place. They are necessary for the economy of the area. I don't take issue with the road system. These roads came about in the development over a long period of time in the State, as we would anticipate. So there we have the basic issue.

The Senator from Arkansas says that virtually any access across public land would be provided if indeed this portion that he wants to strike remains in the legislation. Well, let me tell you, as chairman of the committee with jurisdiction over R.S. 2477, I'll just say that the rights-of-way are the future vitality of our State.

Despite all the rhetoric that has been made about this provision, it simply amounts to a tightening of a permanent moratorium placed on the Federal Government last year. It is that simple. What we want to do is keep in place the law as it has been for 130 years, keep the departmental regulations as they have been codified since 1932, I believe, and again in 1974.

Now, the only thing that has changed in this debate is the level to which the administration will go to provide scare tactics to influence this process. Let me state here that I find some of the rhetoric coming out of the Interior Department concerning this provision absolutely reprehensible.

I have a copy of a letter the Secretary of Interior sent to the chairman of the Appropriations Committee last week. At best, this letter shows an alarming ignorance of the history, topography, and the economy of the Western States. At worst, it shows the level of deceit that this administration is evidently willing to go to in order to mislead the American public about this issue.

Now, in this letter there is a claim that a provision in this bill will create some 984,000 miles of new highways in Alaska, based on a 1923 Alaska law creating section-line rights-of-way. That is a fallacy, Mr. President. This is in a State—my State—which currently has just over 13,000 total miles of roads, along with the marine highway system. Alaska has a population of about 600,000, a budget deficit, and the last road built in Alaska cost more than $6 million per mile, down from Whitehorse to Skagway, the U.S. portion.

If you take the miles the Secretary is talking about in his scare letter, you would have to spend just roughly $6 quadrillion to build these proposed roads in our State—more money than even the current administration could even dream up in taxes.

The Secretary contends that this is going to happen because the section-line law exists in Alaska. Here are some facts about that. The State has had a section-line law on the books since 1923. That is the one correct statement in Secretary Babbitt's letter. The State has had the ability to assert section lines since 1923. There are no current rights-of-way based on section lines in Alaska. The State has never filed a section-line right-of-way. We have the right, but we also have the self-discipline. According to the Governor's office during last year's hearing, the State has no intention to ever file a section-line right-of-way. The fact is, section lines have little or no practical application as transportation corridors in Alaska due to the difficulty of the terrain.

Second, the Secretary also states:

> My efforts over the past several years have been directed to establish a clear, certain, and fair process to bring these claims to conclusion . . . the public will be poorly served by Congressional action that has the effect of rescinding the Department's current orderly manner of proceeding to deal with the right-of-way claims.

I find that statement interesting, considering what the Secretary wrote us in 1993, which was:

> I have instructed the BLM to defer any processing of R.S. 2477 assertions except in cases where there is a demonstrated, compelling, and immediate need to make such determinations.

So, in fact, the administration's orderly process of dealing with these claims is to take no action whatsoever.

Well, Mr. President, the fact is, if an R.S. 2477 was not in existence on October 21, 1976, it will not and cannot, by definition, be created now. This is what the statement of my friend from Arkansas suggests will lead to simply an open and arbitrary selection of areas across public land. He said, ''Just about anything, anybody, any excuse, will get you access.'' It will not, Mr. President. It is misleading and it is inappropriate to suggest that. You must have had in existence on October 21, 1976, evidence of utilization of that area as a trail, as a highway, some kind of route.

Let me show you what we have here, Mr. President. This is a map made in 1917, before Alaska became a State. What it shows here is rather interesting, because this is what this issue today is all about. It is about access, early access. The two definitive identifiers in red here are winter stage lines and U.S. Government winter U.S. trails to Fairbanks. We didn't have a highway system. These two large red routings were trails, winter trails. In the summertime, they were used as wagon trails. That was access into the interior. Today, these two represent highways. These greens are the R.S. 2477's that provide access routes across public lands, so that we can get from Fairbanks out to McGrath, we can get from Nome out to the gold fields, across public lands.

Let me show you why it is so important in Alaska relative to having the assurance of access across public lands. This is Alaska. Every color you see is a Federal withdrawal, Mr. President. Take a look at it. Federal withdrawal. Now, how in the world are we going to get from the southern part of the State to the northern part of the State through all these colors, because the only area that the State controls are the white areas? We have to have access. This law gives us that access. That is why this is an emergency. It is an emergency because the Secretary wants to take that authority away. We have had the authority for 130 years.

Look at what we have done with it, relative to highways in Alaska. We haven't wandered all over the place. We have 13,000 miles of roads. But we have to have access, and that is why it is so vital that this matter be addressed now. We have to have access down from Prudhoe Bay. We have a little, tiny corridor, 3 miles wide. This is all Federal withdrawal. How are we going to get east and west if we don't have this provision? We simply can't get there from here. So while it doesn't mean much from the standpoint of the constituents in Arkansas, who have a State that is fully developed with a road system that looks like this, we have a situation where it is the lifeblood and the future of our State to have the assurance that we are going to have access, because the Federal Government basically owns our State.

The Secretary wants to take that authority away from us. The senior Senator from Alaska and I and the Senators from Utah are all sensitive to the realities associated with this. This is our lifeblood. We have to have it. It is an emergency. It is necessary now. The administration and the Secretary want to take the authority away from the States and give it to the Federal Government. We all know what that means, Mr. President. That means disaster.

The fact is, again, if an R.S. 2477 was not in existence on October 21, 1976, it will not and cannot, by definition, be created now. So when we look at those old maps of Alaska, we have to go back and ascertain and prove that we have had a trail, we have had a sled dog

trail, we have had a regular route of access. If we can prove that, then we have a right to public access across the land. That is what this issue is all about. It is a legitimate States rights issue. The only thing is, most of the States aren't affected anymore. But some of the Western States are, and it is our lifeblood.

The problem, of course, is the prevailing attitude of the Secretary of the Interior, who basically controls public land in our State—his particular attitude toward allowing us—which we can do under current law—to get across those public areas. But that is going to be taken away. And as a consequence of that, Mr. President, we are at the absolute mercy of the Secretary of the Interior if the motion to strike by my friend from Arkansas prevails.

I am not going to speak about what happened in Utah last fall. The Senators from Utah are here to state that. It is a perfect example of what happens when a small cadre of administrative officials take it upon themselves to decide how America's public lands should be used. I have worked with my friend from Arkansas for a long time. We have been able to work on many issues that we agree upon. But during that time, we have had different approaches to some issues. In 1995, a number of Western Senators, upset about the Department of the Interior's proposed regulations on R.S. 2477, sought to place the language in the proposed highway bill overturning the effect of the proposed regulations.

Many of my colleagues will remember that the final passage of that bill was delayed until late in the evening until we could resolve the issue during the day. The Senator from Arkansas and I met to discuss the issue. We didn't come out with any finality about how to solve the R.S. 2477 debate. But we did agree for the time being placing a moratorium on the Department from issuing any regulations. That made sense.

So in the 1995 national highway bill there appeared a 1-year moratorium on the department from issuing any rules or regulations on the issue. For the most part, this held the status quo, as it has been for the past, as I said, 130 years in terms of R.S. 2477 right-of-way.

I, along with a number of Western Senators, introduced Senate bill 1425 last Congress to set out an orderly process by which people can submit their right-of-way claims to the department to seek formal recognition. My friend from Arkansas opposed that, and in the end we agreed upon compromise legislation that passed out of the committee. The compromise legislation placed a permanent moratorium on the Government by stating, ''No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 shall take effect unless expressly authorized by an act of Congress subsequent to the date of enactment of this act.''

It is this language that was placed in last year's Omnibus Appropriations Act, and is law today. We agreed to only prevent final rules and regulations in the hope that the Department would work on developing a more reasonable recognition process that could be submitted to Congress for approval. Unfortunately, it has been about 8 months now since that legislation passed, and there is no indication that the Secretary has any intention of submitting regulations. Instead, what the Secretary has decided now to do is to shred the longstanding departmental policy regarding R.S. 2477 regulations and replace it with his own. That is why this is an emergency now. It is the lifeblood of the Western States who are still developing and need access, and need the assurance that we will be able to cross public land as long as we are able to prove that we have traditionally used that access route prior to 1976—a wagon trail, a snow machine trail, a dog sled trail. And it doesn't mean much in New York. It doesn't mean much in Arkansas. But in Alaska that is how we can get there from here. We simply have to have that assurance.

The real difference between the provision in the bill before Congress today and the permanent moratorium passed last year is that there is less likelihood that the administration will be able to find a way to skirt around congressional intent with this provision.

Mr. President, in my State these were coveted promises that we were advised would be available to us when we accepted statehood—that we would have the opportunity to access across public land based on traditional utilization, trails, rights, and so forth.

To make the statement that almost anywhere indiscriminately one could claim a route across public land, or parks, or recreation areas is absolutely absurd. The only areas, again, that have any justification for consideration under R.S. 2477 are the historical areas of use prior to 1976 across unreserved public lands.

So, Mr. President, as we conclude this debate, I encourage my colleagues to dismiss the rhetoric suggested by my friend from Arkansas who is, obviously, carrying the weight of the Secretary of the Interior. But when he makes statements that just about anybody or any excuse is justifiable in coming across public land is unrealistic. When he suggests that this is no emergency and should not be on the appropriations supplemental, he is wrong because it is an emergency. They are going to take this away from us by administrative fiat. That is the bottom line.

So here we are today, Mr. President, responsibly; 13,000 miles of road, an area one-fifth the size of the United States. This action by the Secretary of the Interior would eliminate the right that we have as a State, and the commitments that we had coming into the Union, to have the assurance that we would have continued access across public land.

So I encourage my colleagues on this vote to recognize the significance of what this means to Western States. This was a promise made by the Federal Government—a commitment that they are proposing to take away. It is unrealistic. It is unjust.

This belongs in here because we need the continued assurance that we will have an opportunity, and in an orderly manner, to pursue, if you will, access that was guaranteed when Alaska became a State and when other Western States came into the Union.

I yield to the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague from Alaska for the excellent remarks he has made. He has summarized this as well as anyone could. He is an expert in this area.

And I compliment my colleague from Utah for the work he is doing in this area. He is a great leader in this area. I personally appreciate the leadership that he has provided. He will show through descriptive evidence some of the problems that we have.

Let me just say this: I also want to thank Senator STEVENS, the senior Senator from Alaska. Both he and Senator MURKOWSKI have provided our colleagues with a good overview of where the situation now stands, why the language in the supplemental appropriations bill is necessary, and why Senators should oppose the amendment of our good friend and colleague, Senator BUMPERS.

I want to commend Senators MURKOWSKI and STEVENS for their leadership on this matter. They know and understand the issue better than anyone else in this body. When it comes to preserving rights-of-way over public lands for State and local governments, there are no better advocates than the two of them, and certainly the senior Senator from Alaska, who himself served in the Interior Department. I am pleased to join with them today, and I thank them on behalf of the citizens of my State for leading this effort.

For several years now the Department of Interior and the U.S. Congress have been at odds over that Department's effort regarding vested property rights essential to states and local governments throughout the west. On at least three occasions, Congress has blocked promulgation of Interior Department regulations intended to regulate retroactively the terms and conditions of the establishment of certain highway rights-of-way vested between the middle of the last century and 1976.

As Senator MURKOWSKI indicated, the Department of Interior, frustrated by Congress, is now attempting to do indirectly that which it cannot do directly. The Department is attempting to implement the blocked regulations under the guise of a new policy guidance issued on January 22 of this year. This

guidance promotes a concept of Federal law which preempts State law, in spite of the fact that Federal courts have found State property laws applicable to issues such as vesting and scope of the right-of-way as a matter of Federal law.

What is at stake here for those of us in the West is the preservation of what amounts to the primary transportation system and infrastructure of many rural cities and towns. The rights-of-way in question are found in the form of dirt roads, cart paths, small log bridges over streams or ravines, and other thoroughfares and ways whose development and use was originally authorized in 1866 during the homesteading activities that led to the establishment of western communities. They have been created over time and by necessity. In many cases, these roads are the only routes to farms and ranches; they provide necessary access for school buses, emergency vehicles, and mail delivery. These highways—and we are obviously not using the term ''highway'' in the modern sense—traverse Federal lands, which in Utah comprises nearly 70 percent of Utah's total acreage, and they have been an integral part of the rural American landscape for over a hundred years. Congress created these rights-of-way in 1866; Secretary Babbitt is now attempting to eliminate, if not devalue, them in 1997.

Let me set forth for my colleagues, in as brief a form as possible, the black letter principles applicable to this issue and why the disposition of this matter is so critical to those of us representing public lands States.

As has been stated, Revised Statutes 2477 states, in its entirety:

SEC. 8. And be it further enacted, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted. (§8 of the Act of July 26, 1866, 14 Stat. 253, later codified at 43 U.S.C. §932, repealed October 21, 1976.)

In 1976, Congress adopted the Federal Land Policy and Management Act of 1976 (FLPMA) that repealed these 26 words known as R.S. 2477. At the same time, Congress included language protecting these valid existing rights, thus making the actions of the Department of Interior after passage of FLPMA subject to those rights. FLPMA explicitly states this:

Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this act * * * All actions by the Secretary concerned under this Act shall be subject to valid existing rights. (FLPMA §§701 (a) and (h), 43 U.S.C. §1701 notes (a) and (h).)

From 1938 until the repeal of R.S. 2477 in 1976 by FLPMA, regulations published by the Department of Interior made it clear that the executive branch had no role to play in determining or regulating the validity or scope of R.S. 2477 rights-of-way. The regulations explicitly stated that:

No application should be filed under R.S. 2477, as *no action on the part of the Government is necessary*. 43 C.F.R. §2822.1–1 (1972, emphasis added).

They further provided that:

Grants of rights-of-way referred to in the preceding section become effective upon the construction or establishment of highways, in accordance with the State laws, over public lands, not reserved for public uses. 43 C.F.R. §2822.2–1 (1972).

In other words, the grant of a right-of-way was a unilateral offer that vested automatically upon an act of acceptance. A published Interior Department decision said essentially the same thing as early as 1938:

This grant [R.S. 2477] becomes effective upon the construction or establishing of highways, in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under this act, as no action on the part of the Federal Government is necessary.'' (56 I.D. 533 (May 28, 1938).)

The current published Interior regulations state that if administration of any pre-existing right-of-way under regulations promulgated pursuant to FLPMA would diminish or reduce any rights ''conferred by the grant or the statute under which it was issued, * * * the provisions of the grant of the then existing statute shall apply.'' This language was explained in the Department's final rulemaking as follows:

In carrying out the Department's management responsibilities, the authorized officer will be careful to avoid any action that will diminish or reduce the rights conferred under a right-of-way grant issued prior to October 21, 1976.

FLPMA also provides:

Nothing in this title [43 U.S.C. §§1761 et seq.] shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted or permitted. However, with the *consent* of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this title. (43 U.S.C. §1769 (emphasis added).)

These explicit provisions make it clear that the local and the State governments that hold R.S. 2477 rights-of-way have always been entitled to exercise them in accordance with their duly constituted authority and in accordance with the applicable provisions of State law without interference from the Federal Government. No action by Congress would allow any interference by Federal agencies with the exercise of these rights in accordance with State law. The current Department of Interior regulations merely confirm Congress' intent that the agencies honor these vested property rights.

Past efforts to define any of the key words in the original R.S. 2477 statute and to determine their original intent have created many different and varied opinions. Words such as ''construction'' and ''highway'' have been the subject of many analyses by lawyers and other experts on public land issues. Even Secretary Babbitt in his policy guidance of January 22 provides a definition of a ''highway'' as it pertains to R.S. 2477 that, in my opinion, is inconsistent with legal precedents. For example, Federal courts have honored the common law definition of ''highways,'' which basically requires only that the route be open to the public to travel at will. Here are just a few of the statements the courts have made which elucidate this point:

The act of Congress [43 U.S.C. 932—then R.S. 2477] does not make any distinction as to the methods recognized by law for the establishment of a highway. It is an unequivocal grant of right of way for highways over public lands, without any limitation as to the method for their establishment, and hence a highway may be established across or upon such public lands in any of the ways recognized by the law of the State in which such lands are located. Any other conclusion would occasion serious public inconvenience. (*United States* v. *9.947.71 Acres of Land*, 220 F. Supp. 328 (D. Nev. 1963), quoting *Smith* v. *Mitchell* (1899) 21 Wash. 536, 58 P. 667, at 668.)

The parties [including the Department of Interior of the United States] are in agreement that the right of way statute [R.S. 2477] is applied by reference to state law to determine when the offer of grant was accepted by the construction of highways.

In Colorado, and in Utah, the term ''highways'' includes footpaths.

Highways under 43 U.S.C. 932 can also be roads formed by the passage of wagons, etc., over the natural soil.

In Colorado, mere use is sufficient: ''It is not required that 'work' shall be done on such a road, or that public authorities shall take action in the premises. Use is the requisite element, and it may be by any who have occasion to travel over public lands, and if the use be by only one, still it suffices.''

The Secretary's new policy states that ''a highway is a thoroughfare * * * for the passage of vehicles carrying people or goods from place to place.'' This policy blatantly ignores the history of legal decisions in this area by insisting that a R.S. 2477 right-of-way must provide for the passage of a vehicle. How did the Secretary arrive at this definition? By what authority can he overlook decades of legal opinions and insert his own philosophy or interpretation of the original statute to create this critical definition? There can be no solid foundation upon which he takes this leap of interpretation, except his own desire to rewrite these opinions to say or mean something different. The decisions stand for themselves. This body cannot allow the Secretary's new policy guidance to go unchallenged.

Let me underscore the importance of this issue by stating several critical facts.

First, it is clear from the record that the Department of Interior understood that FLPMA did not grant authority to the Bureau of Land Management [BLM] to diminish any prior valid existing rights. It is also clear that many counties in western States have been maintaining the transportation infrastructure across Federal lands for many decades without interference from the Federal land managing agencies, particularly the BLM, according to legal and regulatory precedents.

However, current actions by Interior and the Department of Justice contradict these express provisions of FLPMA. For example, the Secretary's new policy guidance of last January states that the BLM should not process R.S. 2477 assertions in the absence of a demonstrated, compelling, and immediate need to make such determinations. Thus, BLM has been precluded from addressing R.S. 2477 questions administratively, to the extent it might otherwise have done so.

And, Department of Justice officials have been telling county governments that they cannot maintain their R.S. 2477 rights-of-way without first obtaining the permission of the BLM. It is a catch-22 of a serious nature. The BLM is not addressing R.S. 2477 rights-of-way on the lands they manage, while right-of-way holders are being told they cannot exercise the rights unless BLM addresses them first. For this reason, several western counties have been sued by the United States, based on complaints that assert that the counties have violated the law by maintaining roads without first seeking permission from the BLM or the National Park Service. These complaints, as well as other public statements made by Department of Justice officials, assert that permission from the land managing agencies is required before a county can take any action to exercise its rights.

The BLM or the Justice Department has told more than one county in Utah that they should seek FLPMA rights-of-way, more accurately described as conditional use permits than true rights-of-way, because there is no R.S. 2477 process in place and because BLM cannot authorize activities on R.S. 2477 rights-of-way without first going through a process. Counties are threatened with lawsuits if they exercise their rights as they have in the past.

I recently brought this matter and these current facts to the attention of Attorney General Janet Reno in a letter detailing the history of R.S. 2477. Among several things, I asked her if she was aware of Secretary Babbitt's policy guidance of January 22 and whether her office was consulted as to the legal sufficiency of terms defined within the policy. I asked her because, in the end, if this or any other government policy is challenged in court, the Department of Justice will have to defend it, and the lack of consistency on definitions and other wording contained in that policy could lead to insupportable and unnecessary litigation. Her response to my letter indicates that while her office was aware of the Secretary's January policy statement, she does not say conclusively that Justice was consulted. The letter closes by stating that ''the final determination (on the policy guidance) * * * rests with the Secretary.'' The answer to my query is obvious.

This is interesting in light of the fact that the chief of the General Litigation Section of the Environment and Natural Resources Division at the Department of Justice wrote a letter to the Department of Interior's solicitor on January 29 asking that Secretary Babbitt's policy guidance be modified to reflect any future adjudication of R.S. 2477 rights-of-way claims. The Secretary later released a memorandum dated February 20 making this clarification in the policy statement.

My point in raising this matter is this: when it comes to establishing a new policy on such a technical issue as R.S. 2477 rights-of-way, where the definition of key words and phrases—like ''highway'' and ''construction''—is of paramount importance, the Government's own legal authorities who may have to defend those definitions should be consulted.

To say the least, this situation is intolerable for holders of R.S. 2477 rights-of-ways. Attempts to rectify this situation in an amicable fashion, either through regulation or legislation, have proved futile. Now, Secretary Babbitt is skirting both the letter and spirit of recent congressional direction regarding R.S. 2477 rights-of-way through his policy guidance of last January. If he is serious about bringing closure to this matter once and for all and in a way that is in the best interests of the public and local and State governments that hold R.S. 2477 rights-of-way, then I encourage him to work with the Congress, not against it.

Mr. President, some claim that R.S. 2477 rights-of-ways are nothing more than dirt tracks in the wilderness with no meaningful history, whose only value to rural counties arises from the hope of stopping the creation of wilderness areas. Nothing could be further from the truth. No one is suggesting that we turn these rights-of-way into six-lane, lighted highways with filling stations, billboards, and fast food restaurants, as Secretary Babbitt alluded to in his recent letter threatening a veto recommendation if this bill is not amended. Yet, these rights-of-ways constitute an important part of the infrastructure of the western States.

My colleagues can think of it this way: Let's say your front yard belonged to someone else—the Federal Government, for example—and the gravel driveway was the only way to get to your house from the street. The Secretary's policy guidance would have the effect of denying you the use of your driveway. You would have to haul your groceries to your front door from the street.

A simple illustration, perhaps, but one that shows the importance of these R.S. 2477 rights-of-way to the people in the West.

There is no pressing environmental reason to change the R.S. 2477 rules other than to make Federal land more pristine than it has been since the pioneers settled the West. In most cases in Utah, this is absolutely impossible, since some of Utah's R.S. 2477 rights-of-way, like Utah State Highway 12 near Bryce Canyon National Park, are paved and heavily traveled. What would those opposing the full exercise of these rights-of-way have the State of Utah do—dig up the blacktop, remove the pavement, erase the yellow markings, and reclaim this road in the form it existed prior to 1866? That is ludicrous. And, we may as well sell off Bryce Canyon because no one will be able to get there. The right-of-way has been developed over time with improvements to it pursued in the name of protecting public safety and welfare.

Mr. President, any disposition of issues related to rights-of-way across public lands is of utmost concern to States like Utah with public lands. These rights-of-way provide the backbone of our transportation infrastructure and have deep historic and traditional roots in the overall development of the West. There are regulatory and legal precedents that should be followed and adhered to when these rights-of-way are administered. The Secretary's policy guidance of January 22 is not consistent with this law, precedent, or custom, which is why the language in the supplemental appropriations bill is necessary.

I urge my colleagues to reject the Bumpers amendment.

I thank my colleagues from Alaska and I thank my colleague from Utah for their leadership on this matter, and in particular I would like to thank my colleague from Utah for allowing me to go first here because I am conducting a hearing over in the Judiciary Committee and I need to get back. So I am grateful to him for his courtesy in allowing me to do this. I hope that our colleagues will vote down the Bumpers amendment. It just plain is not fair to the West. What Secretary Babbitt is doing is not fair to the West. In fact, it is extreme and it flies in the face of many precedents of law that have existed and do currently exist.

Mr. President, I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that privileges of the floor be granted to Cordell Roy for today.

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

Mr. BENNETT. I thank the Chair.

There is an old line in politics that applies in campaigning that says when you are explaining, you are losing. And there would be those who say, because of the technicalities of the explanations we have to give about this fairly technical matter, we are probably losing the issue.

However, if you are explaining, it does not necessarily mean you are wrong. I am going to do my best to try to be as simple in my explanation today because we are not wrong on this one. This is not an issue where the Senators from the Western States are trying to do something improper for the rest of the country, something parochial just for ourselves. These are fundamental issues and they should be clearly explained and understood.

I would like to focus on one road and one circumstance that will help explain this matter. I picked this road because it is perhaps the most controversial R.S. 2477 road in all of Utah. It has a very romantic name. Its been called the Burr Trail. I do not know who Burr was, and I do not know what trail he or she made across this land in the first place. I suppose at some point somebody will tell me all of that. Frankly, as I read about it in the newspapers and heard people talk about the Burr Trail before I became a Senator, I had visions of a footpath going through a forest. That is what a trail means to me. And then I was elected to the Senate and had to get into the details.

This is, Mr. President, a picture of the Burr Trail. As the Presiding Officer can clearly see, this is a road. It is 28 feet wide. It is a well-traveled road. I have been on it. No, I did not need an all-terrain vehicle to get on it. I was on it in a street-legal vehicle, driving along it. It is used, whatever Mr. or Mrs. Burr anticipated, as the principal way the residents of Garfield County can get from one end of that county to another. It happens to run through the Capitol Reef National Park. It was with the full consent of the Federal Government that the western Burr Trail across BLM lands was improved. The lands in dispute have to do with the 8 miles of road that go through the Capitol Reef National Park.

This sign the Presiding Officer cannot see, as far away as he is, says, ''Entering Capitol Reef National Park.'' I would call your attention to this sign as a guidepost because I am now going to show you a second picture of the Burr Trail taken somewhat after the first one, and here again is the identifying sign to show you where we are. There is one difference. If you would remember from the first picture, you will see that this is a blind curve. As you are coming down the Burr Trail here, if there is traffic coming the other way, you are not going to be able to see it. It is a blind curve. There could be an accident. Under R.S. 2477, the responsibility of maintaining the Burr Trail lies with the county. They own it. It is a right-of-way that they have received according to Federal law. The county went out and cut off 4 feet of land. As I said, the Burr Trail is 28 feet wide. As it got to this particular point, it narrowed to only 20, so the county decided to widen it to 24—not 28, not widen this curve as wide as the rest of the road but just take 4 feet off so you get a little bit of a view around the blind curve. They did that under their existing rights established by the Congress.

Well, the reaction that occurred in the Interior Department would have had you believe they had gone into Yellowstone National Park and bulldozed Old Faithful. Interior officials were sent from Washington, DC, to Garfield County, sat down across the table from Garfield County officials and demanded that those officials immediately sign over their right to any meaningful management authority over the right-of-way. They also assured them that if county officials did not, they could face the full power and force of the Federal Government in Federal courts in the form of an aggressive legal action.

This is not the only sin these county officials committed by creating an opportunity to see around the corner, by taking 4 feet off of an area that was, they understood, legitimately within their right-of-way. When they took this action, they did not realize they were setting off such an enormous controversy.

County officials did some other things on this road. They also made some improvements where the washboard effect had been created. They made some improvements where there had been debris that got on the road. They did changes in a normal maintenance circumstance, and for this they are now in Federal court with the full force of the U.S. Justice Department accusing them of all kinds of terrible environmental sins.

I am sorry, Mr. President, I do not see the terrible environmental sin, going from the first circumstance of this kind of a curve to this circumstance; of taking a road that is 28 feet wide, narrows going around that curve to 20, and saying, no, we will make it go around the curve at 24 feet. I do not know that this merits the kind of wrath that has been brought down by the Interior Department on the officials of Garfield County. But that is what we are faced with.

That is what we are talking about here, Mr. President. It has little or nothing to do with the road. It has little or nothing to do with the county maintaining this kind of right-of-way. It has to do with is who is going to make the decisions. The Federal Government is determined they will make the decisions whether the Congress gives them the right to do it or not. They will ride roughshod over the rights of the States and the counties whether the Congress gives them the authority or not. When the Congress specifically refused to give them the authority, this Secretary of the Interior said, ''All right, if the Congress won't give me the authority, I will usurp it. I will take it on my own and see if the Congress has the willingness to demand that I live up to prior agreements.''

That is what this amendment is all about, a demand that the administration live up to prior agreements. That is what it is all about, the issue of can the States depend on the acts of Congress in terms of maintaining their existing rights.

Mr. President, I would like to show you another picture. This one is not as controversial as the first pictures we have just seen. Those who say R.S. 2477 roads are mere trails, R.S. 2477 roads are mere footpaths, here is a picture of an R.S. 2477 road in the State of Utah. Why do I pick this particular one? Not because it is paved; there are plenty of R.S. 2477 roads in Utah that are paved. I picked this one because this is the road that millions of tourists will take when they come to the newly created Grand Staircase-Escalante National Monument. This is the road those tourists will have to use to come see the 1.7 million acres that the President spoke about so lyrically on the south side of the Grand Canyon last September. It runs for about 70 miles.

If we decide that the Secretary is right and the Federal Government has jurisdiction over this road, I can tell you what the counties will decide. You take away their property rights in this road and the counties will say, ''Since you have taken our property rights, you maintain the road. It is not our road anymore, let's allow the Federal Government maintain it.'' This is the kind of responsibility we are going to give to the Bureau of Land Management if we accept the motion of the senior Senator from Arkansas.

Frankly, as a member of the Appropriations Committee, I do not want that responsibility. I do not want to take on additional Federal financial burdens. When there is a county more than willing and able to maintain the road, I say, why don't we let it do it? We will not let it do it because the Secretary of the Interior says, ''We want jurisdiction. We want jurisdiction over this road. We cannot trust the county to maintain the road.''

I ask you, Mr. President, does this demonstrate that the county cannot be trusted to maintain the road?

No, the real issue is that there are a number of roads in rural Utah that the Federal Government officials want closed. That is why they want to take away the property rights of those roads away from the counties, because they wants the roads closed. They want the roads shut down. The impact of shutting down the roads will be that, ultimately, people will move from the county because they cannot conduct commerce anymore. Ultimately, they would like to see southern Utah rid of human beings except those who work in motels and in fast-food places, people who have tourist oriented jobs. But they want no other jobs down there because they do not want any other economic activity in southern Utah to continue.

Mr. MURKOWSKI. I wonder if my friend from Utah will yield for a question?

Mr. BENNETT. I will be happy to yield.

Mr. MURKOWSKI. Isn't a good deal of this debate about exactly what a highway is? And hasn't the Secretary, in effect, taken the assumption that he has the authority to change the terminology of what a highway is?

Mr. BENNETT. I ask my friend from Alaska if he has a definition of what a highway is, in these circumstances. If he would share it with the Senate, I will be happy to yield the floor to allow him to do that.

Mr. MURKOWSKI. I might just add, has my friend from Utah concluded his statement?

Mr. BENNETT. I probably concluded prior to the time when I quit talking, but I got carried away.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from Utah for yielding. I would like to highlight, specifically for the benefit of my friend from Arkansas, who is back on the floor, what this debate is about. It is about what a highway is.

Looking at the State of Arkansas, it is quite clear what a highway is. A highway is, as indicated on the highway map of the State of Arkansas, extended networks of access across the State, traditionally used for recreation, commerce, and so forth. The question we have here before us is the definition by the Department of Interior, how they are defining a highway. In 1988, the Department, after months of discussion and consultations with the Western States, developed its official policy on the R.S. 2477 right-of-way. That policy worked in conjunction with the States, as they defined historically what a highway was. I will quote this definition, because this is what this debate is boiling down to:

A definite route on which there is free and open use for the public. It need not necessarily be—

And this is the key.

It need not necessarily be open to vehicular traffic, for pedestrian or pack animal or trail may qualify.

It does not have to be for an automobile; pedestrian, pack animal, trail may qualify. That is where we have been in this debate up until now, and that is why it is appropriate that this be in here, to ensure that we will have that definition as opposed to what the Secretary of Interior has arbitrarily proposed in changing it.

He proposes to state that, through an action used prior to October 21, 1976, ''by the public for the passage of vehicles [cars] carrying people or goods from place to place.'' That is the change. That is the significance. He is doing this arbitrarily. He is saying that no longer is pedestrian access or pack trail or wagon trial adequate. It must be vehicles.

Mr. President, in 1917 they did not have very many vehicles in Alaska. We do not have very many today. But the point is, we have trails. We have to have the right, as evidenced by those trails, as we look at the restrictions that Federal withdrawals have placed on our State. And here they are, Mr. President. How in the world are we going to get across Federal lands? All these colors—the brown, the green, the cream—these are the Federal holdings in the State of Alaska. The only thing that belongs to the State that we have access through are the white areas.

The point I want to make is, how in the world are we going to get a highway across from the Canadian border to the Bering Sea without crossing Federal land? We cannot do it. How are we going to get north? How are we going to cross all these Federal areas without this basic right that we had when we became a State 38 years ago? We are simply not going to be able to do it, unless we have this law that states specifically that the interpretation of a highway is for pedestrians, pack animals, to qualify. Because, Mr. President, if you look again at Alaska today, this is our highway network. That is where we are. That is our highways, 1,300 miles. We have a road north-south to Seward, a road over to the Canadian border. We have nothing to the west—absolutely nothing. This is an area one-fifth the size of the United States.

My point is, under the law as it is currently stated, you must have proof of a traditional route across public land, prior to 1976, to qualify. The Secretary proposes to change that. He would say you have to have had a road. That eliminates Alaska. It eliminates much of Utah, and several other Western States are affected. That is where we are.

I am reading from a definition of ''highway.''

The term ''highway'' is the generic name for all kinds of public ways. Whether they be carriage ways, bridle ways, foot bridges, turnpike roads, railroads, canals, ferries, navigable rivers, they are considered highways.

But that is going to change under this definition. So, clearly what we are talking about is keeping in place the law that has been for 130 years in the departmental regulations as they have been codified since 1932, and again in 1994.

The fact is, if R.S. 2477 was not in existence prior to October 1976, it will not and it cannot be, by definition, created now. So there is no threat here to public land. There is no threat to the parks. This is all a smokescreen.

The reality is, we will simply be assured of having the rights-of-way across public land that we were promised as opposed to it being taken away. So I urge my colleagues to recognize the significance of what this inclusion means, why it is appropriate that it be there, why it is an emergency right now, and why I encourage all Members to reflect on the significance of this. The motion proposed by the Senator from Arkansas should be stricken, because it simply does not belong in the sense of his offering the amendment to strike this section.

So, I see my friend, the senior Senator from Alaska, is seeking the floor. I yield the floor at this time, other than again to remind all my colleagues, what we are trying to do here is keep in place a law that for 130 years has provided us with the protection, the assurance that we would be able to cross public land if, indeed, we had valid proof that we had used the routes prior to 1976. So we would have the assurance of being able to proceed with the orderly development of our State.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have been involved in this issue now for a substantial portion of my life. I was in the Interior Department during the Eisenhower administration, 1955 to 1961. At the end of that period, I was the Solicitor of the Interior Department. During that period, we obtained statehood for Alaska. The whole question of what our rights would be as a State was debated at length, not only in the Congress but in the White House and the old Bureau of the Budget.

The Revised Statute 2477 was the basis for really the modernization of the West. And when we came to the period of the seventies—and I was here as a Senator—when the proposal was made to repeal R.S. 2477 in 1974, I had a very long debate with Senator Haskell of Colorado at the time, and we subsequently did not pass the bill in that Congress.

In 1976, when the rights-of-way bill was brought up again, we discussed at length the protections that would assure that the commitment that was being made to the Western States, in general, and Alaska, in particular, would be ironclad. So at my insistence, the 1976 act contained three specific statements.

The first one is in section 701(a):

Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

Again in section 701(f):

Nothing in this Act shall be deemed to repeal any existing law by implication.

And in section 701(h):

All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

Starting in 1993, the Secretary of Interior attempted to ignore all of those guarantees and say that as manager of the Federal lands, he has the inherent right to ignore that law and to issue regulations to change this concept, so that the valid existing rights will be determined by Federal law and not by State laws as they have for 130 years. There has never been, before this administration, any attempt to define the rights-of-way across Federal land by Federal law. They have been determined by the general law of each State, and ours are no exception in Alaska.

But very clearly, we have three times now spoken here in the Congress to try and stop this move by the Secretary of the Interior and his Department to change this tradition. We did it in the National Highway System Designation Act, we did it in the Interior appropriations bill for 1996, and the Interior appropriations bill for 1997. Now, however, what we are trying to stop is his announcement of a policy which will govern all Federal lands. It is not regulation, it is a statement of policy now.

Congress prohibited the use of funds, we prohibited the issuance of regulations, but now he says he is going to announce a policy, a new edict, and that is that there is a Federal law pertaining to rights-of-way and they will define that and it will not be based on State law at all.

What we are talking about, as my colleague from Alaska has said and the Senators from Utah have said, is the process by which all of the West obtained the rights-of-way that ultimately became the road system of the West.

In Alaska, because of our situation prior to statehood, the Federal Government built the highways when we were a territory, and it built one main road. It was really built for the aid of the war effort. The Alaska highway came up through Canada, and then came down through Alaska at our eastern border, and came to our major city of Anchorage. It came through Fairbanks and then down into the Anchorage area. That was one main road. Since then, we have built some arterials off that. We had a long time convincing the Congress that we were a State and we ought to have equal treatment under the National Highway Acts. Now we have that.

Now we come to the period where this administration wants to assert, by virtue of Federal supremacy, a concept that, on over 100 million of acres of land that were reserved by the Congress in 1980—and, incidentally, they were specific in terms of recognizing valid existing rights at that time, too—now this administration wants to say none of these rights under the Revised Statute 2477 shall be recognized on Federal lands in Alaska, period.

The Federal Government owns more than 68 percent of Alaska's land. As my colleague has pointed out, the State of Alaska is a checkerboard with Native land, Federal land, and State land and very little private land. But the right of access to the private land through the State land and the Native land is of necessity such that rights-of-way across some Federal lands are required if we are to have a road system to serve the State as a whole ultimately.

This is not a simple question for Alaskans. What it really comes down to is a question of can we trust the Federal Government? We had a long debate here that went on for 3 years. The record is absolutely clear that the Congress, at that time, agreed that we had these rights and that they had to be protected if Revised Statute 2477 was to be repealed. I have to say, from 1976 to 1993, there was no question about it. But now, because of the onslaught of a direct mail advertising campaign by extreme environmental groups who have painted us as being the arch devils of management, they claim that we are trying to establish some new rights across Federal lands. By definition, none of the rights that could vest after 1976—they are all prior to 1976, and they were protected by Congress and they were across lands that were not reserved in 1976.

I think the real problem here is the people who are doing this are unwilling to accept the decisions made by Congress. Every Congress has said we are not going to interfere with valid existing rights. Again, these rights are vital to a State such as ours. I really cannot deal with it without going back over a whole history of what has been done in our State.

Let me say, our amendment is simple. It continues the same policy the Congress has voted on three times now, and it says this new policy concept of the Department of the Interior—not a regulation, not a rule, both of those were prohibited by past actions, not an order that was also prohibited—but this new concept of a policy, they can't do it in any way. If they want to do it, they can send up a proposal to Congress, let us debate it, and we will see what the law will be for the future, and we will see as a result of what they are doing if there is any compensation due to the people whose rights are condemned by Federal action. This is a way around the whole concept of trying to compensate people for the absolute extinguishment of rights that were created and protected by Congress through past actions.

Some have suggested that almost a million new miles of roads and claims would be asserted by virtually anybody, anyone. Mr. President, I tire at trying to answer false statements like that. As my colleague has said, we have 18,000 miles of roads in an area one-fifth the size of the United States now. We can only build those roads with highway funds that are available, and at the cost of roads, it is just not possible for us to contemplate a million miles of road. We are not contemplating even doubling what we have now. We are contemplating just some small roads to connect various villages and communities that are near the road system that exists now, and even that will be over a period of years.

This is a process that we believe that the Congress ought to recognize. We create no new rights-of-way across Federal land. We only recognize those that were in existence before 1976, and we preserve those rights once more on the same basis that they have been available throughout this country for 130 years based upon State law. The courts have asserted, past administrations have asserted—I don't know of anyone, as I said, in the past who has asserted that there was a Federal law that determined how rights-of-way were created across Federal land.

There is the specific right-of-way concept where people are coming and asking permission to cross Federal land to build pipelines or build transmission lines for various uses of Federal land, and that is what the Trans-Alaska Pipeline Right-of-way Act was all about.

But we believe that in terms of what we are doing now, I am told—I don't know if Senator MURKOWSKI mentioned this—we asked the Department of Natural Resources of Alaska to tell us what rights-of-way might be capable of being asserted. There were 1,900 originally reviewed, and 700 were found to be on State land. Of the remaining 1,200, about 560 appeared to qualify as potential rights-of-way. The State deferred 400 of those because they crossed Federal withdrawals. That is to be looked at at a later time, and we are now proceeding with very few of them. I have been told that so far, we have used about 10 of these rights-of-way in the time that we have been a State, which is now almost 40 years. Mr. President, you don't use them until the highway system gets to the point where you can use them to extend it on out. So Congress protected those rights-of-way for the future so that when the highway system starts to expand, it will be possible to get to those communities.

My last comment to the Senate will be this. My colleague and I labor here for land that is so far away that we are closer to Tokyo than we are to Washington, DC. We spend a great deal of our time trying to convince the Congress to keep the commitments that were made to us as we sought and fought for statehood because we wanted to be partners in the Union.

Now it seems that people from other States are doing everything they can to turn us back into a federally dominated territory. That is why we are here on the floor. We wanted to be a State to protect our rights. That is our No. 1 duty, to see to it that the commitments made to our State are kept by the Federal Government. And it is very hard to do right now. It is very hard to do when there are people in the administration who want to just be those who dictate to our State.

I cannot emphasize this enough to the Senate, this is not a new subject. We have done in this bill what we did three times before. We have acted to prevent the Secretary of the Interior continuing on this course of trying to change the law that guarantees the protection of valid existing rights under Revised Statute 2477.

Mr. President, I mentioned my own background on this subject. But I have to say, one of the reasons that I am concerned about it is because, as a young lawyer in the Interior Department, I remember some of the fights that existed in the 17 Western States that had public lands before we became a State. This same battle took place before, but in different ways, where agencies of the Federal Government just tried to block the use of lands. But no one ever thought of creating a Federal rights system and taking unto themselves the power to determine what rights existed prior to that time.

That is what the Department is trying to do now. They are trying to say, ''Wait a minute. We're the managers of this land. All this land is still under our domination and, therefore, we're

going to tell you how you cross this land.''

The Department of the Interior has done something—I used to tell our people in the Interior Department when I was there: ''We do not own this land, you and I. We are the stewards of this land. It's owned by the people of the United States.'' But if you hear these people talk now in the Department of the Interior, it is their land. They own it.

I have to tell you, Mr. President, it will be a cool day in Hades when Alaskans will allow them to do that. I hope that the Senate will stand by us in this battle, which is just a continuation of battles we have fought here on many other issues to protect our rights as a State.

These rights ultimately will be used by the State of Alaska to build public highways. We do not have a county system. Our population base is small. We have a borough system, but basically the roads in Alaska are built by the State. So in our State the rights are basically protected by the State and the State nominates those areas where it wants to proceed to utilize the rights-of-way that were created prior to 1976.

I do think, Mr. President, that if there is anything that I would like to leave with the Senate, it is that at some time or other every Senator is going to have to come out here and say, ''In the days gone by, a compromise was reached regarding an issue in my State, and the decision was made and put into law.''

All I want you to do is recognize an act of a prior Congress in committing the United States to a course of action that must be followed now if States rights are to mean anything. This is a basic States rights issue to me, to have the ability to provide the expansion of the transportation system to meet the growing needs of people in a frontier area. If the Senator's amendment is adopted, the Secretary of the Interior will be free to issue an edict that future rights in Alaska will be determined by the Secretary of the Interior.

What does that do? It returns us back to 1958, to the territorial days. We would not be a State. No State is dominated by a Cabinet officer. We were as a territory. We had an Office of Territories in the Department of the Interior when I was at the Department of the Interior. And Alaska was one of the desks in the Office of Territories. That person carried all of the decisions of the Secretary of the Interior with regard to Alaska. As a matter of fact, Alaska used to call him the ''Great White Father.'' Well, there is not a Great White Father for Alaska now. There are 100 Senators here and 435 people over there who have something to do with making decisions regarding what happens to the rights of the people of the State of Alaska.

I urge the Senate to stand by us and maintain the course, that we will live by the law and not by edicts of changing personnel in changing administrations as the years go by.

Mrs. BOXER. Mr. President, I rise today to discuss Senator BUMPERS' amendment to strike section 310 of the supplemental appropriations bill related to rights-of-way across public lands.

I support Senator BUMPERS' amendment because it strikes language in the supplemental appropriations bill which is not only highly controversial and bad for public lands, but it also has nothing to do with emergency funding—the purpose of this supplemental appropriations bill.

Rights-of-way is a principle of property use that allows for continued use of a pathway across public land when it can be proven that the path existed before the land was reserved for Federal designation—so a road that existed prior to the designation of the Yosemite National Park would be a valid right-of-way.

In our Nation, any individual or local government can claim a right-of-way. The validity of this claim must then be determined.

In 1988, then Secretary of the Interior Hodel developed policy guidelines for dealing with right-of-way claims over public land.

The Hodel policy effectively deferred authority over rights-of-way determination to States and provided very broad guidelines to assist States in making these determinations. The guidelines allowed for a right-of-way to be granted if merely a large rock or vegetation was removed from an area. Once a right-of-way authority is granted, a small dirt footpath through Yosemite National Park could be converted to a six-lane paved highway.

The Hodel policy makes it much easier for right-of-way claims to be asserted through many of our most precious environmental areas—including designated national parks, wildlife refuges, and wilderness areas.

In January 1997, Secretary Babbitt revoked the Hodel policy, and instituted revised policy guidelines in an effort to put the Federal Government back in charge of protecting our remaining Federal lands.

The Babbitt policy establishes a Federal process whereby right-of-way claims are evaluated. This policy would not allow a six-lane highway to tear up our precious national parks. It would ensure the rights-of-way be granted only for major roads that require such authority. And any alteration of the land would be susceptible to all Federal environmental regulations.

Secretary Babbitt is unable to follow normal procedure for regulations—proposing rules in the Federal Register, receiving public comment, and promulgating final rules—because of provisions included in the past two Interior appropriations bill which prohibit such actions. In fiscal year 1996, the Secretary was entirely prohibited from promulgating rules concerning rights-of-way; and for fiscal year 1997, the Secretary is only able to propose such rules if expressly authorized by an act of Congress.

If we are not allowed to move forward with Secretary of Interior Babbitt's policy, States will have the authority to determine the validity of existing rights-of-way claims. We therefore create the potential for destruction of valuable Federal lands—lands that belong to all the people of our Nation.

Vast areas may be prohibited from wilderness designation because of right-of-way claims that scar the land. In my State of California, the current number of claims is relatively low. However the potential for claims is thought to be quite high. The Bureau of Land Management estimates that the 12 claims currently pending cover hundreds of miles of roads through California's unique wilderness areas.

Remaining land in California's Mojave Desert, Death Valley, and Joshua Tree poses a serious potential problem should there be a right-of-way claim.

With the California Desert Protection Act, Congress was finally able to protect these unique lands. The language of the bill now threatens the very protection we worked so hard to achieve.

There are few remaining natural lands which have been held in trust by the Federal Government for all people to enjoy. These precious natural resources must be held to a high uniform standard which protect only valid rights-of-way claims while promoting environmentally responsible management of our Federal lands. These are Federal lands, and as such should be governed by Federal policy and procedure.

In a letter to Chairman STEVENS and Senator BYRD, Director of the Office of Management and Budget Frank Raines and Secretary of Interior Bruce Babbitt have both stated that they will recommend the President veto this legislation should this language be included. This is not the time to risk veto of legislation which will provide necessary aid and disaster relief to those who desperately need it.

We saw the disastrous results that occurred from the salvage logging rider. This amendment is just that—an unnecessary, antienvironmental rider which could devastate our remaining public lands.

I urge my colleagues to support Senator BUMPERS' amendment. We must not prevent the administration from establishing necessary procedures for dealing with remaining right-of-way claims.

Mr. BAUCUS. Mr. President, I rise today to speak in favor of Senator BUMPERS' motion to strike section 310 from the Supplemental Appropriations Act. This section should be removed from the Supplemental Appropriations Act for two reasons. First, it could harm our Nation's wilderness areas, national parks, and wildlife refuges. Second, it is wrong as a matter of principle to tie controversial issues to

flood disaster relief. We simply should not play politics when people's lives are in the balance.

In 1976, Congress enacted the Federal Land Management Policy Act and thus repealed an 1866 statute that allowed practically unrestricted road construction across our public lands. Congress agreed, however, to recognize the legitimacy of highways constructed as of 1976.

In essence, the appropriations rider reinstates a 1988 policy that broadly defined highways to include foot paths, pack trails, and even dog-sled routes. If these paths are recognized as highways constructed prior to 1976, then they can be upgraded and enlarged to full roads, even if they run through existing wilderness areas, national parks, or wildlife refuges. These areas are national treasures. They are visited by millions of Americans every year. We should not let them be roaded without careful thought and deliberation.

This rider hits close to home for me. This provision could allow roads to be built through spectacular wilderness in Montana. Often, we have to speculate about what the effect of a piece of legislation will be. In this case, speculation is not necessary.

An R.S. 2477 claim has been filed to build a road through the middle of one of Montana's most popular wilderness areas. Fortunately, that claim was recently rejected by the Department of the Interior. If this rider becomes law, this and other claims could be granted with devastating effect to our Nation's wilderness areas.

Equally disturbing, this section could prevent Montana roadless areas from being designated as wilderness in the future. I have carried bills in the Senate to designate Montana's spectacular Rocky Mountain Front as wilderness. This is an area of soaring mountain peaks, crystal clear streams, and untrammeled meadows. Bills to designate this area as wilderness have received bipartisan support and have passed the Senate.

If section 310 becomes law, the Rocky Mountain Front and other roadless lands in those bills could be denigrated. If section 310 becomes law, the Senate may lose its right to decide whether to designate those lands as wilderness.

And section 310 applies to more than wilderness lands. Section 310 would even affect our national parks and wildlife refuges.

But this vote is about more than the roads that could be built across our Nation's wildlands.

This vote is also about people who have suffered through an unusually harsh winter in Montana and are seeking disaster relief. This vote is about people in North Dakota who have suffered devastating floods.

Let me read what the paper in my State's capitol wrote yesterday about Section 310. In an editorial entitled ''An Ugly Kind of Politics,'' the Helena Independent Record writes:

This sort of thing might be business as usual in Washington, but we think the specter of Clinton being forced to veto a flood-relief measure because of tacked-on skulduggery is way out of line. We suspect it wouldn't sit too well either with flood victims in the Dakotas—and, perhaps, potential flood victims in Montana as well. Politics is seldom pretty, but this is downright ugly.

Mr. President, I agree with this assessment, and I ask unanimous consent that the complete text of this editorial be printed in the RECORD.

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

[From the Helena Independent Record]

AN UGLY KIND OF POLITICS

It might not be anything new to the halls of the Congress, but that doesn't make recent stealth legislation by Alaska's senior senator any easier to take.

Sen. Ted Stevens, R-Alaska, is chairman of the Appropriations Committee, which is writing an emergency bill authorizing $5.5 billion in relief for flood victims.

This is vital, must-pass legislation that everybody agrees needs quick approval. So Stevens tacked onto the bill a pet piece of new legislation that would make it far easier to build roads through federal parks, refuges and wilderness areas.

The measure, based on a Civil-War era law, would give the government less control over right-of-way claims.

Contending the legislation would make the federal government effectively powerless to prevent the conversion of foot paths, sled-dog trails, jeep tracks, ice roads and other primitive transportation routes into paved highways, Interior Secretary Bruce Babbit urged President Clinton to veto the measure if Stevens' provision remains in the bill when it reaches his desk.

This isn't the only deceptive legislation going on. The Alaska Wilderness League is complaining that Stevens and other representatives from that state are trying to rig the federal budget process to allow oil drilling in the Arctic National Wildlife Refuge.

The league says lawmakers may have to vote against a balanced budget deal to save the wilderness area.

According to oil-drilling foes, Alaskan politicians are working to have colleagues include estimated oil drilling revenues of $1.3 billion into budget allocations without mentioning that the revenues will have to come from opening the wildlife refuge to development.

This sort of thing might be business as usual in Washington, but we think the specter of Clinton being forced to veto a flood-relief measure because of tacked-on skulduggery is way out of line. We suspect it wouldn't sit too well either with flood victims in the Dakotas—and, perhaps, potential flood victims in Montana was well. Politics is seldom pretty, but this is downright ugly.

Mr. BAUCUS. Mr. President, the American people are losing faith in our political system. And they are losing faith because of the way that politics is played. Because of this type of rider.

How will the disaster victims in the Dakotas feel if their aid is delayed because some want to play a game of poker where the stakes are incredibly high? Where the stakes are the blankets that flood victims need to stay warm or where the stakes are pumps that are needed so that people can drink clean water?

And what of the people in other states?

Oregon stands to receive almost $140 million from the Supplemental Appropriations bill.

Louisiana, $116 million.

For other states such as Maine, Vermont, and Virginia, the amount of the funds is somewhat smaller, but the need is no doubt just as great.

People in all fifty states receive funds from this bill. People in all fifty states will be affected if we allow politics to delay this bill.

This money will help Americans who have lost their homes, their businesses, and all of their earthly possessions. To block this funding or to delay it through the use of these types of riders is just plain wrong.

To force the American people to accept new roads through their national parks or wilderness areas, just to get their disaster relief is equally wrong.

Mr. President, the Supplemental Appropriations bill is the wrong place to play politics. I ask my Senate colleagues to vote to strike these riders as a matter of policy and as a matter of principle.

Mr. STEVENS. Mr. President, as I have already reviewed in some detail, section 2477 of the Revised Statutes, R.S. 2477, granted rights-of-way for the construction of public highways across unreserved Federal lands.

Congress passed this law in 1866 and the provision was later recodified at section 932 of title 43 of the United States Code.

By permitting travel across Federal lands, R.S. 2477 facilitated the settlement of the West. The rights-of-way granted pursuant to R.S. 2477 remain land access routes for rural residents.

R.S. 2477 was repealed in 1976 by section 706 of the Federal Land Policy and Management Act [FLPMA]. Again, I point out to my colleagues, section 701(a) of FLPMA expressly states that ''Nothing in this Act * * * shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.''

Further, section 701(f) says that nothing in FLPMA ''shall be deemed to repeal any existing law by implication.'' And section 701(h) specifically states that ''All actions by the Secretary concerned under this Act shall be subject to valid existing rights.''

Three times in the same act Congress made it clear that nothing in FLPMA gave the Secretary of the Interior the power to terminate valid existing rights. We meant it then and we mean it now. The Secretary is ignoring the law and all existing precedents with his proposed policy that effectively terminates valid existing rights under R.S. 2477, which for over 120 years have been determined under State law.

Regulations in place in 1976 provided that the validity of the right-of-way should be determined by State law. Likewise, Federal courts have found State property laws control assertions of an R.S. 2477 right-of-way.

In Alaska, which we still call the Last Frontier, R.S. 2477 rights of way are still being used by miners, trappers, and others traveling across specific tracts of unreserved public land.

The Interior Department in the 1980's saw the need for the Federal Government to recognize these trails for what they were—public access routes. Interior adopted a policy in 1988 which for the most part kept Alaskans out of court.

Elsewhere, Federal courts were being asked to quiet title on lands with an R.S. 2477 right of way, and these courts looked to State law to decide if there had been construction of a highway.

In August 1994, Interior published new proposed regulations which would have established Federal definitions for key terms in R.S. 2477. According to Interior, where there was a conflict between the Federal definitions and State law, under the proposed regulations the Federal rules would prevail.

This approach would have redefined existing property rights. It would also have the incongruous result of having some R.S. 2477 rights of way quiet title actions adjudicated under State law and others under Federal law.

Soon after Interior proposed these new rules, resolutions were introduced in the House and Senate urging the Secretary to withdraw them. The comment period was subsequently extended through August 1995.

In late 1995, Congress placed a 1-year moratorium on any rulemaking regarding R.S. 2477 rights of way. The fiscal year 1996 Interior appropriations law, enacted in 1996, also included a similar moratorium.

Congress acted a second time in 1996. Section 108 of the General Provisions of the fiscal year 1997 Interior appropriations law permanently requires congressional authorization of any rules and regulations developed by agencies to address the recognition, validity, and management of R.S. 2477 rights of way.

This measure, agreed to by Congress last fall, was not vetoed, nor was there ever a threat of veto that I was made aware of.

However, in January 1997, the Secretary sought to evade this law by issuing ''policy guidance'' which provides a process for recognizing R.S. 2477 claims only ''where there is a demonstrated, compelling, and immediate need.'' This process is similar to that in the disputed regulations which Congress has prohibited by law since 1995. Issuance of this policy circumvents the legal requirement to have congressional approval of agency rulemaking concerning R.S. 2477 rights-of-way.

Section 310 of the supplemental appropriations bill, S. 672, prohibits the use of funds appropriated for fiscal year 1997 and thereafter ''to promulgate or implement any rule, regulation, policy, statement or directive'' issued after October 1, 1993, regarding the rights-of-way Congress granted by R.S. 2477. The October 1, 1993, date makes it clear that Interior cannot do by policy what it by law cannot do by regulation. Under section 310, Interior can continue to implement Federal policy with respect to R.S. 2477, but only those policies and regulations previously agreed to prior to the attempted change that Congress has repeatedly rejected.

Section 310 is needed to enforce the requirement that Congress first authorize any rules regarding R.S. 2477 rights-of-way. Allowing the January 1997 policy to remain in place vitiates the Administrative Procedures Act and the express directives of the Congress, which were approved by the President.

Section 310 will not, as some suggest, open up Alaska's wilderness areas and parks to almost a million new miles of roads upon the assertion of claims by ''virtually anyone.''

First, as I have said, section 310 only tightens the standing mandate that agencies obtain specific authorization from Congress, which includes our elected representatives of public lands States, before issuing rules that would effectively deny valid, existing property rights under R.S. 2477 in those States.

In short, this provision creates no new rights-of-way across Federal land which were not in existence before 1976. It merely preserves rights-of-way which were established at least 20 years ago, but still have not been recognized by the Interior Department.

R.S. 2477 rights of way are not exempted from environmental, health and safety, and other laws to protect the public.

Second, with respect to all existing rights of way, I am assured by the Governor of Alaska that our State will not be paved over. The Alaska Department of Natural Resources completed a study recently to identify the list of rights of ways my State might assert as public highways under R.S. 2477.

Some 1,900 were initially reviewed, but 700 were found to be on State land and not subject to this Federal law.

Of the remaining 1,200, only 558 appear to qualify as R.S. 2477 rights of way.

So far the State of Alaska has filed only one quiet title action.

The State of Alaska also advises me that it will not file rights of way across section lines, unless of course there is a preexisting trail that otherwise constitutes an R.S. 2477 right of way.

Asserting rights of way across section lines alone would be a fruitless exercise. Mere geography tells us that we don't need roads across mountain tops.

Cost is another reason. I'm advised that it costs $6 million to build 1 mile of road in my State.

I proposed section 310's funding restrictions in good faith, with the confidence of having stood on this floor over 20 years ago debating the legislation that ultimately became FLPMA.

On July 8, 1974, the Senate debated S. 424, the bill that the Senate passed in the 93d Congress and was reintroduced in the 94th Congress as S. 507. S. 507 was the bill that ultimately became FLPMA.

In July 1974, I was assured by Senator Haskell, chairman of the relevant subcommittee within Interior and Insular Affairs, that our young State would have the same chance as other Western States to develop a road system based on the pattern of use its settlers established and the laws the State enacted.

Senator Haskell told this Chamber it was the intent of Congress that all existing R.S. 2477 rights-of-way would be determined according to the law of the State the right-of-way was in. In fact Senator Haskell cited a specific North Dakota case, Koleon versus Pilot Mound Township, as the basis for the committee's understanding of the law. That case said an R.S. 2477 right-of-way is established ''if there is use sufficient to establish a highway under [the] laws of the state.'' I refer my colleagues to the CONGRESSIONAL RECORD of July 8, 1974, page S22284.

Today, I am proposing that we uphold the intent of the Congress of 20 years ago and the intent of the 104th Congress as well.

Last fall Congress agreed to a provision in the fiscal year 1997 appropriations law requiring agencies to seek congressional authorization of R.S. 2477 rulemaking. Section 310 of the supplemental asks nothing new, it merely prevents Interior from doing by agency policy what Congress prohibited it from doing by formal rulemaking.

I urge my colleagues to reject this amendment so that Interior understands it cannot circumvent the will of Congress through sleight of hand.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. STEVENS. I was going to go to this other desk and see if I could get the Senator from Arkansas into a colloquy regarding the timing of the votes that we might have.

Mr. BUMPERS. I am very amenable, I say to the Senator. I would suggest a 20-minute time limit on the remainder of this amendment equally divided.

Mr. STEVENS. May I ask that the cloakrooms check that out and get us a time that is agreeable. The timeframe is agreeable to me, but I think some Members may be out of the building now, and we want to get the time set.

But why doesn't the Senator take the floor now?

I will yield the floor.

As soon as we can get worked out between the leadership on the two sides the timeframe that can be agreed to as to the vote on this amendment and on the D'Amato amendment——

Mr. BUMPERS. I understand that our side needs to check. We have people coming and going. I assume that is what the Senator has concern about.

Mr. STEVENS. That is correct.

Mr. MURKOWSKI. I believe there may be a second degree pending.

Mr. BUMPERS. There will not be a second degree.

Mr. STEVENS. It is my understanding that the Parliamentarian will rule that the other two amendments are not properly drawn under the process of cloture for those to be considered.

I will state, though, that the suggestion made by Senator MCCAIN was a good one. When we get to conference, if we do with this provision, I intend to find some way to accommodate his suggestion that we ask the Secretary to come forward with a proposal to be debated that might set the policy for future utilization of these rights-of-way throughout the West. We will pursue that in conference.

But there will be no other amendment, my friend.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I will not belabor the points that have been made time and again here.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. 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. BUMPERS. Mr. President, I had a Senator ask me earlier if I felt that I was right about this amendment. Let me answer that question for any Senator who would ask the same question. I have never felt more comfortable with a position in my life than I do on this. It has nothing to do with Alaska or Utah or Idaho. What it has to do with is saying this language of the senior Senator from Alaska, No. 1, has no business in this bill; No. 2, if it did, it is a terrible amendment; No. 3, men and women of good will could sit down and work out a sensible policy for the Department of the Interior and require them to report back to us with regulations or something else.

But under the existing law, what the amendment of the Senator from Alaska does is to return the determination of whether these thousands and hundreds of thousands of miles of claimed rights-of-way constitute a highway within the definition of the Hodel policy. It is a question of whether or not we are going to allow rights-of-way simply because they were claimed to be there before 1976 when we repealed R.S. 2477, whether we are going to allow the use of those rights-of-way to cross wilderness areas, national parks, monuments, all kinds of protected Federal areas.

I submit to you that the people of this country, if they knew the substance of this debate, that we were actually considering the Stevens amendment to this bill, if they knew what the implications of that were, they would be up in arms. I cannot believe—not to denigrate my good friends from these Western States who have a deep and abiding interest, an understandable and deep and abiding interest, in this issue—I cannot believe that more than 3 percent of the people of this country would condone granting applications for highways across these areas because there was some kind of a footpath or a trail or something else, even vegetation that had been tromped down.

Under the Hodel policy in 1988, Donald Hodel had a policy that said: If you have cut high vegetation, you had a lot of weeds and you cut them down, that constitutes a highway.

Have you ever heard anything as ridiculous as that in your life?

Mr. MURKOWSKI. Would the Senator from Arkansas yield for a question?

Mr. BUMPERS. Yes.

Mr. MURKOWSKI. I thank my friend.

I wonder if the Senator from Arkansas feels it is appropriate that the Secretary of the Interior arbitrarily has gone ahead and changed the definition of what a highway was. Is it right for the Secretary to take a previous policy that was worked out in conjunction with the States where there was a definitive highway definition in the historical terms—and I quote—''as a definite route or right-of-way that is freely open for all use, it need not necessarily be open to vehicular traffic, or a pedestrian or pack animal trail may qualify''—and as a consequence, isn't it true that this was the policy of the Department of the Interior until earlier this year when Secretary Babbitt, behind closed doors—not a public policy; behind closed doors, without consultation—unilaterally changed this definition? And isn't it true that the new definition now reads, ''a thoroughfare used prior to October 21, 1976, by the public for the passage of vehicles carrying people or goods from place to place''? He changed the definition.

Is that, I ask my friend from Arkansas, appropriate and fair and part of a public process, or, indeed, is that not a simple dictate by the Secretary who arbitrarily changes the interpretation of what was Federal law? Is that right, I ask my friend from Arkansas, and correct?

The PRESIDING OFFICER (Mr. GREGG). The Senator from Arkansas.

Mr. BUMPERS. Let me answer the question this way, Senator. I did not hear a single soul complain when Donald Hodel established his policy in 1988. It is only the Babbitt policy of 1997 that seems to be objectionable.

There is no question, if you want to raise the question about the authority of the Secretary to issue a policy, if Secretary Hodel has the right to issue a policy, why does his successor, Bruce Babbitt, in 1997, not have the right to reverse that policy?

Let me go ahead and say that the Senator quoted the Hodel policy correctly, but he did not go quite far enough. Here is what Donald Hodel's policy said about the requirements needed to prove what constitutes construction of a highway: ''Construction is a physical act of readying the highway for use by the public according to the available or intended mode of transportation, foot, horse, vehicle, et cetera.'' Horse—that is right—vehicle, foot, those all constitute highways.

His policy goes on to say, here are some examples of what constitutes construction of a highway: ''removing high vegetation.'' Go out and cut the weeds, it becomes a highway. ''Move a few large rocks out of the way,'' it becomes a highway, or ''filling in low spots''—all of those may be sufficient to show construction for a particular use.

Now, Senator, let me ask you a question, does that make any sense to you?

Mr. MURKOWSKI. I will respond relative to the issue that is before the Senate here, and that is the manner in which the Secretaries—Hodel on one occasion and, today, Secretary of the Interior Babbitt—have acted.

First of all, as I indicated, Secretary Babbitt, behind closed doors, without consultation with Western States, unilaterally changed the definition. Don Hodel did not. Don Hodel worked out a policy in conjunction with the States defining a highway and its history, and it was done in consultation with the States.

My friend from Arkansas should recognize that is a significant difference. This Secretary is moving on his own volition to interpret as he sees fit. The previous Secretary of the Interior brought in the Western States affected and they worked out a definition and a process. Now the definition has changed to any vehicles, and the appropriateness of that is what I question the Senator from Arkansas with regard to the motivation.

It is here that one Secretary developed a public process.

Mr. BUMPERS. Mr. President, I reclaim the floor.

We ought to pin a Medal of Freedom on Bruce Babbitt.

Mr. MURKOWSKI. Where?

Mr. BUMPERS. He revoked a policy that said any time you mow high weeds, apply to us and we will give you a right-of-way to build a four-lane highway over that footpath. Move a few rocks out of the way, we will consider that a highway and allow you to build on it. Fill in a few low spots, we will make it a highway and you build it. Even if it is across a national park or across a wilderness area or across a national monument, a historic area that we have set aside. Can you think of anything more insane than giving States the right to build highways across Federal lands no matter where they are, simply because somebody mowed some high weeds or because somebody moved a few rocks?

While I am at it, Senator, before I get into it with you, let me also point out, here is the Babbitt policy. This is the policy that reversed the 1988 Hodel policy. I want you to listen to this. I have a letter from Bruce Babbitt in which he says he will urge the President to veto this bill if the Stevens amendment is not taken out of it. I ask unanimous consent to have that printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, DC, April 30, 1997.

Hon. TED STEVENS,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: I am writing to express strong opposition to the provision concerning Revised Statute 2477 that I am informed you intend to include in the pending Emergency Supplemental and to a proposed amendment by Senator Craig concerning application of the Endangered Species Act to the operation, maintenance and repair of flood control structures.

In light of my strong concerns, if either of these proposals or similar extraneous and controversial endangered species amendments are included in the emergency Supplemental when it is presented to the President for his signature, I would be compelled to recommend that he veto the legislation.

R.S. 2477. Two decades after the repeal of R.S. 2477, the profusion of unresolved pre-1976 claims presents a planning and management problem for federal land managers and other landowners, and uncertainty for potential right-of-way holders and users of public land. My efforts over the past several years have been directed to establishing a clear, certain, and fair process to bring these claims to conclusion.

I am informed that your provision would prohibit the expenditure of funds in 1997 and thereafter to ''promulgate or implement any rule, regulation, policy, statement or directive issued after October 1, 1993 regarding the recognition, validity, or management of any right of way established pursuant to R.S. 2477.'' I am also informed that proposed report language states that it is the intention of the provision to ''restore the prior practice of deferring to the law of the State in which a right of way is located for purposes of determining the recognition, validity, and management of such right of way.''

The public will be poorly served by Congressional action that has the effect of rescinding the Department's current orderly manner of proceeding to deal with right-of-way claims and, at the same time, prevents the Department from issuing final rules governing claims under R.S. 2477. The proposed language does not clarify the process for handling right-of-way claims under R.S. 2477, but would add to the uncertainty and confusion of that process.

If the proposed provision requires the Department and the courts to defer to state law, as the proposed report says it does, the consequences could be devastating. Such a requirement could effectively render the Federal government powerless to prevent the conversion of footpaths, dog sled trails, jeep tracks, ice roads, and other primitive transportation routes into paved highways. The proposed amendment could even result in a decision validating a right-of-way that runs through the secure area of a military installation. Under your proposal, the military could be prevented from regulating traffic on these alleged rights-of-way.

That result would be fundamentally inconsistent with modern statutes that provide access to and across Federal lands, and would fatally undermine the principles these laws embody, such as public land retention, comprehensive land planning, public involvement in land use decisions, compliance with environmental laws, and mitigation of negative environmental impacts.

The practical implications of the blanket adoption of state law can be seen, for instance, in Alaska, where state law first adopted in 1923 and later upheld in the state Supreme Court provides for a claim of highway easement either 66 or 100 feet wide, across each section line in the entire state. These sections cross the state on a grid one mile apart, both horizontally and vertically. Thus state law purports to create over 984,000 miles—almost one million miles—of ''highways'' in the State of Alaska, roughly 300,000 miles of which cross National Wildlife Refuges, 160,000 miles of which cross National Parks, and 137,500 miles of which cross conveyed lands of Native Alaskans.

In some states, state law may not differentiate between Federal and private lands for purposes of right-of-way claims. Deferring to state law could result in R.S. 2477 rights-of-way being granted over private property that has long since passed out of Federal ownership.

Endangered Species Act. Senator Craig's proposed amendment would provide a broad exemption from the provisions of sections 7 and 9 of the Endangered Species Act for operation, maintenance, repair and reconstruction of any Federal or non-Federal flood control project, facility or structure.

The Department agrees with the need to minimize flood damages and to protect residents in flood prone areas. In January 1997, the Fish and Wildlife Service implemented the emergency provisions of the Endangered Species Act for the California counties that were declared Federal disaster areas to facilitate rapid and effective response to damaged flood management systems that minimize the risks to life and property. On February 19, 1997, the Director of the Service issued a policy statement further clarifying and articulating our emergency policy under the ESA, which allows disaster response measures to be implemented immediately without prior consultation with the Service under section 7 of the ESA.

The proposed amendment goes far beyond the FWS policy and the current provision of the ESA. It would waive compliance with the Act in a broad range of non-emergency situations. Routine operation and maintenance would be exempt if their purpose was compliance with any current Federal, state or local public health or safety requirement, even if there is no emergency in effect or reasonably anticipated.

Under the amendment, for example, virtually all Federal and non-Federal projects in the Columbia River basin could be exempt from ESA requirements. If these projects were no longer required to protect endangered fish stocks, such as Pacific salmon, other public agencies and the private sector would have to significantly increase their conservation efforts to compensate for the expected loss of important fishery resources that would occur. This could have severe, long-term economic impacts for the logging, mining, irrigation, navigation, water supply, recreation, and commercial fishing industries in the region.

The Department strongly supports the proper operation and maintenance of flood control facilities to avoid threats to human life and property. We also strongly support the protection and conservation of important natural resources. The proposed amendment assumes that these two goals are inconsistent and mutually exclusive. I believe they are not. As the February 19 policy statement demonstrates, it is possible to reconcile both goals, protecting human life and property without abandoning the Nation's commitment to protection of our natural heritage.

Sincerely,

BRUCE BABBITT.

Mr. BUMPERS. Now, Mr. President, I hate to read to my distinguished colleague, but it will be helpful to clarify the record about this ''terrible'' Babbitt policy. He did not think it was a good idea to allow the States to come in here and claim a right-of-way simply because somebody moved a few rocks out of the way no matter where it was located.

Mr. STEVENS. I want to talk to you about that, in particular, if the Senator will yield.

Mr. BUMPERS. I yield.

Mr. STEVENS. That is initiation of a highway. You move a few rocks, you cut down the right-of-way, you eliminate—it does not say ''weed''—the brush, and you start to build a highway. The question before Hodel at the time was, what is the initiation of highway, not what is a right-of-way?

I say to my friend that highways today came from wagon trails. In my State, some of our highways came from dog sled trails, from the trails that were cut by people who did use horses in those days, or by people who use snowshoes when they were delivering mail on their backs with packs. Some of them were developed in the 1920's, 1930's, 1940's, 1950's, 1960's, until 1976. They are today, but we have not had the money or capability to extend the highways because there are other problems of getting to those areas before we turn them into highways. They are not different from the roads that lead to Arkansas or, as I remember my youth, the slow train through Arkansas. That is a highway now. Maybe they leave Arkansas now rather than go in as they did in those days, but what I am telling you is we are asking for nothing more than what was the process of modernization throughout the West. It was by foot, by wagon, by horse trail. Then when there were vehicles, there were vehicles.

But in our State, we have areas where vehicles have not yet been on the ground. A substantial part of our State cannot be reached by road. You know that. It can only be reached by air. We still have the process of extending those roads out into those areas so we can have surface transportation.

You cannot turn R.S. 2477 into a right-of-way over which a vehicle has gone and protect our rights.

Mr. BUMPERS. Senator, let me answer that by saying the fact that Alaska was, until recently, a frontier State, as was all of the West not too many years ago. To suggest that simply because the West was settled by pioneers who made wagon tracks or where they had footpaths where they tried to get to the West, to suggest that all of those routes across Federal lands—let me finish, sir.

Mr. STEVENS. That was Federal lands.

Mr. BUMPERS. That is the very point I am getting ready to make.

Simply because somebody drove a covered wagon or group of covered wagons over land heading west, or it was a footpath used by people who walked on it, to suggest those paths now constitute a highway, simply by mowing weeds on it, by moving a few rocks and showing that you did some construction, how foolish can we be?

Mr. STEVENS. That is the very basis of the western highway system today,

those rights-of-way that went across Federal lands. The whole West was Federal land.

Mr. BUMPERS. And anything you built prior to the repeal of this law in 1976 is yours. Nobody is trying to take that away from you.

Mr. STEVENS. In 1976, Alaska was 18 years old. We were just trying to get in the Highway Act.

Mr. BUMPERS. I want to make two points, one to the junior Senator from Alaska. When he talks about how Bruce Babbitt did all of this behind closed doors last year—with no consultation—last year, the Senator will recall that we tried our very best through a public process to come up with a definition of these roads. As a matter of fact, the Secretary went through the process of trying to develop a rule as to what a road was, issued it for public comment, got over 3,000 comments, and the Senators from Alaska went ballistic and said, ''No, we do not want any part of that. We are not about to let you.'' You remember when we blocked him from proceeding further with that.

Then you come here today saying this should have been done in a more sensible way, when it was the Senators from that side of the aisle who stopped him from doing it.

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. Yes, I yield.

Mr. STEVENS. There is no sensible way for an edict to come from Washington denying the right of a State under Federal law. I am not seeking a more sensible way. I am telling him No! No! No! You cannot do this. If we cannot get that between us, then you do not understand me. You cannot do this. This is a right of our State.

Mr. BUMPERS. The Senator has no right to complain. He says to the Secretary, ''No, no, no.'' He should not come to this floor squawking, because he stopped the Secretary from trying to come up with some kind of a sensible rule.

So, in 1997, and I have been trying to get to this for about 15 minutes, here is the policy that the Secretary of the Interior issued. It is a good, sane, sensible policy. If the Stevens amendment on this bill stays in, he torpedoes this policy of 1997, and we go back to the abomination called the Hodel rule.

Now, you choose. If you think the Hodel rule was right—as I say, by moving a few stones, mowing a little grass, anything to try to make it look like you have been doing a little construction, or you listen to the policy developed by Secretary Babbitt, and here is the first item:

An entity wishing the Secretary or any agencies of the Department of Interior to make a determination as to whether R.S. 2477 right-of-way exists shall file a written request with the Interior agency having jurisdiction over the lands underlying the asserted right-of-way, along with an explanation of why there is a compelling and immediate need for such a determination.

Surely, nobody objects to that.

The request should be accompanied by documents and maps that the entity wishes the agency to consider in making its recommendations to the Secretary. If, based on the information provided, the agency does not believe a compelling and immediate need for the determination exists, it should, without further examination, recommend the Secretary defer processing until final rules are effective.

That is the policy, ''until final rules are effective,'' and there is absolutely nothing wrong with that.

No. 2, ''The agencies shall consult the public land records, maintained by BLM to determine the status of the lands over which the claimed right-of-way passes. If such lands were withdrawn''—that means the Federal Government took the lands out and made a wilderness area of them, or a national park or some other Federal purpose; that is what is called reserving the lands—''if they determine that these lands have been withdrawn by the Federal Government or otherwise made unavailable pursuant to R.S. 2477 at the time the highway giving rise to the claim was allegedly constructed and remained unavailable through October 21, 1976, the agencies will recommend the Secretary deny the claim.''

Now, all that says is, if this was not a claim for an existing right-of-way prior to the time we repealed R.S. 2477, it should be denied. Nobody would argue with that. That is the reason we repealed R.S. 2477, was to stop the nonsense.

No. 3, ''If the lands were not withdrawn, reserved or otherwise available''—now, that means that the Federal Government had not taken the land and used it for some other purpose such as a national park, ''the agency will examine all able documents and maps and perform an on-site examination to determine whether construction on the alleged right-of-way had occurred prior to the repeal of R.S. 2477 on October 21, 1976.''

Again, the agency will deny the claim if it had not been a right-of-way prior to the repeal of 2477.

No. 4, Highway: ''The agency shall evaluate whether the alleged right-of-way constitutes a highway.''

Here is the key to this whole thing. ''A highway is a thoroughfare used prior to October 21, 1976.''

That is the date of the repeal. An alleged right-of-way constitutes a highway if it was a thoroughfare prior to the repeal of 2477.

If the agency determines that the alleged right-of-way does not constitute a highway, the agency will deny the claim. Why shouldn't they? That is the reason we repealed it. We don't want any claims coming in on highways that were not in existence at the time we repealed the law.

Mr. MURKOWSKI. Will my friend yield?

Mr. BUMPERS. No. I will finish reading, and then I will yield the floor.

The role of State law: He says, ''In making its recommendations, the agency shall apply State law in effect from 1976 to the extent that it is consistent with Federal law.''

Mr. MURKOWSKI. It is Federal law now.

Mr. BUMPERS. Let me finish, please.

All he is saying is that in this ruling the State law will apply as long as it is consistent with Federal law. To do anything else, to issue a rule of any other kind, gives the States carte blanche over all unreserved Federal land. They will decide what a right-of-way is. They will decide which ones they want to build roads on.

Finally, ''The agency will make recommendations on the above-described issues to the Secretary, and the Secretary will approve or disapprove of those recommendations.''

Mr. STEVENS. Will the Senator yield just for one second and answer one question?

Mr. BUMPERS. All right.

Mr. STEVENS. What the Secretary is doing now concerns taking action under the Federal Land Policy and Management Act, and section 701(h) of the law is specific ''All actions by the Secretary concerned * * * shall be subject to valid existing rights.'' By what power does he redefine now what was a valid existing right in 1976? He wasn't Secretary in 1976. What happens to the women who are out there in those small villages and cities today? They have to be flown into town to go to the hospital. It is going to take a few miles to get the roads to them. And we are going to get the roads to them, as long as we have the right to build the roads. We have the ability to deliver mail by road rather than by air. The Senator from Arkansas and others have been telling us, ''Stop that subsidy for Alaska.'' And for their mail, it costs $100 million more a year to deliver mail in Alaska because it all goes by air rather than similar places in the southern 48 because there it goes by road.

By what right does this Secretary of the Interior determine what was a valid existing right in 1976?

Mr. BUMPERS. First, the first thing the Secretary has to do before he can approve an application is to determine whether it was a valid existing right before 1976.

Mr. STEVENS. No, he doesn't. The law is the law. There were laws in place in 1976 which defined those rights. He is now going to try to redefine the law to determine whether they were existing rights in 1976.

Mr. BUMPERS. Let me ask this question. What right does Don Hodel have to set out what an existing right was in 1988?

Mr. STEVENS. I am glad the Senator asked that question of me.

If you want to look at what happened, Secretary Hodel approved in 1988 a series of proposals that came to him from the Bureau of Land Management, the Park Service, and the Fish and Wildlife Service within his Department. He did not write that. He approved the work of a series of bureaus in his Department. It was not what this

Secretary is doing. This Secretary is coming along as the Secretary and issuing an edict to change all of that. This, in 1988, was the work of long-term public servants who had great experience in managing.

As a matter of fact, if you want to look at the 1993 report to Congress on R.S. 2477 by the Department of the Interior—I have it right here—you will see that there was consultation with the Governors, there was consultation with the State directors in Utah and Alaska, the areas where there was a substantial amount of R.S. 2477 claims.

One of the things that I might add to this, my friend, is our Governor, who is a member of the party of the Senator from Arkansas, sent word to the current Secretary of the Interior that he was disturbed because he was not consulted before this was done. In the prior time, when the tables were turned and there was a Democratic Governor in the State of Alaska, Secretary Hodel did consult with him. He consulted with him. They had memos from the State. They had memos from Utah. They had memos from the BLM, Park Service, Fish and Wildlife Service, from throughout the West. That is what Hodel approved.

Mr. MURKOWSKI. Will the Senator yield on this subject?

Mr. STEVENS. Hodel approved a series of papers that were presented by those agencies, and said—his statement is a one-page statement, which the Senator has been reading. So the words that the Senator was reading were not Hodel's words. The Secretary's approval is on a memorandum from the Assistant Secretary for Fish and Wildlife, Assistant Secretary for Minerals and Management, the BLM, and it is an approval of the policy statement concerning R.S. 2477. Hodel did not develop that policy. The Department developed it. All the agencies developed it in consultation with the States involved, and with the State offices of the various portions of this Department.

So the Senator is overlooking that.

Mr. BUMPERS. The Senator from Alaska is saying that Donald Hodel, who was Secretary of the Interior, had nothing to do with the development of policy—that the Department did it. Now does the Senator separate the Secretary of the Interior from the Department of the Interior?

Mr. STEVENS. All Hodel had to do was sign his name to one page. He did not do it. It was the Department that developed this policy after consultation with a series of States and a series of agencies.

Mr. MURKOWSKI. Will the Senator yield?

Mr. BUMPERS. Everybody knows exactly why Don Hodel came up with that policy—because the Western Senators threatened him probably with death if he didn't. Everybody knows that policy was crazy. It was done for political purposes. We all know that. I am not going to debate that.

Mr. STEVENS. That sounds like something people accuse me of. I have been threatened with death.

Mr. BUMPERS. I have never accused the Senator of being political.

Did the Senator want to ask a question?

Mr. MURKOWSKI. Mr. President, I ask if the Senator from Arkansas is aware of the circumstances under which the Secretary of the Interior initiated his arbitrary decision recognizing what the law says. I have a chart here. I will ask my friend from Arkansas relative to what R.S. 2477 says. The statute's authority grants right-of-way for the construction of highways over public lands not reserved for public use. We have defined, if you will, what it means as far as a highway is concerned.

Mr. BUMPERS. Let me interrupt.

Mr. MURKOWSKI. It is defined specifically under the law as pedestrian, or a pack animal trail may qualify. The Department's own regulations in 1938, state when a grant becomes self-effective. The grant refers to the section becoming effective upon the construction or establishment of a highway in accordance with the State law. That is the law of the land, the State law over public lands not reserved for public use. ''No application should be filed under R.S. 2477, as no action on the part of the Federal Government is necessary.'' That is the law.

What Secretary Babbitt is doing is saying you have to file. He is changing and reinterpreting the law 20 years after it was repealed.

I ask the Senator if that is not a correct interpretation of what this Secretary is doing. He is changing the law. He is saying you must file. The law says you don't have to file.

Is not that correct? I ask my friend from Arkansas. Is he not redefining the law?

Mr. BUMPERS. We repealed that in 1976. That law was repealed. We are not debating that.

Mr. MURKOWSKI. That is what prevailing regulations stated during the entire time that the act was in effect. What this Secretary has done, unlike Hodel, who met with all the other Governors—let me add for the RECORD at this time the letter from our Governor dated January 29 to the Secretary.

DEAR MR. SECRETARY: I wish to express my dismay about your issuance of a revised policy on R.S. 2477 rights-of-way determinations without consultation with the State of Alaska or, to my knowledge, other Western States. The department not only failed to seek comment or input from Alaska, it did not even pay the courtesy of informing the state that it planned such a revision. Further, the department did not even notify the state when it released the revised policy publicly.

Don Hodel didn't do that. Don Hodel met, my friend, the senior Senator said, with a Democratic Governor of my State and consulted on the policy. He did it publicly in an open process. It was the input of the Western States that brought the withdrawn definition and policy together. This Secretary changed that definition and simply suggested that it be the passage of vehicle traffic, and that is contrary to the law.

Mr. President, I ask unanimous consent the letter from Governor Knowles be printed in the RECORD.

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

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, AK, January 29, 1997.

Hon. BRUCE BABBITT,
Secretary of the Interior, U.S. Department of the Interior, Washington, DC.

DEAR MR. SECRETARY: I write to express my dismay about your issuance of revised policy of RS 2477 rights-of-way determinations without consultation with the State of Alaska or, to my knowledge, other Western states. The department not only failed to seek comment or input from Alaska, it did not even pay the courtesy of informing the state that it planned such a revision. Further, the department did not even notify the state when it released the revised policy publicly.

This initiative is troubling not only because it violates the spirit of the Congressional prohibition on further interior development of RS 2477 policy contained in last year's appropriations bill, but because it expressly revokes the department's 1998 policy that was negotiated over several months with Alaska and other Western states. The new policy undermines several provisions that were carefully crafted to the Alaska situation, for instance the definition of ''highway.''

Mr. Secretary, I wish to maintain a good working relationship with the Department of the Interior, but this requires a bilateral effort. I will discuss this RS 2477 issue with you at our appointment next Tuesday.

Sincerely,

TONY KNOWLES,
Governor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I don't think many minds are being changed with this debate. I don't see any reason to pursue it because we have a 180-degree difference of opinion on it. I personally think that the law is fairly clear on it. The policy of Donald Hodel is clear. He didn't consult with the public. He consulted with the two Senators from Alaska and the Governor of Alaska, and perhaps some other Senators from the West, which is understandable. The only reason I know that is not because I know it for a fact. It is just that I know he issued a policy that was very pleasing to those Senators.

Mr. STEVENS. Will the Senator yield right there?

Mr. BUMPERS. Yes.

Mr. STEVENS. Does the Senator recall who was in the majority in the Congress at that time?

Mr. BUMPERS. I know who the executive branch was. I know who the President of the United States was.

Mr. STEVENS. Hodel did not consult with these Senators because the management of the Congress was under the party of the Senator from Arkansas at

that time. If there was any complaint about what Hodel did, that should be in the RECORD. At the time, the Congress did not object to what Hodel did because it was the process that came through consultation with Western States, Western Governors, with the agency's State offices throughout the West and was sent up to him by the Assistant Secretaries for Fish and Wildlife and the Bureau of Land Management up to the Secretary for approval. That is not what is happening now.

Mr. BUMPERS. I have to make this point one more time. The Senator talks about Don Hodel consulting with everybody. Bruce Babbitt had 3,000 comments from the public. Why is it that Don Hodel with a few Republican Senators and Congressmen around him developed a policy—why was that so wonderful with a few people sitting behind a closed door to decide the policy, and Bruce Babbitt gets 3,000 comments? And what happens? The first thing that happens is an amendment on an emergency supplemental, which has absolutely no business being there, to stop him from implementing a ruling. Three thousand people have commented on it.

It just depends on whose ox is being gored. We all know that.

Mr. STEVENS. Will the Senator yield for just a second? This has nothing to do with whose ox is being gored. I am surprised there are only 3,000. After all, all they have to do is press a button, and say, ''Send out another 3 million direct mail pieces to all of these people that are involved in this extreme environmental movement in this country.'' And I would be surprised if it was only 3,000. But those people aren't the Governors of the Western States. They aren't the Senators that represent Western States. And they are not the people within the BLM and others who are professionals in this field. This is coming at us now as edict on high. This is supremacy of the Federal Government. I have to tell you. I have dedicated my life against that. I think the Senator should remember that. We have been out here before saying you can't make laws from the executive branch. It must come through Congress.

Mr. BUMPERS. Mr. President, let me just say this to the Senator from Alaska. It isn't often that I say this. But when I read the Senator's comment on this emergency supplemental and I realize what the effect of it would be, for once in my life thank God for the supremacy of the Federal Government.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

Mr. STEVENS. Will the Senator yield for just a second?

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I believe the senior Senator from Alaska would like to make a statement.

Mr. President, while my senior Senator addresses the Senate floor schedule, let me remind the Senator from Arkansas once again——

Mr. STEVENS. Will the Senator yield?

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

Mr. STEVENS. No. No.

Mr. President, I ask unanimous consent that at 2:10 today there be 5 minutes equally divided in the usual form prior to a vote on or in relation to the D'Amato amendment No. 145, to be immediately followed by a 4-minute time period equally divided in the usual form prior to a vote on or in relation to the Bumpers amendment No. 64, and that further, prior to the votes, no other amendment be in order to these amendments or to the language proposed to be stricken.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI addressed the Chair.

Mr. BUMPERS. I am not sure I understood that. We are going to have 5 minutes of debate on D'Amato?

Mr. STEVENS. There is 5 minutes equally divided on D'Amato. That was the request of your side, I might say to the Senator, and then a vote on the D'Amato amendment. And then there will be, after that vote, 4 minutes equally divided on the Senator's amendment to strike, and there would be a vote on the Senator's amendment. Neither will be subject to amendment after this agreement.

Mr. BUMPERS. And this will all begin when? The first vote will take place at——

Mr. STEVENS. At 2:10 p.m.

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

Mr. STEVENS. Mr. President, if I get the agreement, I will ask later that the second vote will be a 10-minute vote, but I cannot do it yet. I thank the Senator.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I think we have gone on perhaps long enough on this, but there are a few things that need to be said relative to the debate that has just occurred. And while my friend from Arkansas indicated that we had repealed FLPMA, with regard to FLPMA, I think it is important the record reflect that under R.S. 2477 we established and have always maintained the basis for determining the right of public access across public lands.

So that has been maintained in the law. I think it is further noteworthy to recognize that the Hodel policy recognized the historic use of a route. If it was historically a footpath, it was recognized as a footpath. If it was a wagon trail, then it was recognized as a wagon trail. If it was a wagon trail that was used in general commerce over an extended period of time, then it justified obviously inclusion under the concept of R.S. 2477.

In summation, Mr. President, what is happening here I think is a result of what happened as late as last year in Utah where we had a perfect example of a small group within the administration taking it upon themselves to decide for all Americans how our public lands should be used. As the debate has indicated, those of us from Alaska are particularly sensitive, as we can speak from long personal experience on this topic. All of the experience teaches us that decisions affecting the use and classification of our public lands must be left in the hands of a public process, not one Secretary of the Interior who decides on his own as a consequence of actions within the Department, without a public policy, that he is going to change the procedure unilaterally and redefine what constitutes an adequate method of transportation across public lands, and that is what this Secretary did, unlike Secretary Hodel.

Actions from this administration put the public's right to participate in the decisionmaking process, as far as I am concerned, on the endangered species list.

Mr. President, allowing this administration, and that is what the proposal from the Secretary of the Interior does, to rewrite public land law use through the enactment of regulations is much the same as putting the fox in charge of the chicken coup.

The reason we in Alaska are a little reflective upon this is the history of our State. In 1966, the Secretary of the Interior—we entered into statehood in 1959—Secretary Udall decided on his own to intercede in Alaska and simply stopped processing land selections authorized under the Statehood Act. We entered into the State of the Union with a commitment of 104 million acres. The land was being transferred to the State. He stopped the process. He did not ask anyone, just did it. In January 1969, he withdrew all public lands in Alaska from all forms of appropriation except mining claims—no public input, no congressional action. This was the so-called land freeze, superfreeze. A few other names which would be inappropriate in this Senate Chamber come to mind.

It happened again in 1978, deja vu, this time with Jimmy Carter, who stepped in and decided on his own what was best for the management of our public lands, and using the 1906 Antiquities Act he created 17 national monuments. These monuments encompassed slightly more than 56 million acres of land, an area the size of the State of South Carolina. It did not stop there. This was followed in short order by Secretary of the Interior Cecil Andrus who withdrew an additional 50 million acres. In total that arbitrary action by the Secretary of the Interior withdrew

105 million acres. That is more than the entire State of California. All this land was withdrawn from multiple use without any input from the people of Alaska, any input from the public, any input from Members of Congress.

I ask you, can you understand why we are sensitive? With all these actions held over Alaska's head, we were forced to cut the best deal we could. Twenty years later, the people of our State are still struggling to cope with the weight of these decisions. When they say you forget history, why, I say you are doomed by it, doomed to repeat it if you do not remember. So as long as we stand in this Chamber people will not be allowed to forget what happened when the public and the Congress are excluded from the public land management decisions.

When my friend from Arkansas says that this does not belong in this legislation, that it does not belong because it is not an emergency, he is absolutely wrong. It is an emergency. This is an action arbitrarily proposed by the Secretary of the Interior now. It is contrary to law, and it has to be stopped.

Mr. President, again, the fact is if R.S. 2477 was not in existence on October 21, 1976, it will not and it cannot by definition be created now. We have no problem with that. We want that to be the case. What we do not want is the Secretary to arbitrarily suddenly come to the conclusion that if vehicle travel has not proceeded over these routes prior to October 21, 1976, there is no justification for inclusion.

So in closing, Mr. President, I wish that we did not have to address this issue at this time, but it is an emergency for the Western States. It belongs on the first legislative vehicle that we can get the attention of the Congress relative to taking action. I thought we put this to an end in a bipartisan manner last year when we enacted a permanent moratorium on future actions by the Department, but that was not good enough for the Secretary. So behind closed doors this Secretary has sought to disregard the spirit and the intent of our previous action.

We have no other alternative, Mr. President, but to pursue this in a manner to continue to have available the viability of historical transportation routes that were in existence across our State, so that we can bring our State together, recognizing the huge amount of Federal withdrawal that is evidenced on this chart by the colored areas that represent all Federal withdrawals as compared to the white areas which simply address the State holdings. So one can readily see the necessity of having the option to establish, if you will, access routes across traditional trails that existed that were dog sled routes, or footpaths, that were used for commerce prior to that 1976 date. We simply have to have the assurance that that will remain as the law of the land and we can continue to allow, after our short 39 years of existence as a State, the development of our State, we can be bound together. That is why it is an emergency and that is why I commend my good friend and senior Senator for putting this in this legislation because there is no question it is an emergency of the highest nature in the State of Alaska and certainly affects the other Western States as well as we have seen the withdrawal of 1.6 million acres under the Antiquities Act in Utah by this administration.

I thank the Chair and I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska, Senator.

Mr. STEVENS. I want to remind the Senate now, and I will do so later just prior to the vote, in this year's Interior appropriations bill, signed by the President last fall, after serious negotiation with the administration, conducted by the previous chairman of this Appropriations Committee, at my request this section was put in that bill, section 108:

> No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management or validity of a right-of-way, pursuant to Revised Statute 2477, 43 U.S. Code 932, shall take effect unless expressly authorized by an act of Congress subsequent to the date of enactment of this act.

Now, that was the compromise last year as we began this fiscal year. We believe it is an emergency when we return to Washington to find that the Secretary of the Interior has issued a policy, a statement, edict, fiat, whatever you want to call it, but he has in effect changed the law, in his opinion, purported to change the law in a way that he believes is not covered by that very strong statement:

> No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management or validity of a right-of-way, pursuant to Revised Statute 2477. . . shall take effect unless expressly authorized by an act of Congress subsequent to the date of enactment of this act.

That is this Congress. We have very clearly said, and the President of the United States agreed, that any change regarding the validity of rights-of-way shall be authorized by an act of Congress, and yet if we do not take this action that is in this bill that policy statement will guide all members of the Interior Department with regard to approval of the applications of Western States for rights-of-way under the law, a law that was agreed to in 1976 and expressly reserved all existing rights-of-way.

I think it is a very clear issue, notwithstanding all of the flak that is out there in these direct mail pieces that are stimulating every newspaper from here to Washington State. It is just too bad that editors have not learned how to read because if they would read what the law is, I do not see how they can come to the conclusions that they do in some of the editorials I have read today. I hope the Members of the Senate are not swayed by those editorials because they certainly are not based upon the law or the facts of the situation.

Mr. President, I will suggest the absence of a quorum awaiting my friend. We do have some matters that we can take care of. I might state for the information of the Senate that we have an indication from the Parliamentarian that only 33 of the 109 amendments that were filed are proper under cloture. Members should consult, if they wish to do so, the staff of either side to find out the situation with regard to their amendment. Senator BYRD and I have agreed that if we can we would like to cooperate with Members on matters that are true emergencies, particularly for those people who are from the disaster States, and there are 33 of those, Mr. President. But we are compelled to rely upon the actions of the Parliamentarian under the rule unless we can find some way to accommodate the changes that would be necessary to validate the amendments involved. So I urge Members of the Senate to determine whether the amendments they have filed prior to cloture are now valid after cloture.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

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

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

RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate stand in recess until 10 minutes after 2.

There being no objection, at 1:42 p.m., the Senate recessed until 2:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 145

The PRESIDING OFFICER. The question recurs on amendment No. 145 by the Senator from New York.

There are 5 minutes equally divided.

Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that Senator GRAHAM of Florida, Senator WYDEN, and Senator LAUTENBERG be added as cosponsors.

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

Mr. D'AMATO. Mr. President, make no mistake about it, I support the provisions that have broken the chain of

welfare dependency, welfare that became a narcotic, and it trapped people. I think that our reform of the welfare system was good, intended and long overdue.

However, there have been some unintended consequences that are devastating. I do not believe we ever wanted to take 500,000 basically senior citizens and say that ''you're going to be cut off,'' senior citizens who are here in this country legally, receiving SSI benefits, who abided by the rules, and now simply terminate them.

Let me give you a profile of these legal immigrants who received their notice of termination. Seventy-two percent of them are women. They are over the age of 65. Forty-one percent of them are over the age of 75. And almost 20 percent, or close to 100,000, are over the age of 85.

Are we really going to say that we are going to take close to these senior citizens, the vast bulk of them women, who have infirmities, who have problems with the language, and say, ''Come August 22, you are off the roll notwithstanding that you came here legally, notwithstanding that you met all of the requirements''?

What our amendment does is simply say we are giving, to October 1, the continuation of assistance. And, hopefully, many of these people who have these infirmities will be able to qualify as citizens. It will give us additional time to deal with what otherwise would be a catastrophe for many of these people.

Mr. President, young, able-bodied recipients should be required to report to a job. They should be challenged. There should not be an automatic pass to welfare assistance. But certainly not the aged, the infirmed, those who need help.

We are a country of compassion. That is why I urge my colleagues to support this amendment, which is sensible.

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

Who yields time in opposition?

The time will run.

The time allocated has expired.

The question is on agreeing to amendment No. 145.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—89

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

NAYS—11

Allard	Faircloth	Nickles
Ashcroft	Gramm	Smith (NH)
Coats	Gregg	Thomas
Enzi	Inhofe	

The amendment (No. 145) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we had 5 minutes before that vote. I ask unanimous consent that there be 1 more minute added so that we have 4 minutes on this one.

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

Mr. STEVENS. I yield 1 minute to the Senator from New York. I think every Senator would like to hear the Senator from New York on this one.

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

HAPPY BIRTHDAY, SENATOR DOMENICI

Mr. D'AMATO. Mr. President, I am just going to be a few seconds. Twenty-five years ago, a young man came to the Senate. He, indeed, has enriched the Senate with his leadership, with his integrity, and with his very presence. The fact of the matter is, he is the son of Italian immigrants and comes from the great State of New Mexico. It is Senator PETE DOMENICI's 65th birthday. Senator DOMENICI, happy birthday.

[Applause.]

Mr. DOMENICI. I want you all to know that is why I was so careful to protect senior citizens in the budget deal.

[Laughter.]

Thank you all very much. It is great to be with you. I love the Senate. I hope I am doing my share, like all of you are, to keep this a great institution and an important part of American history and our future. Thank you very much.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 64

The PRESIDING OFFICER. Under the previous order, amendment No. 64 is now in order. There are 4 minutes of debate equally divided.

Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, in 1866, Congress passed a mining law called Revised Statute 2477. Here is what it said:

> The right-of-way for the construction of public highways across public lands, not reserved for public uses, is hereby granted.

That was the law until 1976 when we repealed it. And we repealed it because there are literally thousands and thousands of potential rights-of-way, which the States could claim for purposes of building a highway across Federal lands. In 1988, Donald Hodel, who was the Secretary of the Interior at the time, established a policy. Listen to this:

> Under that policy, a right-of-way could be established by mowing high vegetation, by moving a few rocks, by filling in low spots.

The State of Alaska has passed a law making every section-line in the State a right-of-way, over 900,000 miles. Here is the kicker, Mr. President. These rights-of-way would cross national parks, wilderness areas, national monuments, and other protected areas. These highways cross all of those areas that we have since taken out of the public domain and made national parks and other reserved areas.

If we don't pass this amendment, every State—but particularly Alaska, Utah, and Idaho—will have the right to build roads on every one of those claimed rights-of-way, according to the language of the Stevens amendment. This issue is not an emergency. To hold the people in the Dakotas and Arkansas and other States hostage for something as foolish as this is, would be foolish in the extreme.

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

Mr. STEVENS. Mr. President, I yield myself 1 minute. Alaska has not even been surveyed yet. There aren't many surveyed section-lines in my State yet, except in very few portions of the State. The Nation's national parks have coexisted safely under Revised Statute 2477 for over 100 years. Our wilderness areas have not been paved, despite all the threats we have had. We have had 30 years of the Wilderness Act under Revised Statute 2477 and there has been no complaint at all.

Last fall, we put in the appropriations bill for the Interior Department this section:

> No final rule or regulation of any agency of the Federal Government pertaining to recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 shall take effect, unless expressly authorized by an act of Congress subsequent to enactment of the date of this act.

That was agreed to by the administration. The President signed that bill. It came about after negotiation with the President, as a matter of fact.

Now, by edict, the Secretary of the Interior has determined a new policy will go into effect and he will make

property laws for the Federal Government establishing how rights-of-way are created on Federal lands throughout the West. It should not happen.

I yield to the Senator from Arizona.

Mr. MCCAIN. Mr. President, we have heard a very spirited debate on the issue of rights-of-way across Federal land today. Both sides are passionate.

On one hand, States worry that the Federal Government will exercise their authorities to invalidate, bona-fide historic rights-of-way. On the other hand, the Interior Department worries that States will liberally define their rights-of-way which could pose environmental threats to Federal lands, including parks and wildlife refuges.

Mr. President, I believe that there is ample room for principled compromise in this dispute. States should not be denied their bona-fide rights-of-way, nor should excess or unreason be permitted to threaten our Nation's parks and pristine areas.

Clearly this situation must be resolved, because if this stalemate persists, and the Secretary is precluded from proceeding under reasonable parameters, I don't believe we will have any official process or method for administratively assessing a claim. Such a stalemate serves the interest of no one and cannot stand.

I've been engaged in an effort to find a process by which the Secretary, Governors, and local officials can work together to determine what constitutes a valid right-of-way; what methods and standards will be used to recognize the claim, and how such rights will be managed.

I believe we can achieve a reasonable compromise and an appropriate process. While time does not permit us to reach an agreement before we must vote now, I will continue to work with the Senators from Alaska, Senator BUMPERS, and the Interior Department to try and reach some agreement that we can all be proud of, one which will protect States rights, Federal interests and most of all the public interest.

I appreciate the Senator from Alaska's support for that effort and I look forward to working with him to resolve this matter before the conference.

Mr. STEVENS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—51

Abraham	Enzi	Mack
Allard	Faircloth	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Conrad	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Inouye	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Dorgan	Lugar	Warner

NAYS—49

Akaka	Ford	Lieberman
Baucus	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Hutchinson	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Chafee	Kennedy	Roth
Cleland	Kerrey	Sarbanes
Collins	Kerry	Snowe
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	
Feinstein	Levin	

Mr. HATCH. I move to reconsider the vote.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. I move to reconsider that action.

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 231

Mr. HOLLINGS. Madam President, the distinguished chairman, Senator STEVENS, and myself, Senator GLENN, Senator LAUTENBERG, Senator GREGG, and others now have worked out the Department of Commerce compromise on the census. I have an amendment that reflects that compromise at the desk, and I ask unanimous consent that the amendment be in order and the clerk be allowed to report.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. What was the request?

The PRESIDING OFFICER. The request is that the amendment from the Senator from South Carolina be in order.

Mr. STEVENS. We have no objection.

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

Mr. HOLLINGS. I thank the distinguished Chair.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. STEVENS, Mr. GREGG, and Mr. GLENN, proposes an amendment numbered 231.

Mr. HOLLINGS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 47 strike lines 14 through 18 and insert the following:

SEC. 303. None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to make irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

Mr. HOLLINGS. Madam President, what it allows is the Census Bureau to continue to plan to conduct a census that uses statistical sampling but the Congress under the leadership here of the distinguished Senator from Alaska, and our chairman and ranking member of the Governmental Affairs Committee, which has jurisdiction as the authorizing committee, can change that in the future after careful review and oversight.

There is a deep misgiving among some of the Members with respect to any kind of taking of polls or handling of numbers or statistics particularly after somehow the Immigration and Naturalization Service at the Department of Justice naturalized a million immigrants to be able to vote last November. And so it is natural that they wanted to make certain that the statistical sampling related to the year 2000 census be taken in a totally professional manner. We have it, we think, on course to be as professional as it can be. Ms. Riche and the professional staff at the Bureau of the Census are just outstanding.

What the Members need to understand that what really occurred after the 1990 census was it became clear that all kind of undercounting and overcounting occurred, varying in areas. The undercount was especially severe among low-income people, minorities, and rural areas. Congress told the Census to find a way to conduct the next census in a more accurate way at less cost. The Census Bureau went to the National Academy of Sciences. The National Academy of Sciences, after a thorough study, says go ahead, send the forms out, which are really reported back about some 60 percent or so. We get another 30 percent by going around door to door, through telephone calls, and followup. That last 10 percent is next to impossible in some

places to find, in the innercity, in the rural areas, and in areas with high native American populations. Some of the census takers themselves—we got some 300,000 earning around $13 an hour—they might get fatigued some afternoons or near a weekend, or not be willing to enter into some areas or buildings. The way it was handled in 1990, the followup was far too subjective.

So the Academy of Sciences looked at, studied, and have had the best of minds in a bipartisan fashion—this has not been a partisan issue—and they recommended that census find a new way to estimate those hard to reach populations. They told census to use the same statistical methodologies that the bureau uses for all its products that this Nation relies on. They recommended to go ahead with this kind of sampling advancing forward to take the census for fiscal year 2000.

We really were disturbed in the Appropriations Committee that if we did not allow it to continue at this particular point—this is absolutely not final, of course—that we were going to set a course whereby we were going to have to spend another half a billion bucks trying to go door to door with the same ailments and disturbances and inaccuracies that we suffered back in the 1990 census. And we would end up not only paying more but getting back into court with lawsuits again and everything else of that kind.

Mind you me, there is over $100 billion in Federal programs allocated according to this census data, the Members of the House of Representatives are apportioned according to this census, and we want to be as nonpartisan and as thorough and as scientific as we can possibly be in its taking.

To the credit of the Governmental Affairs Committee, which is the authorizing committee, they have been working diligently on this issue. Our distinguished chairman, Senator THOMPSON of Tennessee, I have talked with him, and our ranking member, Senator GLENN. They have already experienced two hearings which have more or less confirmed that we are on course, but they have yet to finalize any action taken this particular year.

So what we wanted to do at the moment in this particular emergency supplemental was not stop anything but express our outright concern that this particular census is not to be used politically. It has to be done professionally.

I thank the distinguished chairman of our Appropriations Committee, Senator STEVENS, and his distinguished staff for going along working with the Department of Commerce and myself all last evening and this morning. I think this particular compromise here will allow us to continue on course but not lock in the short form irrevocably. Census can continue to do its planning and dress rehearsals to ensure that the next census is more accurate.

With that said, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Madam President, I commend my colleagues, Senator STEVENS and Senator HOLLINGS, for working out this amendment, because it will let the Census Bureau proceed with planning and testing of statistical sampling.

We need the best possible information before making a final call on the design of the 2000 census. The language we have agreed upon, as my distinguished colleague from South Carolina has just said, will let us get that information and get it in good shape, I believe. Thousands of Americans are waiting for the disaster relief to be provided by the legislation on the floor today, and they need this money to rebuild their homes and their lives. I am very relieved we are working together to get this aid to those needy people.

I know full well the Census Bureau's plan to use sampling is highly controversial. I do not like sampling any better than anybody else. The only problem is, there is no better way to get a more accurate count of all the people in this country than by using all the regular procedures we have used before plus the sampling. There is no better way, even though none of us like it. We wish it were a perfect situation where we could go out and count every single American, just like the Constitution says we are supposed to do. But, as Senator HOLLINGS said just a moment ago here, you cannot do that. We normally do not get full returns on all the census reports. We wind up traditionally with about 10 percent of the people not sending returns back, even though census takers call multiple times on their domicile or their businesses. So we wind up having to do some sampling to get a more accurate census, and that is what the whole thing is all about.

So, it is controversial. Some people say the sampling does not meet the constitutional requirement for an actual enumeration. Those are the words, ''actual enumeration,'' in the Constitution. Some say sampling is inherently subjective because it is based on statistical assumptions, as it has to be.

We have been arguing about this ever since 1990, when post-census surveys showed that 1.6 percent of the population had been missed. That may not sound like a big figure, but it is big if you are laying out plans for Federal appropriations that have to apply to these certain areas. The Bush administration decided finally not to use sampling to adjust that census. They decided the census statistical adjustment plan had too many problems. Here we are 7 years later. I must admit that, like my colleagues on the Appropriations Committee, I, too, have some reservations about sampling.

But we have to remember that the Census Bureau is not looking at sampling because they think it is the ideal method. Quite the contrary, an accurate, direct count would be the best. The problem is, a direct count has never worked in the past. And every census is more difficult than the last one. That is because our population keeps getting larger. It is more mobile. It is more culturally diverse, while public cooperation keeps declining. That is why the bureau is looking at new approaches.

A complete sampling ban would require the bureau to cancel current testing plans and contracts, and that would just waste money that has already been spent for good purposes.

A complete ban would require hurried development of new plans for next year's Census Dress Rehearsal. That would waste more money. Finally, a complete ban would require hurried development of a new plan for conducting the 2000 census. That would require many more census takers and would cost a lot more money. This is the tragic part, it might lead to a much less accurate census, more litigation, and more suspicion of Government. The language we have worked out prevents all that waste and keeps all our options open. At the same time, it lets the Census Bureau know the seriousness of our concerns.

Let me tell you a little bit about the 2000 census—something the Governmental Affairs Committee is looking at right now. The census will set a new record as the largest peacetime mobilization in American history. The Bureau will hire 600,000 temporary workers, knock on 120 million doors, and count about 270 million people.

By statute, the entire process has to play out smoothly over 9 months. The questions will begin on Census Day, April 1, and the results have to be given to Congress by December 31. Census Bureau officials tell us that, if they use sampling, they can keep the cost of the 2000 census down to about $4 billion, a little less than the 1990 cost of $25 per household. Without sampling, it will cost the taxpayers a whole lot more—perhaps as much as another billion dollars.

Most important of all, the census is a highly serious enterprise. It is the process we use to make sure that every American—every American—is fairly represented in the governing of this great country. It is so fundamental to our democratic system that the Constitution specifically requires an actual enumeration of our population once every 10 years.

These facts tell me that the decennial census calls for our very best thinking, our very best planning, and the very best scientific tools the statistical community has to offer. To quote the Commerce Inspector General:

> We continue to believe that, if carefully planned and implemented, sampling can be employed by the Bureau in the 2000 census to produce overall more accurate results than were produced in the 1990 census, at an acceptable cost. We further believe that the Congress should allow the Bureau the freedom to complete its work on sampling and then select the optimal census design based

on all of the available information. According to the bureau's plan, fundamental work on all potential uses of sampling will be finished by December 1997. We do not believe an informed design decision can be made until this work is completed and the various design components are tested during the April 1998 dress rehearsal.

I think the Commerce IG gave us some very good advice, because some hard facts have begun to emerge from the wealth of opinion about sampling.

Fact: The Bureau has been using statistical sampling in the decennial census for decades. The census Long Form—which goes to only one in six households—is a perfect example of a kind of sampling that is widely accepted. If Congress bans sampling completely, we will not be able to use sampling for the Long Form any more. But the information gathered by the Long Form is still required by law. So we will have to send the Long Form to every single household across the country. And the American taxpayers will have to foot the bill.

Another fact: It is inherently impossible to count everybody correctly the traditional way. All the experts agree on that. There will never be enough time or money. There will always be people not at home no matter how many times the census taker calls. When President George Washington received the first census data in 1790, he also got an estimate of the undercount. That has been the story ever since. In 1990, the census missed 10 million people. It counted 6 million people twice. And it counted another 10 or 20 million people in the wrong place. After that experience, everyone involved agreed that a better plan, a scientific plan, had to be developed for 2000.

Another fact: The undercounted people are some of the most vulnerable in our society, minorities, poor people, both rural and urban, the non-English speaking, the homeless. These are the people we are excluding from the democratic process.

Still another fact: Virtually all statisticians say that our scientific tools have been developed and tested to the point that we can finally fix the undercount problem. That view is supported by GAO, the Commerce IG, the National Academy of Sciences and a host of other professional organizations.

Yes, 1990 sampling methods were flawed. That is precisely why the Census Bureau has spent 7 years developing a reliable plan for 2000. It is precisely why the Census Bureau needs to keep testing and planning, and it needs to go on with that right now and not have it cut off.

What about the constitutional arguments? On April 16, at one of our committee's two recent hearings on the census, we heard testimony from Wisconsin's Attorney General James Doyle. He led the charge against sampling in 1990 because statistical adjustment of that census would have given California an additional House seat at Wisconsin's expense. Mr. Doyle testified recently:

> I think the Constitution requires that we make the best effort we can to an actual headcount, and I recognize that is a very complex task, and I recognize that within that task, we have to leave a good deal of discretion to the Census Bureau to, in fact, make some counts where you are not actually counting actual human beings.
>
> For example, you go to a locked apartment building and you go back there 5, 6, 7 times. At some point, somebody has to make a reasonable estimate on how many people are in that locked apartment building, and there are other kinds of procedures that the Census Bureau has built up over time to try to build that accuracy.
>
> So I recognize that there has to be a good deal of discretion given to do things other than summon everybody to Bethlehem and count how many people are there.

At the same hearing, we also heard testimony from Stuart Gerson, the Assistant Attorney General who advised the Bush administration not to adjust the 1990 census.

Mr. Gerson said, and remember, this is a person who advised against sampling in the Bush administration:

> Whatever an enumeration means, it does mean an accurate count and that should be our guideline—it does appear that the Constitution would permit a statistical adjustment if it would contribute to an accurate count.

Note the caveat: ''if it would contribute to an accurate count.'' Both of those legal experts agree, and again, one of them led the fight against adjustment in 1990, that the key to the constitutional requirement for an ''actual enumeration'' is accuracy. They both agree that sampling is legally acceptable under two conditions: The Census Bureau has to make a good faith effort to count everybody the traditional way; and the Bureau has to demonstrate that sampling improves accuracy.

Let us look at whether the Census Bureau's plan can meet those requirements. The plan itself was described in our committee hearing of March 11. We heard from Commerce Secretary William Daley, from Ev Ehrlich, the Commerce Under Secretary for Economic Affairs, and from Martha Richey, Director of the Census Bureau. As they explained, the first proposed use of sampling is to help count people who don't send back their census questionnaires by mail. The Bureau won't even start this sampling until after they have first made the greatest effort in the history of census-taking to convince Americans to send back their questionnaires.

First, questionnaires will be mailed to every household found on the combined Census/Postal Service national address list. To insure the most complete national address list possible, the Bureau will also get several updates from local governments. Every household in America will get precensus letters and post-mailout reminders. Questionnaires will be available in town halls, post offices, community centers, and even stores. And finally, the Bureau plans an aggressive outreach campaign of school presentations, community meetings and paid advertising—all to give every single American every possible opportunity to participate and be counted in the time-honored way. I would say that passes the first test of constitutionality, a good faith effort to do an actual head count.

Even with all this effort, experts project that only 65 percent of the American public will be counted using these methods. Our population is just too big, too mobile, too diverse, and too apt to ignore Government requests for information—even when it is this important.

The question for the Bureau is, how do we count that last 35 percent? As the lawyers have told us, the Constitution and Federal law require our best effort.

The census plan is to follow up the mail process with a large sample of those who did not send back a questionnaire. That sample will be large enough to make sure that census takers contact at least 90 percent of the people in each census tract. Yes, that means census enumerators will go into communities, just as they always have, to count at least 90 percent of Americans in the traditional way, by headcount. Then, and only then, will statistics be used to estimate the last 10 percent of the population.

What about the second constitutional requirement? Can the Bureau demonstrate that sampling improves accuracy? At our second oversight hearing on April 16, we heard testimony from Prof. Lawrence Brown of the Wharton Business School. He strongly opposed adjustment of the 1990 census based on the sampling plan the Bureau used to generate the ''corrected'' counts. Professor Brown didn't think the Bureau's sample was large enough, and he didn't think the statistical model was valid. But he told our committee last month that the Census Bureau's plan for 2000 addresses the concerns he had in 1990. He told us the Bureau's plan can work. And he told us we will again have an undercount if we do not use sampling.

On the charge that sampling is inherently subjective, Professor Brown said:

> Certainly, there is some subjectivity in how the process is designed and how the analysis is—conducted. But if all of this planning is done in advance, it is very very hard for me to see how one could direct these subjective decisions towards any desired goal.

Notice the caveat: ''if all of this planning is done in advance. * * *'' That is just what the Census Bureau proposes to do over the next year. And this new language we have agreed on today will permit that work to move ahead and still give Congress the final decision.

As Professor Brown's testimony proved—even for experts who questioned sampling in 1990—the Census Bureau seems to be on the right track for 2000. At this point in time, it is very hard to find even one statistician who doesn't think that sampling should be able to improve the accuracy of the 2000 census. The Bureau is doing its research; it is testing its plans; and it is having its plans reviewed by experts.

Everything the Governmental Affairs Committee has learned so far tells me we need to keep the sampling debate open. And we need to give the Census Bureau a fair hearing. To disrupt the planning process now would set the Bureau back a year or more. And it would lock the Bureau and the Congress into a traditional census that we know will cost much more and we know will be inaccurate.

I have already told you that I have some personal reservations about sampling. I wish it were possible to get an actual head count directly on every single American. I am sure the American public has concerns as well. We all get survey calls at home, around dinner time, usually. We also know about polls—surveys that conclude one thing or another—often depending on who paid for the poll. We know all this. We know that surveys can be used in many different ways. So, we have to agree that the Census Bureau has a very heavy burden to prove to Congress and the American people that its survey methods are objective and scientifically sound, and that they will produce accurate, reliable information. The Constitution requires no less.

What is critical right now is for census to continue its planning process—continue to appear before congressional committees—as it is doing before our committee—and continue to explain and review its plans. Only after this process is complete can we decide if the 2000 census will be a success.

At this point in the debate, I am less worried about the constitutional and scientific issues than I am about the Census Bureau's management capacity. GAO and the Commerce IG agree with me on that. The viability of sampling depends on the Bureau's capacity to design and faithfully execute a good plan. Our debate here today proves that Congress is not yet sure of the Bureau's abilities.

The Bureau has to give us more information. And we have to be willing to listen. The Bureau also has to show us that they have the management capacity to carry out a sampling plan if we approve it. These are the questions I think we should be focusing on.

It is time for some plain talk—about the stakes involved here. Most of those people undercounted in last census were poor, and many of them belong to ethnic and racial minorities. We cannot tolerate any undercount. Our system of government guarantees equal representation for all Americans—regardless of race, ethnicity or economic circumstances—certainly regardless of political affiliation. I can only hope that my colleagues will not trade off this fundamental principle of democratic government for assumptions about partisan political advantage.

Let me remind you about where the undercount is found. Look at the States that had high undercounts in 1990—New Mexico, 3.1 percent; Montana, 2.4 percent; Texas, 2.3 percent; Mississippi, 2.1 percent; Idaho, 2 percent. This is not a Democratic versus Republican issue. The undercount is a problem for every Member of this body. We undercount people in rural areas—that is a third of the 1990 undercount. We undercount people who are renters rather than homeowners. And we undercount over 12 percent of native Americans who live on reservations.

Let's not throw away our opportunity to fix the undercount, without taking a good hard look at whether we have to and what are our options. Funding formulae, equal protection, civil rights, State and local planning, school building, targeted aid, business planning—almost every aspect of American life—would benefit from the best possible census in the year 2000.

My heart goes out to all the Americans who are counting on us for the disaster relief this bill will provide. I want go give them that relief. I want to vote for this bill. So, I strongly urge my colleagues to join me in supporting this amendment. I congratulate Senator HOLLINGS, Senator STEVENS, and their staff for working this out. Let the Census Bureau get on with planning what could be the best census, the finest census in American history. And let us get on with providing relief to those tens of thousands disaster victims who are counting on us.

Madam President, I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair.

Madam President, I commend and agree with my colleague on the Governmental Affairs Committee, Senator GLENN, with regard to the purpose of the census and how important it is. I commend Senator HOLLINGS and Senator STEVENS for working out some language that will get us over this temporary hurdle and will not cause us to have to stop in midstream and make a decision today as to exactly what we ought to do, because I do not think anybody knows exactly what we ought to do right now. I do not think attention has been focused on this issue.

We in the Governmental Affairs Committee, however, have been focused on it for a while. When I became chairman, we had a meeting on the staff level and started to engage the people at the Census Bureau and the Department of Commerce and explained to them what our intentions were in terms of having hearings and gathering information as to the right way to proceed.

We have had two hearings, as Senator HOLLINGS has pointed out, considering specifically these sampling issues that we are talking about, keeping in mind how important it is.

It is important that people have confidence in this census. Clearly, we base a lot of things on it in terms of distribution of Federal moneys, academic research, and things of that nature that are dependent on it, and last, but not least, the apportionment for the House of Representatives. So we need to do it cautiously and carefully and not based on who is going to benefit politically in the outcome, not based on some supposition of what the outcome is going to be.

I made a commitment early on that we would hear this fairly, we would bring in the experts and proceed carefully, but that the administration was going to have to convince us and the American people that the way they were going to proceed would be a fair, objective way. Of course, that brings us to the heart of the sampling issue, and it is not an easy issue to resolve. In fact, I think we are right in the middle of resolving it. We have asked for a lot of additional information in order that the Census Bureau can convince us that this will be done in the right way.

Everybody is for doing something about the undercount, which I think most people agree that we have. We need to do something about this. We need to proceed in the fairest, most objective way in order to address that particular problem.

But the question still is out there whether or not sampling is the right way to proceed. In the first place, I think we need to realize that the proposal that is on the table now really involves two levels of sampling: 90 percent is contact directly, 10 percent is sampling, and then there is another level of sampling which is supposed to take care of the undercount. So we have a couple of different levels of sampling. It has not been perfected yet.

Back in 1990 when they did the census, they considered adjusting the census numbers based on sampling. Based upon the information that they initially had there, they made an error of one seat. One State would have improperly gotten a seat and another State would have improperly lost a seat. They caught it in time and decided not to use sampling back then.

There are constitutional issues; there are legislative issues. It is not just a constitutional question. We are familiar with the fact that the Constitution requires, in some people's minds, an actual head count. It is somewhat debatable, but to some legal experts, it is even a greater question as to whether or not Congress has constructed a legislative pattern that would forbid sampling.

There has been a lot of sampling legislation passed and some of it is inconsistent. It would be a tragedy, indeed, if we went through all this process and we used sampling and spent $4 billion in order to carry this out and then find out we did not have the constitutional authority or that we have the constitutional authority but did not have the legislative authority. So if we go through with sampling, I think we are going to need additional legislation to clear that up.

There is another question involved as far as the expense. Some of the witnesses originally told us that if we did not sample, it would cost us an extra billion dollars. We are getting information now which says the cost would be

much less than that. We need to clear that up.

I think this is an appropriate way to proceed, but I want to emphasize to the administration, and I want to emphasize to the Census Bureau, that those of us who will be dealing with this thing directly are going to be looking to them to convince us and convince the Senate and convince the American people that they will conduct this thing in a fair and objective way. A lot of people are concerned that this administration, which has shown in times past the willingness and the ability to use the authority of the administration for political purposes—witness the Immigration and Naturalization Service before the election last time—that an administration that is willing to do that would be willing to tamper with this process.

It is a matter that is somewhat new to us in this body for this particular purpose—that is, one of apportionment—and it is not going to be something we will readily latch on to. I am not saying it is the wrong thing to do, but I am saying the burden is on the administration, the burden is on the Census Bureau, not only that this is scientifically acceptable, which I think a lot of people think it is, but, second, that we are not going to have to be worrying about some people in a bureaucracy somewhere who are going to be having their fingers on the scales of justice, as has happened in other instances.

So, with that, I leave it for another day. I look forward to working with the members on the committee and others on the Appropriations Committee in trying to come up with the best system that is fair to everybody, not based on who benefits or who suffers from a political standpoint, but based on what is fair and accurate, not only in terms of the result, but in terms of the process in getting to that result.

With that, I thank the Chair.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, the amendment that Senator HOLLINGS has presented is acceptable, and I am pleased to cosponsor it. It is a provision that I put in the bill, or I offered as an amendment to the bill when it was in committee.

A full count of the population for the purpose of apportioning seats in the House of Representatives is required by the Constitution. Article I calls for an ''actual Enumeration * * *'' and section 2 of the 14th amendment reads: ''Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State * * *''. Title 13 U.S.C. section 195 states: ''Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as ''sampling'' in carrying out the provisions of this title.''

When the Secretary of Commerce declined to approve a statistical adjustment to the 1990 census, at least 50 law suits were filed. The Supreme Court upheld the Secretary's decision in one of these cases, Wisconsin versus City of New York. The Court held that the Constitution ''vests Congress with virtually unlimited discretion in conducting the 'actual Enumeration' * * * Through the Census Act, 13 U.S.C. section 141(a), Congress has delegated its broad authority over the census to the Secretary.'' The Court noted that the adjustment being recommended to the Secretary in 1990 differed from other statistical adjustments used in 1970 and 1980 because it ''would have been the first time in history that the States' apportionment was based upon counts in other States.''

If a sample is employed for the 2000 census, endless litigation challenging the constitutionality of using this technique is likely. By directing the Census Bureau today to employ a full count, we are giving the Bureau sufficient time to redirect their efforts before 2000. The additional cost of a full count is estimated to be $400 million. The increase is bound to be less than the Government's cost of defending against lawsuits which will result from using a sample.

There is also an issue of fairness. The Census Bureau will get a 90-percent count of a census tract and use sampling to determine the remaining 10 percent of the population in that census tract. An estimation does not seem to be a fair way of determining the population.

The Census Bureau has claimed a full count of the population without sampling will cost an additional $400 million. As soon as this amendment prohibiting the use of sampling appeared, the cost went up to $1 billion.

I have reviewed the most recent Census Bureau cost sheet, and it seems to me the Census Bureau can do a full count well within the range of $400 to 500 million. Any attempt to claim it will cost a billion dollars is a red herring to deflect attention away from the real issue, and that is the constitutionality of conducting the count by sampling.

The cost of the census should not be an issue. Under the Constitution, Congress has the duty to direct an ''actual Enumeration'' of the American public for purposes of apportionment. When carrying out our constitutional responsibilities, cost is immaterial.

In 2000, The Census Bureau wants to estimate 10 percent of the population of this country. In 2010, the Census Bureau may want to estimate 30 percent of the population. The Census Bureau claims sampling will solve the problem of undercounting. It is difficult for me to accept that an estimation will ensure everyone is counted.

Concern about not counting all Americans is not a new issue. Then-Secretary of State Thomas Jefferson was in charge of the first U.S. census in 1790, and he was gravely concerned that there had been an undercount.

The Census Bureau, in an effort to devise new techniques to ensure the most complete count possible, has determined that conducting a sample of nonrespondent citizens on a census tract level is the most effective means of achieving numerical accuracy. Which is more important? Numerical accuracy or distributive accuracy?

On March 20, 1996, the Supreme Court held that distributive accuracy was more important than numerical accuracy in deciding Wisconsin versus City of New York. In this case, the Court upheld the Secretary of Commerce's decision not to approve statistical adjustment to the 1990 Census. The Census Bureau plans to sample in each census tract across the nation. They plan to estimate who lives in a neighborhood or village based on a sample.

The Census Bureau claims the language in this bill as reported from committee will require them to send a long form to all households.

The Census Bureau says sending a long form to one out of every six households is a sample, and thus the language in this bill would require them to send the long form to all homes. The language in this bill was not intended to prohibit the Census Bureau from using the short form. I would have no objection to amending the language to ensure the Census Bureau can continue to use the long and short forms.

The question arose: what would happen to a census form that was mailed in late, after the Bureau had begun a post-census sampling process? The original answer was that the late response would be discarded because it would interfere with the sample established by the Census Bureau. Since the actual enumeration of citizens has a long and venerable history, this answer was a shocker.

The Bureau now says that a late response will be counted, even if it came from a household that was not in the followup sample area. They admit this will complicate the estimation process. Obviously the inconvenient appearance of a real person's response does damage to a theoretical sampling construction.

The Governmental Affairs Committee has held two hearings on the plans for Census 2000, including one exclusively on the legal and statistical propriety of using sampling. There are many troubling questions about the Census Bureau's plan to implement sampling techniques in the next census.

The problem of undercounting in the cities has been a problem, and the Bureau says sampling will help correct this undercount. But what about the problem of undercounting in rural areas? Does the Census Bureau really know what it doesn't know? We are asking to take the remainder of this year to scrutinize the Census Bureau's

plans for the next census, and particularly their plans to use sampling techniques.

Sampling could well be inaccurate, illegal, or unconstitutional. Congress must decide whether sampling is consistent with the Constitution's requirement that the census should be an ''actual Enumeration'' of the American public for the purpose of providing a basis for apportioning Congressional representation among the States.

In the 1990 census, the Bureau made extensive efforts to reduce the undercount of actual persons. It sought out ''traditionally undercounted populations'' and expanded assistance for non-English-speaking residents. But there was no plan to create hypothetical respondents, although there was an effort to statistically adjust the total. This adjustment was ultimately rejected by the Secretary of Commerce.

That is the problem now. The sampling would be the basis for an educated guess under the proposal that was presented to us. I am pleased to see the text has been modified so what we are concentrating on is the constitutional requirement to enumerate the population for the next census, and on that basis, I support the amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, when it comes to sampling, I think everyone should understand that we are very familiar with it. Almost every product put out by the census, or from data supplied by the Census Bureau is based on sampling. We quote the gross domestic product. The Federal Reserve, Alan Greenspan and others use GDP and inflation statistics based on very small samples. The monthly unemployment rate that all the members listen for. Well that is based on sampling of some 60,000 household of the 115 million households in this Nation. That is less than 1 percent. And, with the full decennial census, the Bureau has been using sampling for the long form for almost 60 years.

And if there is one group that really believes in sampling, it is Members of Congress. We come here with a poll taken, every one of us. And for a State my size with 3.5 to 4 million people, a sample of 870 to represent that number of people is readily considered authoritative. So we are doing the best and we are doing it professionally. I believe that we are on course now with this particular compromise.

Madam President, I ask unanimous consent that my complete statement be printed in the RECORD.

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

STATEMENT BY SENATOR HOLLINGS REGARDING THE CENSUS

Madam President, the bill before us is an emergency supplemental appropriations bill to deal with flooding, other natural disasters, and support for our troops in Bosnia. It also includes a provision that was inserted by the majority that prohibits the Census Bureau from using funds to conduct or plan to use statistical sampling in any way in the conduct of the year 2000 decennial census.

The census of the United States is required under Article I, section 2 of the Constitution. Since the original census in 1791, it is a basic government function that is performed every ten years. To many in this body it probably seems like a dry, academic subject. The census is about data and numbers. It is the sport of demographers and statisticians.

Yet, the census impacts Americans' daily lives in so many ways. Clearly, as noted in Article I, it is the basis for apportionment in the House of Representatives. It also has become the basis upon which over $100 billion in Federal program aid is allocated. Programs from Low Income Energy Assistance to Community Development Block Grant to Transportation grants all rely on census data. But, the census also is the main vehicle with which we are able to describe the characteristics of our democratic society. It tells us how many men and women live in each State and in our nation. It tells us about racial diversity and employment and literacy. Having accurate and unbiased population and economic statistics is a basic requirement for a democratic nation as diverse and geographically varied as the United States.

CENSUS HAS STRIVEN FOR MORE ACCURACY

The history of the census has been one of progressively seeking more detailed information about our people. And, it is a history of striving for more accuracy in the accounting for the residents of this nation.

The Senators who put this prohibition in the bill seem to think that by proposing the use of statistical sampling to aid the census enumeration, that the Census Bureau has broken new ground. Well, that's just not the case. The accuracy of the census was brought into question with the very first census. When Thomas Jefferson transmitted the census data in 1791, he also provided his own estimates. He stated that ''we are upwards of four millions; and we know in fact that the omissions have been very great.'' You might say that he provided the first ''post enumeration survey.'' Through much of the 19th Century, the Census was run by Marshals who reported to the U.S. Senate. They didn't have standard procedures and census forms did not exist until the 1830's. In fact, the Census Bureau itself was not created until 1902.

Statistical sampling dates back to 1940. In that year Dr. Demming, the noted management expert who once worked for the Bureau, proposed the use of sampling in the conduct of census. It was adopted to reduce the number of Americans who received detailed questions that we now call the census Long Form. Similarly, the issue of undercounting the poor and minorities always has been a problem. When this nation adopted the draft to prepare for the Second World War, the census first realized the magnitude of this problem. When the call went out to serve the nation, we found that 3 percent more men were in this country than the Census Bureau had estimated in the 1940 decennial census. Among black males, 13 percent more showed up to the call of duty than the census said even resided in America.

Relative to statistical sampling, it is used in almost every type of data that the Census Bureau collects and uses for its products. It is used in the Long Form so that only 1 in 6 Americans are asked detailed questions about employment, housing, family background, etc. A very small sample is used to get economic data every month so we can tell Alan Greenspan and Wall Street if Gross Domestic Product increased, or if inflation has increased. Take unemployment. Every month every Senator listens to what the monthly unemployment rate is. ''It's about jobs'' as our former Trade Representative Mickey Kantor would say. Well that unemployment data is collected by the Census Bureau. It is based on a survey of only 60,000 households out of 115 million households in this country. That is a sample of far less than 1 percent! So with this census issue, let's not act as though the use of statistical sampling is something new or some gimmick adopted by the census. The fact is that our Census Bureau is the Federal Government's premier statistical agency.

THE 1990 CENSUS DEBACLE AND STATISTICAL SAMPLING

Now, the current situation we find ourselves in is an outgrowth of the 1990 census debacle. The 1990 census was the most expensive census we had every conducted and for the first time it was LESS accurate than previous censuses. It is widely acknowledged that it was seriously flawed. Nearly 10 million people were NOT counted and 6 million people were counted twice. There were lawsuits by groups that were undercounted. Suits that ended up in the Supreme Court six years later. So Congress told the Census Bureau to figure out how to do a census that is: (1) more accurate and (2) more cost effective.

The Census Bureau did the right thing. It went to an outside group of experts. They went to the National Academy of Sciences in 1993 and asked for their recommendations. The Academy studied the issue and recommended that the Census Bureau incorporate statistical sampling in the conduct of the year 2000 census. The academy concluded that a rerun of the 1990 process would produce even less accurate data in the year 2000 and would cost more per household, primarily because voluntary citizen cooperation with the census is declining. They concluded that traditional census taking methods will always yield a differential undercount because some populations are just hard to count, such as rural and inner city poor people. The Academy recommended, in fact, that the Census Bureau continue to work until it achieved a 70 percent response from residents and then use statistical sampling for the remaining 30 percent.

The professionals at the Census Bureau adopted the Academy's recommendation—a well designed statistical sample to correct over and undercounting before the census counts are finalized. The only change they made was to reduce the amount of sampling. They concluded that they would work until 90 percent of residents were counted and use direct statistical sampling to estimate the remaining 10 percent.

Now, Madam President, I think there is a great deal of confusion on how the census is conducted and what is meant by these numbers. The Federal Government sends every resident a census short form. The Census Bureau makes extensive efforts to get these forms returned. Approximately 65 percent of the population does so. After that the greatest expense of the census comes into play. The question is how much effort and how much do we have to spend to get people to respond who have not sent back their questionnaires. The Census Bureau makes phone calls, goes door to door, and literally employs an army of 300,000 census takers to find individuals and households who did not respond. In the past, one of the reasons for inaccurate counts, is that finding those ''hard core'' of non-respondents is quite subjective. It isn't easy. These are in remote rural areas and in poor urban areas. It is commonly acknowledged that follow-ups are not conducted in a scientific fashion. It is a well

known fact that census takers would rather falsify data than go into some of those areas.

In the case of the Census Bureau's plan, they are proposing to estimate those remaining 10 percent of impossible to reach non-respondents. They are proposing to do so in a scientific way that is statistically reliable. It is a methodology that takes subjective judgement out of the process.

THIS AMENDMENT CASTS A WIDE NET

The amendment in this bill not only prohibits the Census Bureau from moving forward with its statistical sampling plans I've discussed, but it also casts a very wide net and prohibits all other statistical sampling. It would prohibit the Long Form from being sent to 1 in 6 Americans. This type of sampling has been underway for almost sixty years. So, the Census lawyers tell us that every American would have to be sent the Long Form under this congressional prohibition. It would prohibit the Census from working with the Postal Service and sampling to find vacant housing units that are currently on address lists. It would prohibit the Census from carrying out statistical sampling in its dress rehearsals that are now underway. It would prohibit the Census from planning to do quality assurance samples to ensure that census data is not falsified by census takers. It is, in short, a clumsily worded amendment that is quite far reaching in its consequences.

Now during our debate in Committee, the Chairman criticized the Long Form. I believe the gist of what he said was that the Long Form asks too many questions of too many people. Well, Mr. President, I'd like to know which questions. Questions about industry were added in 1820. Veteran status in 1840. Education in 1850. Housing in the 1930's and 1940's. Income level in 1940. We added a category to determine if a respondent considered themselves to be of Hispanic origin in 1970. Telecommunications questions began in 1980. In each case these questions came about because Congress directed them in statute.

ISSUE BELONGS WITH THE AUTHORIZATION COMMITTEE

This amendment doesn't belong in an appropriations measure, especially an emergency appropriations bill. It belongs with the Committee of oversight, the Governmental Affairs Committee. Now the irony is that the Senate Governmental Affairs Committee has been, in fact, holding oversight hearings on the year 2000 decennial census. They have heard from a number of outside witnesses and they have been hearing the pros and cons on statistical sampling.

Senator Glenn has written to Senator Stevens and Senator Byrd requesting that his Committee be allowed to continue to do its job. That the Appropriations Committee not interfere. He is right.

INCREASES COSTS

What the Appropriations Committee should be concerned about regarding this issue is the cost. The irony is that the amendment inserted by the Chairman will greatly increase the costs of the year 2000 decennial census. The current estimate for the total cost of the 2000 census is $4 billion! If the Census Bureau is required to make a full enumeration effort and NOT allowed to sample for 10 percent, then the costs will increase to $4.4 billion to $4.5 billion. That's because we will keep on the payroll that army of door-to-door census takers who will make around 13 dollars an hour.

The Commerce Department tells us that if you look at the cost impact of all the ramifications of this prohibition, including prohibiting sampling for the Long Form—then the cost of the year 2000 census will be about $1 billion higher. So through this amendment the Appropriations Committee, which is supposed to be concerned about the budget and costs, will be taking a $4 billion census and turning it into a $5 billion census.

So we tasked the National Academy of Sciences to come up with a methodology is more cost effective and accurate census. If we approve the prohibition in this bill we will be doing the opposite. We will be conducting a less accurate and more costly census.

There is a sense of absurdity about all this. The costs I have cited are the full multi-year costs of conducting the census. We are starting from a fiscal year 1997 Census Bureau year 2000 decennial census appropriation of only $84 million. That was a cut of about 21 percent from the President's FY 1997 request of $106 million. Under the Census Bureau's $4 billion plan using sampling, the appropriation needs to grow to $2.3 billion within three years. Dollars are tight. Our section 602(b) allocations for our Commerce, Justice, and State Subcommittee have been billions below the President's request for our Subcommittee. And, the Census Bureau competes against the Justice Department and the Judiciary which now account for two-thirds of our bill.

The reality is that Senator Stevens and the Committee are not going to give us the money to fund the Census Bureau's less expensive $4 billion plan using sampling let alone his notion of a $5 billion census that employs no sampling.

And that is what disturbs me most. We have an agency that is trying to economize and find a way to save costs. And here is the Appropriations Committee getting into an area outside our jurisdiction and then telling them to do their job in a more expensive way. I truly fear that we are going to mess up the year 2000 census. That it will be the least accurate census ever.

CONCLUSION

I have received a number of letters from outside interest groups, from demographers and statisticians asking me to get this onerous language out of the bill. Senator Glenn's observations have been especially forceful. Yesterday, our Committee received a letter from the Commerce Department's Inspector General who has done a great deal of work on the Census. I will include the full statement in its entirety, but let me just quote a few lines:

''We strongly disagree with this provision. We believe that such a prohibition would make it almost impossible for the Census Bureau to carefully research, test and implement an optimal design for the 2000 census. Over the past two years, we have issued reports, testified, and briefed bureau, departmental, and congressional principals and their staff members on our support for the use of statistical sampling in the 2000 census. We continue to believe that, if carefully planned and implemented, sampling can be employed by the bureau in the 2000 census to produce overall more accurate results than were produced in the 1990 census, at an acceptable cost. We further believe that the Congress should allow the bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. Halting the design effort at this critical juncture would mean that the substantial effort made to date would be left incomplete and unevaluated.

Madam President, I have been working with Chairman Stevens and Senator Gregg trying to find a reasonable compromise on this issue. It clearly was not their intention to require the long form to be sent to every American. And, it is the concern of many members on the opposite side of the aisle that the Census Bureau not proceed with statistical sampling for the short form in a manner that is irreversible.

Accordingly, I am pleased to report that we have worked out a compromise amendment that achieves both aims. It allows planning and preparation by the Census Bureau to continue and it allows the Committee of Jurisdiction, the Senate Government Affairs Committee, to continue its review and oversight of the Census' plan for the year 2000 decennial census. Finally, the compromise allows the Census Bureau to continue to send the long form to only 1 in 6 Americans and to therefore get essential data.

Madam President, I think this is a good compromise and I trust my good friend the senior Senator from Alaska will uphold the Senate position in Conference with the House.

Mr. HOLLINGS. Madam President, I ask unanimous consent that the letter from the inspector general, the Department of Commerce, and the letter from Secretary Daley be printed in the RECORD.

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

DEPARTMENT OF COMMERCE,
THE INSPECTOR GENERAL,
Washington, DC, May 5, 1997.

Hon. ROBERT C. BYRD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: We have learned that S. 672, the Supplemental Appropriations and Rescissions Act of 1997, as reported out of the Committee on Appropriations, includes a provision that would prohibit any appropriated fiscal year 1997 funds to be used to plan for the use of statistical sampling in the 2000 decennial census. We strongly disagree with this provision. We believe that such a prohibition would make it almost impossible for the Census Bureau to carefully research, test, and implement an optimal design for the 2000 census. Over the past two years, we have issued reports, testified, and briefed bureau, departmental, and congressional principals and their staff members on our support for the use of statistical sampling in the 2000 census. We continue to believe that, if carefully planned and implemented, sampling can be employed by the bureau in the 2000 census to produce overall more accurate results than were produced in the 1990 census, at an acceptable cost. We further believe that the Congress should allow the bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. Halting the design effort at this critical juncture would mean that the substantial effort made to date would be left incomplete and unevaluated.

The bureau has only recently decided on the type and degree of sampling to be used in the 2000 census. These decisions are driving the bureau to complete the required research on important details. According to the bureau's plan, fundamental work on all potential uses of sampling will be finished by December 1997. We do not believe an informed design decision can be made until this work is completed and the various design components are tested during the April 1998 dress rehearsal. Even if the prohibition against the use of funds for sampling is lifted in fiscal year 1998, we believe that the bureau will simply not have enough time to develop a complete, detailed sampling design for testing in the dress rehearsal. Consequently, the bureau will not be able to conduct a ''one-number census'' using sampling in 2000 without a significant risk of reduced accuracy,

increased cost, and delay. Some of our specific concerns are discussed below.

SAMPLING AND ESTIMATION RESEARCH

If appropriated funds cannot be used for sampling work, important research needed for key sampling design decisions will not occur. Various aspects of this research are interdependent, with one research result feeding into others. For example, according to its research plan, the bureau is scheduled to decided in October on the optimal sampling designs for both nonresponse follow-up and the postal vacancy check. Included in this research is determining how the different sampling applications affect one another at different levels of geography. This information will, in turn, feed into a decision on the optimal Integrated Coverage Measurement survey design, scheduled for December. Aspects of this decision include how to allocate the survey sample to each state to ensure equity among states; which combination of demographic characteristics to focus on to reduce the differential undercount; and how to deal with people who have moved either into or out of a household. Additionally, critical work on how to combine all the different enumeration methods into ''one number'' may be irretrievably delayed.

STAFFING

The bureau will not be able to hire or contract for the expertise needed to conduct and oversee the sampling and estimation work. Specifically, the bureau will not be able to acquire the staff resources it needs to complete work on the ''one number census;'' it will not be able to gain much needed information on the effects of sampling on accuracy at the block and small tract areas; and it will not be able to convene an expert oversight panel this summer, as planned.

COSTS

Prohibiting the use of sampling in the 2000 census would drive up cost and drastically reduce the accuracy of the census. Although, the cost increase cannot be precisely estimated, depending on the response to the initial mailing, it is clear that the additional costs would involve hundreds of millions of dollars.

We strongly urge the Committee to allow the bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. To do otherwise would leave the 2000 census in a most precarious position. We are available to discuss these concerns with you and/or your staff at your convenience. Please feel free to call me at (202) 482–4661 or Jessica Rickenbach, our Congressional Liaison Officer, at (202) 482–3052.

Sincerely,

FRANCIS D. DEGEORGE.

THE SECRETARY OF COMMERCE,
Washington, DC, April 29, 1997.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Senate Committee on Appropriations, Washington, DC.

DEAR SENATOR HOLLINGS: I am writing to urge deletion of language contained in the supplemental appropriations bill that would prohibit the Census Bureau from using fiscal year 1997 money to prepare for the use of sampling in the decennial census. The Administration strongly opposes this provision in the disaster relief supplemental.

This language is premature. It would short circuit a process that is underway in other Congressional committees to evaluate the use of sampling in the decennial census. This matter is far too important to be decided without full debate. A prohibition on statistical sampling this year also will seriously impair our ability to develop and plan for the best possible decennial census.

This provision will result in a less accurate, more costly Census 2000. The country deserves an accurate census count that is right the first time. We should not repeat the same mistakes of the 1990 decennial census which did not utilize sampling. Using the failed techniques of the 1990 census would result in an unacceptable undercount. This undercount can be virtually eliminated with statistical sampling.

Congress instructed us to convene the Nation's experts through the National Academy of Sciences. They concluded that statistical sampling is the most reliable method for ensuring an accurate census.

Sincerely,

WILLIAM M. DALEY.

Mr. HOLLINGS. I thank my distinguished chairman, Senator STEVENS.

Mrs. BOXER. Madam President, the emergency supplemental appropriations bill contains language that prohibits the Census Bureau from preparing to use any funds in the current fiscal year to ''plan or otherwise prepare for the use of sampling in taking the 2000 decennial census.'' I opposed this provision in the committee mark-up because the National Academy of Sciences [NAS], at the request of Congress, found sampling resulted in a more accurate census and that without sampling, the national effects have long-standing negative ramifications. I support Senator HOLLINGS' amendment.

A statistical sampling study was done by the National Academy of Sciences at the request of Congress. Others continue to question if sampling produces accurate data. I welcome that debate, but I believe this is not an issue to be decided in the emergency supplemental appropriations bill. There have been several congressional hearings on this subject, and I support that those committees should be given the opportunity to finish their work. I believe it would be unwise for Congress to stop further work on this issue in an emergency supplemental. Other supporters of using statistical sampling include the American Statistical Association, the Population Association of America, and the National Conference of Mayors.

Sampling results in a more accurate census. The National Academy of Sciences concluded from their study that sampling was necessary for an accurate census count, and strongly recommended its use in the 2000 census to account for nonresponding households. The census is responsible for counting all residents in this country, including those overlooked by traditional polling methods. The process of sampling helps the Census Bureau count U.S. residents that may not respond to traditional outreach methods, that is, those who do not speak English well, or those who can not read or write proficiently. Big cities all across this country are home to many of these overlooked Americans. Relying solely on mailed responses and face-to-face visits, so-called direct enumeration, while critical, will guarantee an inaccurate census because we will essentially be saying if we can not find you, then we will not count you, and therefore you do not exist. The Constitution does not tell us to only count those who are at home, or who has time to fill out the form. The Constitution says every resident must be counted.

Without sampling, the effects have long-standing negative ramifications. The National Academy of Sciences found in the 1990 census racial minorities were severely undercounted, compared to whites. Without sampling, the costs will increase due to added manpower and work hours involved. More census takers will have to be hired, trained and will have to knock on more doors, requiring a greater drain on the Nation's resources. For the 1990 census, those forms that were not returned by mail cost the U.S. Government at least 6 times more to enumerate than those who mailed back their forms. Using field staff to find the most reluctant respondents raised the cost as much as 18 times.

Because of California's large racial minority population, California was more severely harmed by the undercount than other States. We need an accurate census because many important Federal programs depend on census data to allocate funding. In the 1990 census, it is estimated that 837,557 Californians were not counted, which caused California to be shorted more than $5 million in several Federal programs.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 231) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, we have five amendments that, as soon as Senator FEINGOLD has presented his position on one amendment, we will be able to handle by consent.

I urge Senators to come to the floor to see if we can work out these amendments. We still have some 26 eligible amendments. When I am able to confer with the Senator from West Virginia, I do want to announce a policy with regard to amendments that the Parliamentarian has indicated are not in order under cloture.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Reid amendment No. 171.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Reid amendment be temporarily laid aside.

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

AMENDMENT NO. 83

(Purpose: Prohibit use of funds for ground deployment in Bosnia after September 30, 1997)

Mr. FEINGOLD. Madam President, I call up my amendment No. 83 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 83.

On page 7, line 24, insert before the period, the following: ''*: Provided further,* That none of the funds made available under this Act may be obligated or expended for operations or activities of the Armed Forces relating to Bosnia ground deployment after September 30, 1997''.

Mr. FEINGOLD. Madam President, I rise today to offer an amendment to the Supplemental Appropriations Act that would effectively set an end date for deployment of ground troops in Bosnia.

The Supplemental Appropriations Act of 1997 provides an additional $1.5 billion in fiscal year 1997 funds for the ongoing Bosnia operation. But what my amendment will do, Madam President, is seek to set a date certain for the withdrawal of U.S. troops from participation in the NATO-led Stabilization Force, or SFOR. Specifically, it prohibits the use of funding provided for under the Supplemental Act for United States Armed Forces in Bosnia and Herzegovina after September 30, 1997, the end of our current fiscal year.

Madam President, I recognize very sincerely that the Dayton Accord and the deployment of the NATO-led Implementation Force, IFOR, to enforce it, has not been without some real benefit. People are no longer dying en masse in Bosnia. And U.S. troops, in conjunction with troops from other countries, should be warmly applauded for having largely succeeded in enforcing the military aspects of the agreement. We should also be very thankful that there have been virtually no casualties.

I think a special note should be made to commend the courage and the dedication of the U.S. military personnel in the region. These men and women continue to work tirelessly in an environment which has been challenging and very complex. Service men and women from across the United States have served in this mission with distinction and there should be no confusion between the honor and the admiration which they have earned and, Madam President, the need to terminate this operation.

The issue of whether the United States should continue to deploy ground troops in Bosnia is a separate question from the outstanding performance of our military forces.

Madam President, I have had strong reservations about United States troop deployment in Bosnia ever since it was initially announced in 1995. As some in this Chamber may recall, I was one of only a few Members of Congress, and the only Democrat in the Senate, to vote against the deployment of U.S. men and women to support the Dayton Accord.

I said then that I doubted the value of a heavy U.S. investment in the region. I felt then that administration promises to have American men and women out of the region within a year's time were unrealistic and would not be kept. And I questioned then whether or not the Dayton plan would level the playing field between the Serbs and Moslems such that peace would reign in the region.

So where are we today, Madam President? United States troops have now been on the ground not just for a year in Bosnia, but for nearly 18 months. And the concerns that I had then remain with us today.

My concerns, Madam President, are twofold. One has to do with a mandate for a military operation that continues to grow, yet has increasingly less value. The other relates to the ever-spiraling cost of United States involvement in Bosnia.

Let me first take up the question of the mandate under which our troops are operating.

Madam President, when, in late 1995, the President first announced he would be sending United States forces to Europe to participate in the IFOR mission, he and many others promised the Congress and the American people that the IFOR mission would be over within 1 year. And this promise was reiterated by the President on several occasions and continually backed up by senior American military and diplomatic officials in public statements and in testimony before Congress, including in response to my own questions in the Senate Foreign Relations Committee. There were repeated assurances that this would be over within 1 year.

We all understood that that promise meant that our military men and women would be withdrawn from the region by December 1996, or at least very shortly thereafter. But, Madam President, in November 1996, the President announced that he would extend the U.S. mission for an additional 18 months. A mission that was promised to be only 1 year was just suddenly and very quietly extended by 18 months beyond that year through June 1998, for participation in the NATO force now known as the Stabilization Force, or SFOR.

Despite the baptism of a new mission, Madam President, we all know that SFOR, although a bit more limited in scope, in reality represents just an extension of the original IFOR mandate that was supposed to expire within 1 year. The President's announcement of an extended deadline signaled that the United States would continue to be drawn deeper into a situation from which it has become harder and harder to extricate itself.

Madam President, the war in Vietnam was called a quagmire. We referred to continued United States troop deployment in Somalia as ''mission creep.'' I fear that the Bosnia operation is presenting the same dilemma. With indicted war criminals still at large, refugees still unable to return to their homes, and the timing for upcoming local elections still in doubt, there will obviously continue to be many reasons to call for an ongoing U.S. military presence on the ground without any clear end in sight.

In the meantime, in the heart of the conflict is the fact that the strategic political goals of the warring factions remain unchanged.

Madam President, I have a copy of a November 26, 1996, editorial from the Wisconsin State Journal. I ask unanimous consent that it be printed in the RECORD.

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

[From the Wisconsin State Journal, Nov. 26, 1996]

BOSNIA MISSION DEVOID OF VISION

President Clinton said a year ago that most U.S. troops would be out of Bosnia within a year. Now he says the United States is prepared to keep troops in that shattered Balkans nation for another 18 months.

Here's a preview of what Clinton's decision could mean for those troops as the North Atlantic Treaty Organization mission in Bosnia drags on.

For 11 months, displaced Muslims have been waiting patiently for the NATO force to deliver on the biggest promise made to them through the Dayton peace agreement: The right to return to their homes.

For refugees living in camps near the town of Celic this month, patience ran out.

After learning that their empty homes in Gajevi and Koraj were being blown up by the Serbs, the refugees tried to take matters into their own hands. About 600 of them, mostly women and children accompanied by some armed men, tried to walk back to their villages.

They were turned back by American soldiers who got caught in a crossfire between the Muslims and the Serbs. No Americans were hit, but one Muslim man was killed by Serb gunfire.

When the American troops returned to Celic the next day to confiscate weapons from a Bosnian army storage site, an angry crowd of several thousand blocked their way. ''Pretty soon rocks were bouncing off helmets and soldiers were being spit on,'' one soldier told the Chicago Tribune.

Almost a year after the Dayton peace agreement committed U.S. troops to Bosnia, U.S. commanders there describe the situation on the ground not as ''peace'' but rather the ''absence of war.'' Almost no freedom of movement exists. Few refugees have been able to return to their homes and elections two months ago, while essentially fair, only served to harden deep ethnic divisions.

Nothing has been done to make the Serbs accept resettlement of the Bosnians, and NATO commanders have not been able to do anything to track down war criminals responsible for ''ethnic cleaning'' during Bosnia's long civil war.

So, what's the point? Why does Clinton propose to keep American troops in Bosnia, long past his original schedule?

U.S. Sen. Russ Feingold, D-Wis., said he believes the whole Bosnia policy was ''sold on a phony basis'' to Congress and the American people. Meeting this month with members of the State Journal editorial board, Feingold observed, ''Three billion dollars later, we're still in this thing. We continue to be drawn deeper and deeper into a situation from which we appear unable to extricate ourselves.''

By leaving the U.S. mission in Bosnia open-ended, Clinton gives the Serbs every reason to continue thumbing their nose at the Dayton agreement and our European allies less reason to take ownership of a peacekeeping mission that should be their primary concern.

Members of both parties in Congress are starting to ask hard questions about the goals and duration of the U.S. mission in Bosnia. It's time to hold Clinton's feet to the fire—before American troops find themselves caught in the middle again.

Mr. FEINGOLD. Thank you, Madam President.

This editorial, in one of our State's leading newspapers, notes as follows:

By leaving the United States mission in Bosnia open-ended, [President] Clinton gives the Serbs every reason to continue thumbing their nose at the Dayton agreement and our European allies less reason to take ownership of a peace-keeping mission that should be their primary concern.

By this analysis, the presence of U.S. troops may actually serve to harden rather than soften the ethnic tensions in the area. The longer the Moslem refugees are prevented from returning to their homes, the more determined they are of the right to do so. At the same time, the Serbs are thwarting resettlement efforts and ignoring indictments from the War Crimes Tribunal against their own leadership.

As this newspaper editorial reminds us, the ''U.S. commanders [in Bosnia] describe the situation on the ground not as 'peace' but rather as the 'absence of war.'''

Madam President, I believe that the open-endedness of this mission may actually be helping to keep the warring parties from truly fulfilling their commitments under the Dayton accord.

Madam President, let me turn to my second major concern. And it is really the crux of this amendment. That relates to the bill that the United States taxpayer is bearing with regard to the Bosnia operation.

Congress and the American people were originally told that the Bosnia mission would cost the United States taxpayer some $2 billion; a lot of money. Then sometime in 1996 that estimate was revised up to $3 billion. But subsequent to the President's announcement extending the deadline for troop withdrawal, we learned that cost estimates have been revised again, and now, according to statements by the Department of Defense on this matter, the figure is estimated to be at a minimum, by the middle of 1998, $6.5 billion for this Bosnia operation. Madam President, that represents a more than threefold increase from the administration's original estimate.

To put this in perspective, the United States over the course of 30 months in Bosnia—in Bosnia alone—expects to have spent an amount equivalent to just over half of what our country spends in the entire world in our foreign operations budget for the current fiscal year.

What we have here with United States involvement in the Bosnia operation is not just mission creep, it has become dollars creep for the United States Congress and the American people. And this is all happening at the very moment, at the very key moment when we are straining hard to eliminate the Federal deficit. We need to plug up the hole in the Treasury through which funds continue to pour into the Bosnia operation.

In the supplemental request before us today, the administration is asking the Congress now to sign off on an additional $1.5 billion for the Bosnia operation. This request represents only a portion of the threefold increase in the estimate. So it is clear to me—and I think it is clear to everyone—that this request will not be the last. It is just another installment on this $6.5 billion cost that we already know the Bosnia operation is going to involve.

Madam President, what my amendment would do is retain the Bosnia-related funding in the supplemental, but it would prohibit the use of those funds after the end of the current fiscal year. This amendment would then effectively establish an end date for the deployment of ground troops in Bosnia. This is the only hope we have to plug up that hole in the Treasury.

By establishing an end date for the funding of the deployment of U.S. troops, I would like to think that my amendment serves a dual purpose. First, it prevents mission creep, and, second, I think it would put an end to the dollars creep that is beginning to become very troubling with regard to the Bosnia operation.

At this point, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 177 TO AMENDMENT NO. 83

(Purpose: To change the date for prohibition of use of funds for ground deployment in Bosnia)

Mrs. HUTCHISON. Mr. President, Senator FEINGOLD's amendment, I think, certainly lays down a marker. Senator FEINGOLD and I cosponsored an amendment—actually a resolution—earlier that asked that we have more parameters around this Bosnia mission because many of us were concerned that we did not know enough about what would be done.

As you know, the administration has missed one deadline. It was supposed to be a 1-year mission. That was passed 5 months ago. Now we are facing another commitment for a resolution that I think is June 30, 1998. Not only has the administration said that June 30, 1998, would be the end of the Bosnia mission, but Secretary Cohen has been very firm in saying I promise the Congress that is the end, and he is planning for that. I want to make sure that is set in concrete, that Congress speaks on this issue, and that Secretary Cohen has the ability to plan by knowing that the funds would be cut off in this supplemental appropriation at June 30.

Now, Senator FEINGOLD has a September 30, 1997, date in his amendment, so I am going to ask unanimous consent to call up second-degree amendment No. 177 to the Feingold amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Texas [Mrs. HUTCHINSON] proposes an amendment numbered 177 to amendment No. 83: Strike out ''September 30, 1997'' and insert in lieu thereof ''June 30, 1998.''

Mrs. HUTCHISON. This is a simple amendment. It basically says what the administration has promised is going to happen, and that is June 30, let us go ahead and plan so that we can let everyone know, our allies know, that that is a firm date. The President has said so. The Secretary of Defense has said so. As Senator FEINGOLD said earlier, I think we have accomplished the mission the President wanted to accomplish. I do not think it serves a purpose for us to be taking funds from training, from readiness of our troops for this mission in Bosnia. In fact, that is why we are here doing the supplemental today. We are trying to put the money that has gone into Bosnia back into the defense budget. We need money for parts. We need money for airplanes. We need money for training and retraining the troops that have come out of Bosnia. We need to have the money for the pay raises and the quality of life for our military.

That money has been spent in Bosnia. I am not going to quibble about spending the money in Bosnia because if my troops are there, I want them taken care of. But I do not want to hurt our ability to train the other troops for readiness to make sure we are able to fight two simultaneous or nearly simultaneous major regional conflicts.

So we have a job to do. That is what the supplemental is for. My second-degree amendment does in fact put a June 30, 1998, deadline, which is the promise of the President, onto this amendment. Then I think all of us will be ready to prepare for the eventual withdrawal of our troops and that money going into our training and our spare parts and our airplanes and all of the factors to make sure that our troops are ready to go in case of need.

I thank the Chair. I appreciate Senator FEINGOLD taking this initiative

and for his work on this very important issue.

Mr. FEINGOLD. Mr. President, I want to commend the Senator from Texas for her leadership regarding the issue of troop deployment in Bosnia, and will support her second-degree amendment.

The language drafted by the Senator from Texas changes the date of the funding prohibitions in my amendment, as she indicated, from September 30, 1997, which is the end of the current fiscal year, to June 30, 1998, which is the date the administration is now using as its target end date for this mission.

Of course, Mr. President, I would have preferred the earlier date, the September 30, 1997 deadline, which would effectively require the administration to begin plans to withdraw at least some of our troops starting tomorrow. That would be the quickest way for the United States to get out of a situation that, I think, is getting worse the longer we stay there.

But I, of course, recognize there are concerns from a number of Senators that trying to dismantle an operation the size of the United States troop deployment in Bosnia within a 5-month timeframe would be difficult to accomplish. I also recognize that there is more support in this body for the later date that the Senator from Texas has suggested. There are many Members who are willing to allow the mission to continue through June of next year if, in exchange for that, they get a solid, firm, and irrevocable commitment to an end date. So I am prepared to support the end date of June 30, 1998.

A point I want to emphasize is that if Congress does not establish an end date to our involvement in Bosnia, this mission will continue to drag on and on and on. Therefore, I am willing to accept the second-degree amendment of the Senator from Texas. I congratulate her for her efforts in this area. I have joined as a cosponsor of a freestanding bill that she is introducing to also help us accomplish this goal. Regardless of the result of today's debate, she and I will continue to press for an end date to this deployment.

Mr. STEVENS. Mr. President, the original amendment would prohibit the expenditure of funds after September 30, 1997. There are no funds in the bill for defense to be spent after September 30, 1997. The amendment of the Senator from Texas would prohibit spending funds after June 30, 1998. No funds in the bill will be expended after June 30, 1998. So the amendments take on an image perspective, from the point of view of this Senator. I am certainly not going to oppose them on that point. But I emphasize that they are just a statement of policy. It amounts to a sense-of-the-Congress position about the expenditure of funds. They would not be a barrier to the expenditure of funds under the circumstances of this bill.

Mrs. HUTCHISON. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mrs. HUTCHISON. I know what we are really doing is supplementing the money already spent on Bosnia. But I appreciate the fact that the Senator from Alaska says that this is a sense of the Senate and that it does say that all of us now are serious about the end strategy, the preparation for the end strategy. The President has promised it and the Secretary of Defense promised it. Now Congress will, in a sense, be saying, look, this is real, this is now something that we are all in agreement on; the time has come for to us make sure that we have that end game in sight and that the money for training and quality of life will be there for our troops all along the way.

So I appreciate the Senator from Alaska pointing that out. I do agree that it will be a sense of the Senate. I think it will be a unanimous one, and I think it will be significant.

Thank you, Mr. President.

Mr. STEVENS. Mr. President, I have been informed that others wish to speak on this amendment. Under the circumstances, 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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 131

(Purpose: To provide funding for the Delaware River Basin Commission)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BIDEN, Mr. REID, and Mr. ROTH, proposes an amendment numbered 131.

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

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

The amendment is as follows:

On page 48, strike lines 15 through 23 and insert the following:

SEC. 306. DELAWARE RIVER BASIN COMMISSION; SUSQUEHANNA RIVER BASIN COMMISSION.

(a) COMPENSATION OF ALTERNATIVE MEMBERS.—During fiscal year 1997 and each fiscal year thereafter, compensation for the alternate members of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328) and for the alternate members of the Susquehanna River Basin Commission appointed under the Susquehanna River Basin Compact (Public Law 91–575) shall be provided by the Secretary of the Interior.

(b) IMMEDIATE CONTRIBUTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall make a contribution to each of the Delaware River Basin Commission and the Susquehanna River Basin Commission for fiscal year 1997 an amount of funds that bears the same proportion to the amount of funds contributed for fiscal year 1996 as the number of days remaining in fiscal year 1997 as of the date of enactment of this Act bears to the number 365.

Mr. STEVENS. Mr. President, this amendment deals with Delaware and Susquehanna River Basin Commissions. It was offered by Senators BIDEN, REID, and ROTH. It would direct the Secretary of the Interior to provide compensation to the Federal representative to the Delaware and the Susquehanna River Basin Commissions, without indicating who that individual would be.

The second-degree amendment makes the Secretary of the Interior, or his designee, the representative. It does not provide for compensation above that otherwise earned by that employee of the Department of the Interior. I trust that both amendments will be before the Senate at the same time. The second one is amendment No. 224.

AMENDMENT NO. 224 TO AMENDMENT NO. 131

(Purpose: A 2nd degree amendment to amendment No. 131 providing that the Federal representative to the River Basin Commissions shall be the Secretary of the Interior or his designee)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. DOMENICI, proposes an amendment numbered 224 to Amendment No. 131.

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

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

The amendment is as follows:

Strike line 5 of amendment No. 131 and all thereafter and insert the following:

The Secretary of the Interior or his designee shall serve as the alternate member of the Susquehana River Basin Commission appointed under the Susquehana River Basin Compact (Public Law 91–575) and the alternate member of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328).

Mr. STEVENS. I urge adoption of Amendment No. 224.

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

The amendment (No. 224) was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment No. 131.

The amendment (No. 131), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 70

(Purpose: To set aside certain funds for the project consisting of channel restoration and improvements on the James River in South Dakota)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. JOHNSON, for himself, and Mr. DASCHLE, proposes an amendment numbered 70.

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

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

The amendment is as follows:

On page 19, line 6, before the period, insert the following: '': *Provided further,* That, of the funds appropriated under this paragraph, $10,000,000 shall be used for the project consisting of channel restoration and improvements on the James River authorized by section 401(b) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4128)''.

Mr. JOHNSON. Mr. President, I have to my right a satellite image of the James River in South Dakota; on the left, depicting the river in its normal course prior to the flooding. On the right is a satellite image showing the current state of the James River—swollen, in places miles across, with water in a circumstance where less than 5 percent of the farmland in the James River Valley, from North Dakota to Nebraska, will be planted this year. This imagery was provided by the aerial data center in South Dakota. I think it very ably shows the dire circumstances that people in the James River area are facing.

Amendment No. 70 is an amendment offered by myself and by my colleague, Senator DASCHLE, which addresses the extensive damage that has taken place in the James River Valley and which needs to be addressed. This amendment addresses the problem, where up to 75 percent of the trees in this area have been lost, where bank sloughing and levee sloughing has filled the channel and reduced its capability to handle water. The amendment would provide a $10 million appropriation through the Corps of Engineers to the James River Water Development District to use for the badly needed repair and restoration work on the James River.

This is a 25-percent cost share. I am pleased that this amendment has been cleared and approved by the majority and the minority of the Environment and Public Works Committee. I thank Senator CHAFEE and Senator BAUCUS and their staffs for their willingness to work with us on these amendments. I also thank the appropriators, Senator STEVENS and Senator BYRD, Senator DOMENICI and Senator REID from the Energy and Water Appropriations Subcommittees and their staffs, for their willingness to work with us on the language of this amendment, and to accept it as part of the supplemental appropriations legislation being considered by the Senate today.

Mr. President, this amendment will go a long way toward restoring the James River and its water-carrying capacity, to restore its wildlife, to restore the economic life of the area on either side of this river, and it will do a great deal to assure residents of this area that we will not see flooding of this magnitude, of this devastating scope, any time soon again.

I had the opportunity to fly over the James River to take an aerial survey of this area this past month, flying out of Pierre, SD, flying over Mitchell, then back over Aberdeen, over Sand Lake Wildlife Refuge to gain a full appreciation of the magnitude of this flood.

We have a great deal of flood problems in other areas of South Dakota, but this amendment addresses the dire circumstances that the people in the James River Valley face.

I thank, again, my colleagues for their cooperation and their assistance with this amendment. It certainly is my hope that we can very expeditiously pass the supplemental appropriations bill, get it to the President's desk for his signature and to get on with rebuilding the lives of our communities, of our businesses and of our families, in this case, in the James River Valley.

I yield back the remainder of my time, Mr. President.

AMENDMENT NO. 225 TO AMENDMENT NO. 70

(Purpose: A second degree amendment to amendment No. 70 making funds contingent upon a finding by the Secretary of the Army that channel restoration and improvements of the James River constitute an emergency)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. DOMENICI, proposes an amendment numbered 225 to amendment No. 70.

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

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

The amendment is as follows:

On line 7 of amendment No. 70, following ''(Public Law 99–662; 100 Stat. 4128)''; insert the following: ''if the Secretary of the Army determines that the need for such restoration and improvements constitutes an emergency.''

Mr. STEVENS. Mr. President, the first-degree amendment by Senators JOHNSON and DASCHLE would provide $10 million of funds provided in this act for the flood control and coastal emergencies and would be used for channel restoration and improvements on the James River.

My second-degree amendment inserts the requirement that the $10 million be provided only if the Secretary of the Army determines that the need for channel restoration and improvement constitutes an emergency.

I urge adoption of the amendments.

The PRESIDING OFFICER. The question is on the second-degree amendment.

The amendment (No. 225) was agreed to.

The PRESIDING OFFICER. The question is on the first-degree amendment, as amended.

The amendment (No. 70), as amended, was agreed to.

Mr. STEVENS. I move to reconsider that vote on both amendments and ask that the motion be laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 90

(Purpose: To provide funding for the Partners in Wildlife Program of the United States Fish and Wildlife Service to pay private landowners for the voluntary use of private land to store water in restored wetlands)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DASCHLE, proposes an amendment numbered 90.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

UNITED STATES FISH AND WILDLIFE SERVICE
PARTNERS FOR WILDLIFE PROGRAM

For the Partners in Wildlife Program of the United States Fish and Wildlife Service, $5,000,000 to pay private landowners for the voluntary use of private land to store water in restored wetlands.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order to consider a technical modification to amendment number 90.

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

Mr. STEVENS. I send that modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 90), as modified, is as follows:

On page 21, strike line 7 through the word ''fire'' on line 11 and insert the following: ''For an additional amount for ''Resource Management'', $8,350,000, of which $3,350,000, to remain available until September 30, 1998, is for fish replacement and for technical assistance made necessary by floods and other natural disasters and for restoration of public lands damaged by fire, and of which $5,000,000, to remain available until September 30, 1999, is for payments to private landowners for the voluntary use of private land to store water in restored wetlands.''

Mr. STEVENS. The amendment, as modified, would provide an additional $5 million to the Fish and Wildlife

Service to pay private landowners for the voluntary use of private land to store water in restored wetlands. These funds were not provided to any specific region and should be allocated on a competitive basis.

This amendment has been cleared on both sides and the version I have submitted to the desk is a modification of the original amendment No. 90.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 90), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 144

(Purpose: To make technical amendments with respect to education)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DOMENICI, for himself, Mr. BINGAMAN, Mr. BROWNBACK, and Mr. ROBERTS, proposes an amendment numbered 144.

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

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . TECHNICAL AMENDMENTS RELATING TO DISCLOSURES REQUIRED WITH RESPECT TO GRADUATION RATES.

(A) AMENDMENTS.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended—

(1) in subsection (a)(3)(B), by striking ''June 30'' and inserting ''August 31''; and

(2) in subsection (e)(9), by striking ''August 30'' and inserting ''August 31''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) are effective upon enactment.

(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) before July 1, 1998.

SEC. . DATE EXTENSION.

Section 1501(a)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491(a)(4)) is amended by striking ''January 1, 1998'' and inserting ''January 1, 1999''.

SEC. . TIMELY FILING OF NOTICE.

Notwithstanding any other provision of law, the Secretary of Education shall deem Kansas and New Mexico to have timely submitted under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(c)(1)) the States' written notices of intent to consider payments described in section 8009(b)(1) of the Act (20 U.S.C. 7709(b)(1)) in providing State aid to local educational agencies for school year 1997–1998, except that the Secretary may require the States to submit such additional information as the Secretary may require, which information shall be considered part of the notices.

SEC. . HOLD HARMLESS PAYMENTS.

Section 8002(h)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking ''or'' after the semicolon;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) for fiscal year 1997 and each succeeding fiscal year through fiscal year 2000 shall not be less than 85 percent of the amount such agency received for fiscal year 1996 under subsection (b).''.

SEC. . DATA.

(a) IN GENERAL.—Section 8003(f)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting ''expenditure,'' after ''revenue,''; and

(B) by striking the semicolon and inserting a period;

(2) by striking ''the Secretary'' and all that follows through ''shall use'' and inserting ''the Secretary shall use''; and

(3) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal years after fiscal year 1997.

Mr. DOMENICI. Mr. President, I rise today to offer the following amendment to S. 672. This amendment involves the New Mexico Department of Education's intent to take credit for $30 million of Federal impact aid funds. I am offering this amendment on behalf of the 331,000 public school children of New Mexico.

New Mexico is one of three States in the country which uses an equalization formula to distribute educational moneys among its school districts. Presently, 40 out of New Mexico's 89 school districts qualify for $30 million dollars' worth of impact aid. The New Mexico Department of Education relies on impact aid in calculating the amount of State funds which will be used to equalize educational funding among all 89 school districts.

Without this amendment, the New Mexico Department of Education would not be permitted to consider $30 million of impact aid in its formula for distributing State education moneys among its school districts. The inability to consider Federal funds would create an imbalance in the distribution of educational funds between non-impact aid school districts and impact aid school districts.

This amendment allows the U.S. Department of Education to recognize as timely New Mexico's written notice of intent to consider impact aid payments in providing State aid to school districts for the 1997–98 school year.

Mr. BROWNBACK. Mr. President, I rise to give some remarks on an amendment being offered today by myself and by Senator ROBERTS as well as my colleagues from New Mexico, Senator DOMENICI and Senator BINGAMAN.

This amendment, which is revenue neutral, is critically important to education in the State of Kansas.

It should be noted that this amendment does not cost the Federal Government any money. In fact, it simply allows the Department of Education in Kansas to grant deductibility in the school finance formula for impact aid funding. Without this amendment it is likely that the Kansas taxpayers would have to pay an extra $6 million in taxes to fully fund the State's education programs.

This amendment corrects for a potentially very expensive technicality. I therefore urge the timely consideration of this very important and time sensitive amendment.

Mr. STEVENS. These technical amendments were passed by the Senate unanimously April 16. The bill is now pending in the House. These are amendments that are deemed to be important and should be considered on a timely basis. That is why they are being added to the bill at this time.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 144) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I ask unanimous consent that I may speak as in morning business for not to exceed 5 minutes.

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

GENDER SCHIZOPHRENIA

Mr. GORTON. Mr. President, by all accounts, Lt. Kelly Flinn has had a remarkable Air Force pilot's career. Becoming an astronaut was her childhood dream; becoming an Air Force pilot was an achievement accomplished upon completion of her basic pilot training in December 1994. She was the most distinguished graduate of her training class, rated exceptionally qualified to fly a B–52 bomber, an assignment earned from her high class ranking.

Today, she is confined to a desk job, stripped of her security clearance, grounded, publicly disgraced. On May 20 the Air Force will court martial her for adultery.

The United States military has experienced its share of scandal in the past 5 years. In Aberdeen, MD, a court-martial jury recently convicted an Army drill sergeant of raping six soldiers under his command. In 1991 the Tailhook scandal rocked the Navy and the Marines. In both instances women were physically abused by their colleagues or superiors, on military facilities or at military functions. The acts committed against these women range from the lewd to the violent.

Lt. Kelly Flinn stands accused of conducting an affair with a married man, a civilian, who lied to her about his martial status. Their relationship was for all intents and purposes a private matter; they did not attend military functions together or while she was in uniform. If she is convicted, she

will be grounded forever, dismissed from the Air Force and could even spend time in prison.

I call attention to this particular case because I believe it speaks to the highly publicized gender schizophrenia we are witnessing as the military grapples with women's role in our Armed Forces. On one hand, women have had a traditional, but non-expanding role in the military. On the other hand, we are shocked by what appears to be a pervasive resistance to women in the ranks, and the scandals that bear the most extreme illustration of this behavior and mindset. Put differently, assimilation to the military's rules of conduct is separate and distinct from assimilation of the military's culture.

The Armed Forces are institutions premised on order and command, governed rigidly by rules, written and implied; by codes, some memorized and some unspoken. In some instances however, the strict application of military codes appears to suspend reasonable judgment about the seriousness of the offense committed.

In this case, clearly, the punishment does not appear to fit the crime. As Lieutenant Flinn says, ''I fell in love with the wrong man.'' For this offense, which she committed unknowingly because Mr. Zigo lied about being legally separated from his wife, her Air Force career is slated to come to an ignoble end.

Lets not forget that of those 140 Navy officers involved in Tailhook, none were court-martialed.

It is difficult for me as an officer who served for more than 20 years as an Air Force judge advocate, to imagine that no other officer at Minot Air Force Base has committed the offense of which Lieutenant Flinn stands accused.

Wisdom and good judgment seem clearly to demand a dismissal of the criminal charges against Lieutenant Flinn and the substitution of nonjudicial or informal sanctions. I trust that the Air Force will promptly see the wisdom of this suggestion.

Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 5 minutes as if in morning business.

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

FCC RULING

Mr. BINGAMAN. Mr. President, this morning the Federal Communications Commission made its ruling on implementation of the Universal Services Fund. They passed it by a 4-to-0 vote supporting the findings of the Federal-State joint board. This decision by them has opened the door to affordable Internet access for schools, libraries, and hospitals throughout this country.

I want to congratulate Commissioner Hundt and his colleagues on the Commission for their leadership and their commitment to putting technology to work in our schools and in our communities.

I also want to congratulate my colleagues, Senator SNOWE, Senator ROCKEFELLER, Senator Exon, and Senator KERREY, especially, for their leadership in proposing the Universal Services discount as a provision in the Telecommunications Act which we passed last year.

Their hard work on behalf of education technology was critical in getting us to this point.

This Universal Services Fund will provide telecommunications discounts of between 20 and 90 percent, depending in part on the income levels of families in the particular school communities.

I have done some back-of-the-envelope calculations about my State, and, as far as I can determine, the FCC's decision could mean a discount of more than 70 percent for many New Mexico schools.

Education technology is important to my State. We have all seen how it can allow even the smallest or most isolated school across the State to develop a level playing field with larger school districts and, in fact, with wealthier States.

In a cost-effective manner, education technology can provide advanced courses and access to amazing amounts of information for all of our students.

That is why I am very proud. In 1994, we passed an act that I proposed entitled ''Technology in Education Act.'' That act will provide $200 million to America's schools for purchase of advanced technology. It has brought $1.7 million to my home State of New Mexico this year alone.

I support the President's request in his budget to increase the Technology Literacy Challenge Fund from $200 million this year to $425 million next year.

The 1994 Technology in Education Act also created the Regional Technology in Education Consortia, these consortia providing schools and school districts with the technical assistance that they need to be full participants in this information age.

This technical assistance will be more needed than ever now that the telecommunications costs will be less of an obstacle to schools seeking connections to the Internet.

Our country has also made some progress in raising the awareness of the need for high academic standards. I serve on the National Education Goals Panel, and, as such, I have supported the effort to build a nation of learners, and education technology is an important part of doing that.

One of the things that we have to do a better job of clearly is training teachers to be comfortable with this new technology. I believe we need to pursue legislation on this area this Congress. I hope to have a part in that.

In my view, the educational technology movement will change the way people teach and learn from now on.

Distance learning is more than delivering instruction any time and anywhere, although that is an important part of what is involved. It is also about giving teachers the resources that they need to be effective as learning coaches. It is about empowering students to explore and learn in ways that are best for them as individuals.

Today's FCC ruling is an important step forward. I urge my colleagues in the Senate to help ensure that our teachers and schoolchildren have the best technology that we can offer as we prepare them for the 21st century.

Thank you, Mr. President.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 83 AND AMENDMENT NO. 177

Mr. LIEBERMAN. Mr. President, I rise to speak in opposition to amendment No. 83 offered by the Senator from Wisconsin to S. 672, the underlying bill. I gather that Senator FEINGOLD's amendment has been second-degreed by the Senator from Texas with amendment No. 177.

In brief, the underlying amendment to the supplemental appropriations bill would prohibit the use of funds for ground deployment in Bosnia after September 30 of this year, 1997. The second-degree amendment changes the date of September 30, 1997, to June 30, 1998.

Mr. President, after all the debate and discussion here on the floor of this Senate for the last 6 years, really after all of the diplomatic effort by our Government and other governments in Europe and throughout the world regarding the conflict in Bosnia, after all of the blood that has been spilled in Bosnia with hundreds of thousands of people displaced and killed, and after the heroic service of the American soldiers that have been part of IFOR and SFOR, joined with soldiers of other countries in separating the warring parties in the former Yugoslavia and stopping the conflict and beginning the peaceful reconstruction of that land, it is fundamentally inconceivable to me that the Senate here on an amendment to this supplemental appropriations bill would direct the military to pull out of this conflict, to walk away, in my opinion, before the job is done, to do something that is not in the best traditions of American diplomacy, let alone the American military.

So, Mr. President, I strongly oppose these two amendments.

If I may, I would like to take just a few moments to recall with my colleagues some of what has happened in this Chamber, in the former Yugoslavia, and in the capitals of the world

regarding this conflict and why it is as important as I think it is that our actions are as constructive and courageous as I believe they are. This action would be, by virtue of this amendment, without the appropriate hearings by the relevant committees, without hearing from our military and civilian leadership, without even hearing from those such as Ambassador Holbrooke who negotiated the Dayton peace agreement—it would be so wrong for us to adopt these amendments.

Mr. President, the conflict that broke out in the former Yugoslavia was one of the byproducts, if you will, of the collapse of the former Soviet Union. There are times, of course, when a war is over—in this case I speak of the cold war—when a time of instability and uncertainty prevails, and there are those who will seek to take advantage of that uncertainty with military force to turn the circumstance to their own benefit. That is the context in which I have always viewed the war that broke out in the former Yugoslavia. It is not, as we have said over and over again, that there are any saints in that particular region of the world.

But it was clear to me that there was an intentional act of war, aggression, and genocide against people based on their religion, for the most part, if they happened to be Bosnian Muslims, by Serbia. That raged on and on—not stopped by the powers in Europe—raged on and on, as we witnessed continually on our television sets one horror after another. It was hard to believe that in the heart of Europe once again so soon after the end of the Second World War we were seeing aggression and genocide, even concentration camps for some period of time.

We debated this here at great length in this Chamber. The United States, I think for reasons that were misplaced, I believe, in 1991 became part of imposing an arms embargo on the parties in the former Yugoslavia. The aim was to try to avoid conflict or to avoid the spread of conflict by keeping arms out of there—apparently well intentioned. Yet, the effect of it was horrendous and devastatingly unfair because the Serbs, by virtue of the division of the country, retained most of the war-fighting capacity and armaments manufacturing capacity of the former Yugoslavia. The Bosnians did not have that capacity.

So, not only did the world stand by as the war went on and not intervene, but we were prohibiting the Bosnians, the Muslims, from obtaining the arms that they needed to defend their families, their neighbors, and their country.

Former Senate majority leader, Senator Dole, led the effort to raise the arms embargo. It was a bipartisan effort in which I was honored to join with him in which we contended, if you will, with two successive administrations, one of each political party.

Finally, after repeated attempts, in the spring of 1995 we were able to obtain a majority in this Chamber to lift the arms embargo. This was in response to one story after another of horror in Srebrenica, in all of that city, mass slaughter of people, discovery of concentration camps with bodies all around. And after that embargo was lifted, an act of real leadership by this administration, by the President, in calling for NATO strikes, which so many of us here continued to say, ''Strike from the air. Make the Serbs pay for their aggression.'' No one is doing anything to stop them. No one is doing anything which would indicate that the rest of the world cares about what is happening there or will care if this once again becomes a wider war in Europe, bringing in the neighbors all around, including the potential to bring in two of our allies in NATO, namely, Greece and Turkey.

Force was used. The Serbs responded. The Dayton peace began. Ambassador Holbrooke was sent in by the President in one of the most extraordinary exercises in diplomatic leadership that we have seen in recent times, where the Dayton peace accord was signed leading to the so-called IFOR presence in Bosnia.

Mr. President, we have been at a fork in the road in Bosnia before, forks that would have, if we took one turn, left the people of Bosnia to their own devices, the outcome to be decided by brute strength and savagery unknown in Europe for 50 years, risking the expansion of that violence to other parts of Europe with possibly much greater harm to our vital interests there. The other fork is the one we ultimately took, to try to stop the violence and bring peace, order, and justice back to the former Yugoslavia.

The Dayton accords happened because the United States finally exercised its leadership and, with NATO, used collective power to bring the conflict to an end. IFOR was created to assure that territorial and other military-related provisions of the Dayton agreement were achieved. But although stopping the fighting was a necessary condition for achieving the goal of assuring the continuity of the single State of Bosnia and Herzegovina, it was never considered as a sufficient condition for achieving that goal.

Unfortunately, it was this part of the agreement that received the vast majority of the attention and debate in the United States. American opponents of U.S. participation made dire predictions of disaster and casualties, and the result was a very narrow mission statement and an arbitrary 1-year time limit for IFOR deployment. I opposed that 1-year time limit because I believed that only when IFOR's success could be combined with the implementation of the civilian elements of the agreement at Dayton—rehabilitation of infrastructure, economic reconstruction, political and constitutional institutions in Bosnia-Herzegovina, promotion and respect for human rights, return of displaced persons and pursuit of indicted war criminals—would it be possible for us to end our participation there.

When some have started to talk about withdrawing on June 30, 1998, I said again I hope that we will be in a position to do that, but has it ever made sense in a military involvement to announce the date by which we are withdrawing, leaving those who would benefit from our withdrawal, who would try to take advantage of it, to lay in wait until that withdrawal, until that withdrawal which would leave them a clear field to proceed back to war and savagery and the threat of a wider conflict which inevitably will cost us more than we have spent to stop the conflict and prevent that wider war in the former Yugoslavia.

So where are we, Mr. President, in the execution of the tasks we set at Dayton? I would say we are part of the way to our goal. We have officially declared IFOR successful and its mission complete. The first part of that task was accomplished magnificently by our forces. The violence stopped, an environment of relative stability emerged and not one IFOR member, thank God, was killed as a result of military action. This performance was due to the skill and professionalism of the IFOR soldiers, to the reputation accorded NATO and its soldiers and ultimately to the sine quo non of all of this, which is American leadership.

But executing the essential second part of the task has not been as successful. The progress in rebuilding Bosnia has been slow, due in part to the difficulty of overcoming the antagonism engendered by a tragic war and the effects of a creation of ethnic areas, but it is also due to the fact that rebuilding a country is much harder than stopping the fighting, and we have given far less focus and far less support for the difficult tasks necessary to rebuild Bosnia than we gave to the military tasks.

The mission of IFOR was very narrowly stated, and we avoided many opportunities for IFOR to support some of the most important civilian parts of the agreement. Most notable to me was our failure to direct IFOR or some international body to apprehend the indicted war criminals that bear such a large part of the responsibility for the afflictions of this fated land, the freedom of which, flaunting the indictment of an internationally constituted war crimes tribunal, will prevent genuine peace in Bosnia from ever occurring. These criminals are still at large. They can be seen, particularly Mr. Karadzic, one of the main perpetrators of the war crimes, indicted by an established international tribunal, seen almost daily controlling so much of what happens in the Serb part of Bosnia, still at large. And that freedom remains a profoundly serious impediment to attempts to build a civil society with functioning democratic institutions.

Still we have made progress. The efforts of Ambassador Holbrooke reduced

but clearly did not eliminate the deleterious effects of the war criminals. Elections for national leaders have been held. The government is functioning. So we have reason to be extremely grateful for the military and political successes that have been achieved. These successes have been extraordinarily important.

Today we come to another fork in the road as a result of these amendments not considered at length by this Chamber, certainly not yet. As before, one fork would leave the people of Bosnia to their own devices regardless of what the condition on the ground was, first on September 30 of this year, an extraordinarily early date, and then on June 30, 1998. If we take the fork that leads to withdrawal on a date certain, it is axiomatic, it is without doubt that our NATO allies will follow us on the way out. They have said repeatedly: We went in together; we are going to go out together. This will probably lead either to the renewal of violence, bloodshed, genocide, rule of those willing to deploy the most savage force. At least I would guess it will lead to partition.

Some will say that does not matter, but I believe it matters a great deal, not just to the people of Bosnia but to stability in Europe, which has always mattered to the United States—in fact, drew us into two world wars in this century at the cost of thousands of American lives.

I have always seen our involvement in Bosnia as preventive. It is an attempt to prevent a wider conflict that would cost us more in blood, American blood, American lives and, yes, American money. As Ambassador Holbrooke recently pointed out in a letter in Foreign Affairs:

> A single Bosnia with two entities was the essential core of the Dayton agreements. The boundary line was to be similar to a boundary between two American States rather than a boundary between two nations. But the Serbs were at Dayton under duress and few expected they would voluntarily accept such a concept. Indeed, they have acted to undermine execution of the political and economic tasks, and are trying to turn the boundary line into a line of partition and ultimately into one of complete separation.

Mr. President, why is partition, which I would see as the least devastating result of a hasty American retreat from Bosnia, why is it wrong? In my opinion, it is wrong morally, strategically and politically. Partition of Bosnia would be morally wrong because it would reward the aggression and the genocide that all of us have decried. But it would also be dangerous.

Partition is strategically wrong because it contains within it seeds of violence. The history of places where partition has occurred is sad and bloodied, and they all continue to draw us into their sadness and blood. Ireland and Cyprus are examples that still threaten America and threaten the international order as a result of partition after many decades. The problems engendered by partition in Bosnia would, in my opinion, be even worse because Bosnia would end up partitioned not just into two parts but into three parts—the Muslim part, the Serbian part, and the Croatian part. The endless battles over the partition lines would have a high probability of impacting others in the neighborhood—Albania, Greece, Bulgaria and Macedonia. And partition is particularly politically wrong because it would send a profoundly undesirable signal to ethnic activists in other places where boundaries were arbitrarily drawn and which politically divide historic ethnic groups, and that is that aggression will be rewarded with partition.

Mr. President, if we were to withdraw in June 1998, let alone September 30, 1997, without successful implementation of Dayton's civil tasks, the Serb strategy will have succeeded. The fact is that, setting these amendments aside, soon we will conduct the first of the periodic assessments of SFOR, the follow-on force to IFOR. While these assessments might be envisioned by some as opportunities to determine if we can withdraw our forces even faster, I believe we should use them in an orderly, thoughtful way as opportunities to conduct a real debate about how we can successfully conclude all the tasks laid out at Dayton and achieve the objective we agreed on: A single Bosnia, where peace, justice, and the rule of law prevail.

Mr. President, there are lives on the line here and they are American lives as well as Bosnian lives. We ought not after the money we have invested, the lives we have risked, the conflict we have stopped, the blood we have saved, the order we have returned to Europe, the larger war we have avoided, by virtue of an amendment not heard by the relevant committees direct the end of what up until this time has been a signal act of American leadership, American courage, American preventive diplomacy, American force used in the interest of peace and order and justice.

So I strongly oppose the amendment, and I urge my colleagues to do the same. I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise in strong opposition to both of these amendments, notwithstanding my great respect for the Senator from Wisconsin, and I mean that sincerely. I have great respect for him. But I think this is another in a series of bad ideas this floor has produced over the last 5 years with regard to Bosnia.

Mr. President, I echo the sentiments expressed by my friend from Connecticut. Let me say it in a slightly different way. In my view, we could have avoided the tragedy, the extent of the tragedy in Bosnia, had we the courage, the foresight to lift and strike 4 years ago, had we stood up to that war criminal Milosevic in Serbia and had we made clear to Tudjman in Croatia that we would broker no alternative but their ceasing and desisting. Every time America has spoken and followed up its speech with action, we have produced the results that we suggested would occur.

It is a sad commentary, Mr. President, that there is no leadership in Europe. There is no leadership in Europe. And the ability of the Europeans to get together and solve the problem in their own backyard and keep it from spreading into other people's front yards is nonexistent based upon their actions for the previous 5 years, until the United States led, but led at a moment and a time when our options were reduced relative to the ones that existed a year or two earlier.

The Senator from Connecticut and I initially never argued that American troops should be put on the ground in Bosnia. We felt very strongly that could have been avoided had we used our airpower, had we lifted sanctions to allow the Bosnian Government—that at that moment was still multiethnic—to have a chance to fight for itself. But that is water under the bridge. That is past. We are left with Dayton, which was making the best out of a bad circumstance. The end result of Dayton is that we will have invested about $5 billion by September of this year, plus America's prestige and American forces on the ground in Bosnia.

I must tell you straight up, I am opposed even to the administration's announcement that we withdraw and have a drop-dead date for June 1998. But I think it borders on the ridiculous for the U.S. Senate to instruct the President that we must withdraw as early as the initial proposal called for, in September.

Mr. STEVENS. Will the Senator yield right there?

Mr. BIDEN. I will be happy to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I ask the Senator if he would kindly do us the favor and not turn this into a motion to instruct. It merely says ''no funds can be spent after June 30, 1998.'' I say to the Senator from Delaware, there are no funds available after September 30, 1997, under this bill. The amendment is merely a sense-of-the-Senate resolution in disguise.

Mr. BIDEN. Mr. President, I thank my friend from Alaska. He is absolutely correct. What he has said, as I translate it, is this amendment does not mean anything in the legislative sense.

But I promise you, I promise you, if this amendment passes today, it will mean something to the Republika Srpska; it will mean something in Mostar; it will mean something in Belgrade; it will mean something in the Balkans; it will mean something in Paris; it will mean something in Moscow. It will mean something where it matters, and what matters is what the rest of the world believes our resolve is.

We sometimes do not focus closely enough, and I acknowledge I do not, as well. But we have a situation in Croatia right now where the President of Croatia is very ill. To call him a very strong man is putting it mildly, and it connotes everything that goes along with strongman, a guy who is no box of chocolates. There is already a battle for succession going on in Croatia between the nationalists, those who to this day wish to see the partition of Bosnia, and those who are democrats, who want to become part of the West.

If we announce now that the U.S. Senate want American troops out of there, either this September or next June, we give succor to those in Croatia who will argue the following: ''With the United States gone, no peace can hold, partition is the answer, and we are going to get our piece.''

The same is taking place in Belgrade. Milosevic is a war criminal. He is a thug. Remember the history of why this war took place in the first place. What happened there was, in effect, a referendum as to whether or not Bosnia would stay part of Yugoslavia. There was a vote. The voters said we want to set up an independent nation-state. They set it up, recognized by the United Nations, and Milosevic sent the Yugoslav National Army across the river. He supplied and gave cover for the use of force against the Muslims and Croats, and he instituted a war of aggression. He and his cronies instituted a policy of ethnic cleansing, a phrase I do not think any of us ever thought we would hear again. They actually talked about it out loud. That was their policy.

Mr. President, our good friend, Mr. Milosevic, is on his last legs in Belgrade. Why, at this moment, are we going to indicate to him that there is a consensus in this country that the United States should walk away? Why are we going to do that now? What possible good would that do?

Secretary Cohen, a man we all respect, has guaranteed we will be out of Bosnia in June 1998. He has said this in private meetings, in private arguments with me, and in public discussions. The President has said it. Madeleine Albright has acknowledged it. As I said, I think that, in and of itself, is a mistake. For us to come along now and announce to the world that we are not going to appropriate moneys is a mistake—and I acknowledge these are moneys we could not appropriate anyway. But they are not going to understand all that. All they are going to understand is that the United States of America, the U.S. Senate, has told the President he has to get out of there.

I echo the phrase my friend from Connecticut used. He said, when has it ever made sense for us, in a circumstance where there is the potential for or the immediate past presence of war, to announce that we are going to leave and give a lead time to that announcement? When has that ever benefited us?

Our only hope for the peace process is to continue to have an international force remain in Bosnia through June 1998. At least through June 1998. By then, several things will have shaken themselves out, one of which is the political situation in Croatia and the other is the political situation in Serbia.

I am going to refrain from doing what I want to do, speak in more depth about this, because my friend from Alaska is technically right. He is right that this does not mean anything legislatively. I just want it to be known that there are voices in the Senate that think this is a very bad policy. When this amendment is written about, when this is discussed in other capitals of the world, they should understand not all of us share this view.

This is not a sound policy. At this moment, it is my hope and expectation that the administration is leaning on our European allies to make it clear to them that we are willing to support a European-led follow-on force in Bosnia, composed of European troops, after the SFOR mandate ends. Remember what we said: We are going to remove American forces from Bosnia. We did not say we are disengaging in every military sense from Bosnia. The President did not say that, thank God, and I hope he will not say that.

What we should be doing now, and what I hope we are doing now, is meeting with our NATO allies to explain to them that we are willing to have a forward force based in Hungary to back them up. We are willing to use our airpower and our intelligence apparatus to assist them. We are willing to use the capacity of our naval forces in the Adriatic to help maintain peace and security in Bosnia. This takes time. This amendment undercuts every possible option that exists between now and June 1998 by announcing now that the U.S. Senate does not support the continued presence of the United States of America in that part of the world.

I do not fully understand what both my friend from Wisconsin and the Senator from Texas are saying. I acknowledge the Senator from Alaska is correct. This is meaningless in a legislative sense. But I do not understand what my two friends hope to accomplish here. Their amendment says, ''Provided further, that none of the funds made available under this Act may be obligated or expended for operations or activities of the armed forces relating to Bosnia ground deployment after June 30, 1998.''

Does that mean we cannot use our intelligence apparatus? Does that mean we cannot have forward deployment in Hungary? Does that mean we cannot use our airpower? Maybe it does. Maybe it does not. But I tell you one thing: To merely suggest that we are going to pull out U.S. ground forces is a bit disingenuous as well.

So, again, I do not want to take any more time of the Senate except to say that this is a well-intended, very bad idea. It is a very bad idea. It does not serve U.S. interests. It does not serve us or aid us in our ability to lead an alliance in carrying out its responsibilities in Europe, in Bosnia. And it does not lend any support to those in both Serbia and in Croatia who are trying to change the political landscape of both those countries, which will have an impact upon the circumstance in Bosnia.

So, again, I say as I yield the floor, with due respect to my friend from Wisconsin, I think this is a serious mistake. I hope the Senate will not go along with this suggestion.

I yield the floor.

Mr. JOHNSON. Mr. President, I have to my right a satellite image of the James River in South Dakota; on the left, depicting the river in its normal course prior to the flooding. On the right is a satellite image showing the current state of the James River—swollen, in places miles across, with water in a circumstance where less than 5 percent of the farmland in the James River Valley, from North Dakota to Nebraska, will be planted this year. This imagery was provided by the aerial data center in South Dakota. I think it very ably shows the dire circumstances that people in the James River area are facing.

Amendment No. 70 is an amendment offered by myself and by my colleague, Senator DASCHLE, which addresses the extensive damage that has taken place in the James River Valley and which needs to be addressed. This amendment addresses the problem, where up to 75 percent of the trees in this area have been lost, where bank sloughing and levee sloughing has filled the channel and reduced its capability to handle water. The amendment would provide a $10 million appropriation through the Corps of Engineers to the James River Water Development District to use for the badly needed repair and restoration work on the James River.

This is a 25 percent cost share. I am pleased that this amendment has been cleared and approved by the majority and the minority of the Environment and Public Works Committee. I thank Senator CHAFEE and Senator BAUCUS and their staffs for their willingness to work with us on these amendments. I also thank the appropriators, Senator STEVENS and Senator BYRD, Senator DOMENICI and Senator REID from the Energy and Water Appropriations Subcommittees and their staffs, for their willingness to work with us on the language of this amendment, and to accept it as part of the supplemental appropriations legislation being considered by the Senate today.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. I would like to take this opportunity to respond to remarks in opposition to Senator HUTCHISON's amendment by the Senator from Connecticut and the Senator from Delaware.

Let me, first of all, reiterate a couple of points about my attitude and the attitude of most Senators about this amendment and its purpose. First of all, no one can even begin to criticize what a wonderful job our troops and our military have done in Bosnia. In fact, all we can do is offer praise and gratitude. I feel that way, in particular, about the wonderful job some of our folks from Wisconsin, whom I have had a chance to speak with about this, have done.

Second, I want to reiterate that I believe this mission has accomplished some very, very positive things. It certainly has not accomplished all that would have been hoped. But to suggest somehow that this mission has not accomplished anything in terms of saving lives and in terms of trying to resolve the situation would be wrong, and I do not suggest that.

I also want to acknowledge that the two Senators who spoke in opposition to the amendment, the Senator from Connecticut and the Senator from Delaware, are two of the great leaders on this issue, two of the most compassionate Senators when it comes to being concerned about the tragedy in Bosnia, and I learned that fast when I came here to the United States Senate. I wish that we could be in agreement on this particular issue about how long this mission should continue, because we have been allies on many aspects of the Bosnia operation in the past.

In fact, Mr. President, I just remind my colleagues that when I arrived here in 1993, the first resolution I ever submitted, was to simply lift the arms embargo that was being enforced against all the areas in the region, all the people in the region, but, in particular, the Bosnian Muslims.

The reason I came to that position was because of the inspiration of the Senator from Delaware who had taken the lead in developing the concept of lifting the arms embargo prior to my arrival in the Senate. When I got here, I joined with other Senators, in fact, I think I was the first one in that Congress to introduce a resolution to lift the arms embargo. The Senator from Connecticut and the Senator from Delaware and I and others all got up and talked about the important right of self-defense, the importance of people being able to defend themselves. We thought that they should be given arms to defend themselves, the right that they have, I believe, under unalienable human rights and under article 51 of the U.N. Charter to defend themselves. That is where many of us wanted to go.

As the Senator from Connecticut indicated, we tried very hard. We won a vote on the Senate floor on a bipartisan basis, although, regrettably, it was not carried all the way through. I still believe that was the best answer to this situation. But, we did not get that done in a timely manner and, as a result, I think we were essentially forced into the Dayton accord. I think some of our European allies made sure, in effect, that we would be forced into sending troops into the region.

So when many of us spoke about the importance of lifting the arms embargo, we discussed that it was the right thing for the Bosnians. But it was a way to prevent us from becoming ensnared in a military operation that we would not be able to get out of, where American men and women would be forced into a situation where an endgame or departure justification would be difficult to find.

That is how we got to where we are today, unfortunately. That is why I have offered this amendment, and I believe it is one of the reasons the Senator from Texas has offered her second-degree amendment.

When the Senator from Connecticut—and I say this with all respect, because I simply know no one who is more concerned about the situation, and I know at a very personal level as well, as a Senator, that he cares as deeply, perhaps more deeply than any other Senator about what is going on in Bosnia—but when he says it is inconceivable that we would try to do this on this bill in this way, let me suggest what I consider to be inconceivable.

It is inconceivable to me that we would not have a clear debate on this issue when the initial understanding that was given to the American people about this is that it would cost $2 billion and be over within 1 year. I took every opportunity I could in the Foreign Relations Committee and in every other meeting that I had on this subject to ask the question: Is it truly the intent to be out of there in 1 year? And the answer was always yes. Even when it was just a few months before the December 1996 deadline, I asked many leading military and State Department officials about this. I said, ''Is it going to be over in a year?'' And they said, ''Well, yes, give or take a few weeks.''

The American people and the Congress were led over and over to believe that this was a 1-year operation.

Then, really quite quietly, it was extended. It was extended by 18 months beyond that deadline, to a minimum of June of 1998. And even then, when I asked whether or not that is the end of the line for this operation, the remark has been simply, ''We hope so, we think so, we think it's possible.''

What is also inconceivable to me is that we add another $1.5 billion in this supplemental bill and then tell the American people what we are on track to do is to spend not just $2 billion—in fact, we are already in for $3 billion—but that the minimum estimate now is $6.5 billion through the middle of 1998. To me it is somewhat inconceivable that we would simply move in that direction without a full and thorough debate with regard to these numbers.

Where is the public accountability on this? Where is the congressional accountability with regard to the expenditure of those kinds of funds and with regard to the duration of an operation that was promised to be over within 1 year?

Others have suggested today that somehow this is an unprecedented kind of amendment, but all I can do is refer my colleagues to what we did when it came to the Somalia operation. The distinguished Senator from West Virginia offered an amendment, which we voted on on October 15, 1993, that provided for a cutoff date for the expenditure of funds with regard to Somalia.

No one knows better the power of the purse of the Congress than the Senator from West Virginia, and he knows that that is the heart and the soul of congressional power when it comes to military operations. Both the Senator from Connecticut and the Senator from Delaware voted for the amendment that Senator BYRD offered that would cut off the funds for Somalia by a date certain. We signaled what we were going to do in that situation —we signaled it clearly—because we knew that it was time for us to get out.

You know what is sad about that one. In the Somalia case, we waited until something bad happened. We waited until a tragedy occurred. We waited until we had essentially no choice but to extricate ourselves from a situation that became a mess. I am very pleased to be able to say today that we are not in that situation yet in Bosnia. I hope we never will be. But to wait for that moment to signal clearly when we intend to get out is the worst thing we can do in terms of our credibility in the world. To wait for a moment like that and then just run out of Bosnia because the public support may evaporate is the worst thing we can do in terms of our credibility. I do not think any of us regard what happened in Somalia as one of the finest hours in our diplomatic, military or foreign policy moments.

So, Mr. President, let me simply say that this is a situation where we all have to decide whether we are just going to let this $1.5 billion go forward without asking serious questions. The Senators who are opposed to me and Senator HUTCHISON on this said we have not had proper hearings on our amendment. They have indicated they want to have a real debate on this matter.

That is the whole point.

We have not had real hearings on this. We have not had a real debate on whether we should spend $6.5 billion on Bosnia by the middle of 1998 or on the possibility of even more. We have not had a real national discussion about whether we should go forward with this. I think the American people and the Congress should be engaged in that kind of discussion.

So let me conclude by saying that I think this amendment is appropriate. It does not go too far. It does not hamstring our military. There are opportunities for providing more funds later, if needed, for extending the operation, if needed. All this does is signal that neither this body nor this country is going

to simply let this continue without any real consideration and public debate of where we are heading—especially since the operation is already costing $6.5 billion and has already more than doubled the duration that was originally promised.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we should be signaling two things relative to Bosnia, in my judgment. The first is what this resolution would signal, which is that it is our intent to have our ground combat forces out of Bosnia by June of next year. It is important that we send that signal; it is important that we send that signal clearly. But it is also important that we do an additional thing, and that is that we let our European allies and the world know that in the event that there is a need for a follow-on force after June of 1998, that it is the Europeans who must provide that follow-on force and it is not our intention to participate with ground troops in that follow-on force.

Will a follow-on force be necessary? I think it will be. I have visited Bosnia. I have spent a lot of time there. In my judgment, there is no way that millions of refugees can be repatriated to their homes, that war criminals can be captured and tried by June of next year. If there is no follow-on force in Bosnia, the likelihood is that the progress which has been made will disintegrate and will evaporate, and then what we have done in Bosnia will have been to no avail.

We have accomplished some very important things in Bosnia, and we should try, if we can, to protect them, but—and here I agree with the Senator from Wisconsin—we should carry out our mission, which ends in June of 1998, signal to our allies clearly and tell them in advance that it is our intention that our ground combat forces will be out of there in June of 1998, but that we would expect that they would show some leadership under a new component of NATO, called the European Security and Defense Identity, to provide the follow-on forces which might be needed after June of 1998.

Can we do both of those at one time? Can we say that it is our intention that our own forces on the ground leave by June of 1998 but that we expect there is a need or a likely need for a follow-on force and we would be supportive of that force—without having our own troops on the ground—through logistics and intelligence and other means of supporting a European follow-on force as part of NATO? Can we signal both of those things at once? I believe we can. I believe we should. I believe this resolution does not do that, and that is the difficulty with this resolution.

Because of the nature of postcloture that we are in, it is restricted in language to what it says, which, as the Senator from Alaska points out, really has no meaning whatsoever since none of these funds will be spent, in any event, after October 1 of 1997. They cannot be and are not going to be.

So in one sense this resolution has no legislative meaning whatsoever, through no fault of my friend from Wisconsin, by the way. He had no choice. In order to be germane in a post-cloture situation, he had to phrase it this way.

But the signal that he wishes to send is an important signal, one that I happen to want to join him in sending, providing it can be sent with a second signal which is so critical that we send, which is that a new initiative inside of NATO be utilized for any follow-on force, and we are willing to support that or at least are open to supporting that European initiative inside of NATO.

I want to spend just a couple of moments on that initiative. It is not well known. It is an important initiative. The Europeans have asked for additional leadership in NATO for many, many years.

Finally, at the June 1996 Berlin North Atlantic Council ministerial meeting, there was a new initiative adopted, as part of NATO. It is called the European Security and Defense Identity initiative [ESDI]. What it does, it permits the European NATO nations—these are our allies in NATO—with NATO consent, to carry out operations under the political control and strategic direction of the Western European Union, using NATO assets and NATO capabilities.

So using NATO assets and capabilities under the strategic direction of the Western European Union, a European initiative is being put in place as we speak.

What NATO has agreed to do is to identify the types of what are called separable but not separate capabilities, assets, headquarters, and command positions that would be required to command and conduct these Western European Union-led operations and which could be made available, subject to unanimous consent agreement in the North Atlantic Council.

In addition, NATO agreed to develop appropriate multinational European command arrangements within NATO to command and conduct the Western European Union-led operations.

And, finally, in support of these arrangements, NATO agreed to conduct, at the request of and in coordination with the Western European Union, military planning and exercises for illustrative missions which were identified by the Western European Union. Included in those missions are humanitarian assistance, conflict prevention, peacekeeping, and peace enforcement operations. All from peacekeeping to peace enforcement are included in the missions which are now being organized.

The ability of our European allies to work together so professionally in Bosnia, with French and British commanders responsible for two of the three multinational division sectors and with the overall American commander having a multinational staff, convinces me that there is no reason to question the ability of a European-led follow-on force to succeed in Bosnia. There is no reason, either, why the Partnership for Peace nations should not be included as they have been in Bosnia in both IFOR and SFOR.

So we have a mechanism now which is being planned to provide, or which could provide, to be more accurate, the follow-on force to be sure that peace does not unravel in the European neighborhood. The United States should remain involved with logistics, intelligence, and other support activities. But under this resolution there is no provision for that.

This resolution, because of the way it had to be phrased, ends up saying that none of these funds can be obligated or expended for the activities of armed forces relating to Bosnia ground deployment.

Well, should we not consider at least a provision of intelligence support, logistics support, other support activities for a European follow-on force? I think we ought to.

During the Armed Services Committee hearing in February on the defense budget, Secretary Cohen responded to my questions by stating the following:

> I would agree with you that following our departure in June of 1998, I believe there has to be some sort of force in Bosnia. I do not think there is any possibility of ending so many decades, if not centuries, of ethnic conflict in a matter of two or three years.

Secretary Cohen continued:

> So I think some international type of a force will be necessary. I agree with you that the ESDI, the so-called European Security and Defense Identity, is something that is very worthwhile to pursue.

And he added:

> I think it is something we should pursue and make it very clear we are leaving and that something will have to replace it, and hopefully it will be something along the lines of the ESDI.

That is a double message, not a single message.

The amendment before us, regrettably, has the first of those two messages only and is not able to cover the second part of that message. That is the difficulty with the pending resolution, in my judgment.

General Shalikashvili, who was there with Secretary Cohen, said the following:

> Following our departure in June 1998, it is very possible that a follow-on force will be required. I think a European force under the WEU is certainly an appropriate candidate for that.

So he, too, reached the same kind of conclusion.

So, Mr. President, I think that we should not at this time state in resolution form or any other form that we will not be willing to play a supporting role in Bosnia after June 1998. Because, after this operation is, hopefully, turned over to our NATO allies, assuming it continues at all, which I think is

likely then acting under the Western European Union, they, I believe, will need this kind of support—not our combat forces on the ground—but those other kinds of support. And that is the complexity which is not reflected in this resolution.

Finally, it is my intent during the consideration of the defense authorization bill to be offering language along the lines that I have just described. I hope that at that time we can have the kind of full debate on the future of our forces in Bosnia that this issue really requires.

During the authorization bill, that debate can take into consideration both the need, in my judgment, to make the clear statement to our allies in Europe that it is our intent to be out of there in June 1998, but can also outline what we would be willing to do should they determine to stay on after June of 1998 in Bosnia. And while it is complex, it is essential. While it has two points to the message, both points are, nonetheless, essential.

So I think, because this resolution is too narrow in its scope and sends only one of two messages and it is essential that both be sent simultaneously, that it would be a mistake for us to adopt this resolution at this time in this form. But I would look forward to my friend from Wisconsin working with us in the Armed Services Committee to design a resolution which does contain the message that he has in his amendment but also the second part of that message as well.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I will be very brief because I think I may be the last person to address this amendment tonight.

I first want to acknowledge the contribution made in the debate by Senators LEVIN, LIEBERMAN, BIDEN, and others who spoke so eloquently about the reasons why this amendment is ill-advised. I have great respect and admiration for the distinguished Senator from Wisconsin and the Senator from Texas, but I must say, passage of this amendment, as well intended as it might be, is unwise. First, as the Senator from Alaska has noted, this amendment has no real legislative effect because it appropriates money only for this fiscal year ending September 30, 1997. But it does have a profound effect in the message it sends to people around the world, especially in that part of the world most directly affected by our actions and by our intentions.

For us to say unequivocally that regardless of circumstance, regardless of the situation, regardless of whether or not there is peace and the kind of stability we have been able to achieve now in the last couple of years, that we are removing every vestige of U.S. military presence, in my view, sends exactly the wrong message.

We need to be very careful about the message we send. We need to ensure that our military presence there has the maximum effect for as long as it may be required. It is somewhat ironic to me that the same people—and I am not referring to any particular Senator in this regard—but many of the same people who advocate a permanent presence in NATO where we do not see any specific need for a U.S. presence today are those who are arguing against our presence in Bosnia.

Mr. President, I think our military efforts in Bosnia have been a spectacular success. And they have been successful because we have had strong, bipartisan support in Congress for our military presence that sends a clear message to the people in the region.

That message says clearly that we want the genocide to stop. We want the warring parties to come to terms. We want to recognize the extraordinary effort that has already been made by those who are putting their lives on the line to ensure that we succeed in retaining the peace and stability and long-term political viability of the region.

U.S. policy through the Dayton accords has succeeded stopping the killing in Bosnia and in helping Bosnians forge longer term stability. We have succeeded in doing something of great consequence. I just hope that we recognize what a tremendous contribution it has been. While we all want to see that day when the United States forces are no longer deployed in Bosnia, we want them to come home with confidence, knowing that, regardless of whether we are there or not, we will continue to see the kind of success that we have experienced since implementation of the Dayton accords began in December 1995. But for us to say with certainty today that we know exactly when that date is, is shortsighted and ill-advised. I hope for those reasons the Senate will reject that amendment.

I yield the floor.

Mr. MCCAIN. Mr. President, I join the Senator from South Dakota in his remarks.

Mr. President, I think I am going to have to call for the yeas and nays on this amendment because I think it is of serious import.

I also believe that we should be out of Bosnia. I had severe reservations as to going in. I ended up supporting the President, as did the former majority leader, Senator Dole. But for us to say that unequivocally under no circumstances will American presence be there a long time from now, I think would be, from a precedent-setting standpoint, very dangerous and, second of all, would be a message that I am not sure we want to send at this time.

There are some very bad people in Bosnia, Mr. President, as we all know. And if the administration was unequivocally on record or the United States Congress was on record as saying that under no circumstances could there be an American presence in Bosnia as of a certain date, I think it would have the unintended consequence of encouraging those very bad people.

Mr. President, I think it is something that we should work out with the administration. It is well known that the present Secretary of Defense, a former Member of this body, has stated we will be out by June 1998. But that is not a firm administration policy. And there are certain proposals as far as a United States presence is concerned, both on sea and in the air, as well as possibly in a neighboring country. I am not sure that this amendment would not affect those options as well.

The distinguished chairman of the Appropriations Committee points out very accurately that we do not have any money anyway at that time, so this would be largely a symbolic vote. But, Mr. President, I believe that if I were one of our European allies or someone who had an interest in the situation in Bosnia, either as a participant or an observer, I would say that this is a very strong message and one that we do not want to send.

I also remind my colleagues that, yes, we have the right to cut off funding, we have that constitutional right as a body. But it is always the last resort. Cutting off funding is the last resort that we seek in order to salvage Americans when they are placed in great danger.

I suggest that this is the first option. If June 1998 begins to approach and it looks like the administration is in an open-ended commitment, I think we would have plenty of opportunity at that time. We would be considering lots of legislation in order to express our views on this issue. But to act at this time, I think, would send a very, very unfortunate and even dangerous signal.

I was just in conversation with the Senator from Alaska and he pointed out that we did, indeed, cut off funding in the Somalia situation, but that was also with the agreement of the administration that they were leaving at that time. All of us were outraged at the wanton murder of some brave young Americans whose bodies were dragged through the streets of Mogadishu. There is no doubt in that situation there was agreement that we were going to leave.

The Bosnia situation is very fluid, it is very dangerous. I want us out, too, but I greatly fear if we passed a resolution at this particular time mandating such a thing—for example, cutting off all funds—that this would be an action that would have some unintended consequences associated with it. One of the major consequences I just mentioned is to encourage our adversaries and the enemies of peace in that poor, unfortunate land, who, I think, might take this as a signal to just wait, rather than seek national reconciliation, wait until the Americans leave and then really ignite the bloodletting and the conflict.

Mr. President, I have to oppose this amendment, certainly at this time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call.

Mr. STEVENS. 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. STEVENS. Mr. President, I ask that we have the vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The amendment (No. 177) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The amendment (No. 83), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I want to state for the record what I believe the Senate just agreed to in supporting the amendment offered by the Senator from Wisconsin that would prohibit the obligation or expenditure of funds available in S. 672, the supplemental appropriations bill, for operations or activities of the United States forces stationed on the ground in Bosnia.

This amendment in no way endorses the actions taken unilaterally by the President to extend the presence of United States forces in Bosnia for an additional 18 months beyond the 1-year time frame stipulated in Senate Joint Resolution 44.

The President never consulted with the Congress to extend the presence of United States forces in Bosnia, and the Senate has not voted, by accepting this amendment, to approve the President's decision to extend the presence of United States forces in Bosnia until June 1998.

The Secretary of Defense and the Chairman of the Joint Chiefs of Staff testified before the Senate Armed Services Committee in October 1996 that United States forces would not be withdrawn from Bosnia until March 1997. They did not consult with the Congress about this short extension, and they assured the committee at the time that there were no plans to extend the presence of United States forces in Bosnia beyond that time frame. However, they did note for the record that the North Atlantic Treaty Organization was reviewing whether a continued NATO force presence was needed beyond the March 1997 time frame. The Secretary of Defense and the Chairman of the Joint Chiefs promised that the Congress would be consulted prior to agreeing to extend the United States force in Bosnia. In fact, the President assured the American public prior to the Presidential election in November that United States forces would not be in Bosnia beyond the time-frame necessary to safely withdraw.

Very shortly after the United States elections in November 1996, the President announced his intention to support a decision by NATO to extend the presence of a NATO force in Bosnia to implement the Dayton agreement. Following the recommendation of the NATO that a NATO presence remain in Bosnia, the President announced in December 1996 that United States forces would remain in Bosnia, as part of a NATO force until June 1998.

Once again, I want to emphasize what agreeing to this provision does not do—it does not provide congressional approval for the President's unilateral decision to extend the presence of United States forces in Bosnia beyond the 1-year time frame he announced in November 1995 to the American public.

The President has not consulted with the Congress on his decision to extend the participation of United States forces in a NATO operation in Bosnia. The President has not sought approval of the Congress for that decision to extend the presence of United States forces in Bosnia until June 1998. The Senate has not provided its approval, or authorization for the President's decision to extend the presence of United States forces in Bosnia. The amendment merely ensures that U.S. forces are taken care of, until such time as they are withdrawn in June 1998, whether or not substantial progress is achieved in the civil implementation of the Dayton agreement, as the President promised. The amendment does not constitute congressional authorization or approval to extend the presence of United States forces in Bosnia.

Mr. FAIRCLOTH. Mr. President, I want to make clear, that had the Senate taken a rollcall vote on Senator HUTCHINSON's amendment to Senator FEINGOLD's amendment, I would have voted no on the Hutchinson amendment. I want our troops home as soon as possible, and I am strongly supportive of any effort to bring them home as quickly as possible.

The President promised that our troops would be home in December 1996. He clearly mislead the Congress and the American people when he made this promise.

Only after the election was over did the President make his decision to extend our troop deployment, even though he knew full well that our troops would not be coming home in December, well before the election.

The Bosnian mission is going to cost the taxpayers of this country $6.5 billion. The question is what will be changed after our troops have been there this long, and we have spent this amount of money. I contend that little will be changed. When the deployment was made, a principle question was whether the United States had an exit strategy. It now appears that we may have no exit.

Again, I was strongly supportive of the Feingold amendment, and I would have liked to have seen it passed without change.

AMENDMENT NO. 97

(Purpose: To extend the dredging participation in the Small Business Demonstration Program Act of 1988)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BUMPERS, for himself, Mr. BOND, and Mr. WARNER, proposes an amendment numbered 97.

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

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

The amendment is as follows:

At the appropriations place add the following new section:

"SEC. . EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.

''Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking 'September 30, 1996' and inserting 'September 30, 1997'.''

Mr. STEVENS. Mr. President, this is a simple amendment which extends the expanding small business participation in dredging section of the Small Business Competitive Demonstration Program Act of 1988 to September 30, 1997.

I urge its adoption.

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

The amendment (No. 97) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 76

(Purpose: To require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and to require the Secretary to report to Congress on the rate of reporting compliance)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SPECTER, for himself, Mr. SANTORUM, Mr. FEINGOLD, and Mr. KOHL, proposes an amendment numbered 76.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall collect and disseminate, on a weekly basis, statistically reliable information, obtained from cheese manufacturing areas in the United States on prices received and terms of trade involving bulk cheese, including information on the national average price for bulk cheese sold through spot and forward contract transactions. to the maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

(b) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under subsection (a) shall be kept confidential by each officer and employee of the Department of Agriculture except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall report to the committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

(d) TERMINATION OF EFFECTIVENESS.—the authority provided by subsection (a) terminates effective April 5, 1999.

Mr. STEVENS. Mr. President, I ask that Senators SANTORUM, FEINGOLD, and KOHL be added as cosponsors.

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

Mr. FEINGOLD. Mr. President, I am an original cosponsor of amendment No. 76, offered by the Senator from Pennsylvania [Mr. SPECTER] which requires the Department of Agriculture to collect and disseminate, on a weekly basis, statistically reliable information on bulk cheese prices throughout the Nation. Secretary Glickman has already initiated this price survey with the voluntary cooperation of cheese manufacturers using existing administrative authorities of the Department. The amendment offered by the Senator from Pennsylvania [Senator SPECTER] requires the Secretary to continue doing so until April 5, 1999. However, because the Secretary has already implemented this cheese price reporting initiative using existing authorities, I wanted to clarify that he can continue to collect and report this cheese price information after April 5, 1999 using the same authorities he is using currently.

Does the chairman of the Senate Agriculture, Nutrition and Forestry Committee, Mr. LUGAR, concur that the sunset provision in section (d) of amendment No. 76 in no way affects or diminishes the Secretary's existing authority to continue the voluntary collecting and reporting of cheese price information from cheese manufacturers after April 5, 1999?

Mr. LUGAR. I concur with the Senator from Wisconsin [Mr. FEINGOLD].

Mr. STEVENS. Mr. President, this deals with the collection and dissemination of information on prices received for bulk cheese. It requires the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and requires a report to Congress on the rate of reporting compliance.

I urge adoption of the amendment.

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

The amendment (No. 76) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. 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. NICKLES. Mr. President, earlier today, I voted against the D'Amato amendment, which would reinstate SSI benefits for legal nonresidents. I think 11 Senators voted against that amendment.

Mr. President, I rise to make a statement about why I voted against that amendment. I know a lot of people said they voted for it because it is part of the budget package that was agreed to by the leadership of Congress and the President. They wanted to reinstate that. They said they might as well do it anyway because the budget is going to pass and the benefit will be reinstated. That may well be. These individuals will lose their benefits for 2 weeks in August and the month of September—6 weeks—if that happens. But I didn't think that was the reason why it should be put in the urgent supplemental.

Some colleagues probably voted with me on that because they didn't think it belonged in there, that it can be included in the budget package. It may well be included in a budget package. That is when we will do the entire budget.

So my point is—I informed my colleagues on this side of the aisle—if we have other amendments on this supplemental that try to pull out various pieces of the budget package and put it into the supplemental, and they say, ''Everybody has agreed, the leadership has agreed, that we are going to spend more money for education, let's go ahead and put it in the supplemental, we are going to spend more money for children that do not have health care, we will put into a supplemental''—I disagree. This is supposed to be an urgent supplemental. It is supposed to be helping people with disaster assistance, and not to be prefunding part of the budget package.

At least I for one—and I am the only one—in the future, if we find other amendments that try to maybe prefund the budget agreement, I am going to object.

Also, I want to touch on this a little bit. Some people said, ''Well, we need to undo part of this welfare package.'' I happen to be one that disagrees with that. We passed significant welfare reform, and I think rightfully so. We said, yes, we are going to provide more benefits for citizens than noncitizens. Somebody said they are here legally. That is correct.

Let me give a couple of facts. Since 1882, an alien who was likely to become a public charge has been subject to exclusion from the United States. Since 1917, an alien who becomes a public charge within 5 years of entry has been subject to deportation from the country. That continues to be the immigration policy, that aliens within our Nation's borders should not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families and their sponsors. That is the way it should be.

Families of immigrants who enter the United States signed affidavits of support. By these affidavits of support they pledge to provide for the immigrants themselves and not put them on public assistance. That is a pledge. That says they will not become a public charge. That is to make sure that when people come to the United States, they are seeking citizenship and freedom, and not seeking welfare.

We found with this program, unfortunately, despite these policies, that large numbers of sponsors have failed to live up to their obligations, both their moral obligations and their financial obligations.

Just a couple of facts: In 1986, just over 200,000 noncitizens were receiving SSI welfare benefits. In 1996, that figure had grown to 800,000, 4 times as many in a period of 10 years. It didn't double or triple—4 times as many; it went from 200,000 to 800,000 in the last 10 years. The Social Security Administration predicts that the number of noncitizens receiving benefits would grow to 1 million by the end of the decade.

So this is exploding. A lot of people are bringing their families over, saying, ''Yes, you can be on welfare. You can be on welfare for life. You get cash payments, cash assistance, several hundreds of dollars per month, and be eligible for Medicaid concurrently.'' It is a pretty good deal. A lot of people said, ''I want in on that.'' So they would come over and totally ignore the affidavits of support that they and their families pledged they would not became a public charge.

In the welfare bill that we passed last year, they should get around this by becoming citizens. Now, I know a lot of people are becoming citizens. Some people said, ''Well, the States don't have the resources. Not everybody can become a citizen.'' You have minimal English requirements. Maybe they are not able to make that. The States save millions, and collectively the States save billions of dollars in the welfare changes we made last year. There is plenty of money to provide assistance to those people that really need some help.

Total noncitizen applications for SSI alone increased almost 600 percent from 1982 to 1994, compared to just a 49-percent increase amongst citizens. Most noncitizens apply for welfare within 5 years of arriving in the United States.

Mr. President, I want to make these comments. I know that in the budget package we have—I hope that we will pass a budget package—we are going to address this issue. I know, in all likelihood, for most noncitizens we will be continuing SSI payments for those noncitizens who are already here or already here at the time of enactment of the welfare bill. That may well be. I might support it as part of an overall package.

But I voted in opposition to this being added to the supplemental because I didn't want to cherry-pick a few of the things out of the budget package and say, ''Let's put it on this supplemental too.'' This wasn't going to happen. No one would lose benefits now for another 3 months. Our objective is to pass the reconciliation bill to implement the balanced budget by July 4, a full month and a half before you would have discontinuance of benefits. So we would have time to rectify the situation if we have not reached the budget agreement.

So, Mr. President, I just make mention of that, and maybe forewarn my colleagues. At least this Senator's intention is to object strenuously if future efforts are made to put parts of the budget package onto this urgent supplemental.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

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

AMENDMENT NO. 107

(Purpose: To strike earmarks for unrequested highway and bridge projects, parking garages, and theater restoration)

Mr. MCCAIN. Mr. President, I call up amendment No. 107.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN) proposes an amendment numbered 107.

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

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

The amendment is as follows:

On page 39, starting on line 22, strike all that appears after ''1997'' through page 40, line 21, and insert in lieu thereof ''.''.

On page 42, starting on line 11, strike all that appears through page 43, line 4.

Mr. MCCAIN. Mr. President, this amendment strikes earmarks to fund for highway projects:

$3.6 million for the 2002 Olympics planning in Utah;

$450,000 for the ATR Institute to continue the Santa Teresa border technologies project in New Mexico;

Additional funding for Warrior Loop project in Alabama;

$12.6 million to complete the William H. Natcher Bridge in Maceo, KY;

Additional funding for Highway 17 Cooper River bridges replacement project in South Carolina;

$100,000 for 86th Street Highway Project in Polk County, IA;

And discretionary authority to spend additional funds to repair or reconstruct any portion of Highway 1 in San Mateo, CA, that was destroyed in 1982 and 1983;

The set-aside of $12.3 million for discretionary authority to construct the parking garage at a VA medical center in Cleveland, OH;

Earmark of $500,000 from previously appropriated funds for a parking garage in Ashland, KY, to instead restore the Paramount Theater in that city.

Mr. President, this supplemental appropriations bill was an emergency appropriations bill. The title, as we all know, is an emergency supplemental bill.

Mr. President, the earmarks I find included in this bill and others are not, in my view, of an emergency status. Let me talk about a few other earmarks that are in this bill.

Language that makes College Station, AR, eligible for rural housing service program assistance.

By the way, Mr. President, I understand that College Station, AR, has been badly damaged by a tornado, and that is probably a project that would qualify under emergency supplemental parameters.

It makes the cost of repairing the Wapato irrigation project nonreimbursable;

$15 million emergency funding for research on environmental risk factors associated with breast cancer. Report language lists Rhode Island, Pennsylvania, New Hampshire, New Jersey, Utah, New York, and California as States which should be considered for ''competitive grants.'' In other words, the other States are not considered for competitive grants.

There is a $10 million earmark for phase 2 of nonemergency transportation planning at Yosemite Valley which is offset by rescission of clean coal technology funding;

$5 million for development of the Legislative Information System in the Office of Secretary of the Senate which is transferred from other Senate appropriations.

Let me say on that particular one, Mr. President, that I think the Legislative Information System in the Office of Secretary of the Senate is important. I do not think it qualifies as an emergency.

Earmarks funds for highway projects, including $3.6 million for 2002 Olympic planning in Utah;

$1.95 million earmarked for Colorado to provide security for the Denver Summit of Eight;

Set-aside of $12.3 million for discretionary authority to construct a parking garage, which I mentioned earlier;

$3 million earmarked from the Justice Department counterterrorism fund for Ogden, UT, preparation for 2002 Winter Olympics.

By the way, Mr. President, we are going to start totaling up how much Federal money is going to be spent on the Olympics in Utah. I would guess that it will match or exceed the amount of Federal dollars that were spent in Atlanta.

Mr. President, I am proud that these Olympics are being held in the United States and that we win these competitions for having the Olympics held here in the United States of America. Mr. President, I think the taxpayers ought to know what the cost is to the taxpayers.

Mr. President, I am reminded, as I look over this list, of the need for the line-item veto.

This is another graphic example of why the line-item veto is necessary. These projects do not qualify as emergencies, yet they are placed in.

For many years I have come down here and complained about this kind of activity. I don't think it does us any good, Mr. President, to do these things and call them emergency supplementals. What it does is provide grist for the talk show mill. It provides ammunition for those who believe we do not act in a responsible fashion. It makes it more difficult for us to go home and say that we are trying to be careful of every dollar we spend that the taxpayers so much care about—things like EPA to provide a Federal grant to Middlebury, VT, to complete a project in 1997;

Direct expenditures for study of flood control mitigation at Lualualei Naval Magazine in Hawaii;

Special emphasis on need for flood prevention efforts at Devils Lake and Ramsey County Rural Sewer System.

We can't afford to do this. We are trying to embark on an effort to balance the budget by the year 2002. We are going to ask the American people to make sacrifices as we embark on this effort. There will be some reductions in spending.

Yet, at the same time we are appropriating $250,000 to replace salmon fry killed during an April snowstorm in New England, and $1.1 million to complete fire restoration at Bosque Del Apache National Wildlife Refuge.

So the bill has grown, I am told, from around $4.4 billion to over $8 billion. Much of that is necessary spending.

Let me repeat again. In no way do I believe that we have any other obligation but to help those people who are victims of natural disasters. We have that obligation. It is a proper role of Government.

If some of these projects that I mentioned are important and worthwhile projects, I believe they should be subject to the normal authorization and appropriations process. So my amendment would eliminate a few of those.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. It is my intention, Mr. President, to move to table this amendment at a later time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BROWNBACK. Mr. President, I rise in support of the MCCAIN, amendment numbered 107, and state that I am not here to oppose any of the emergency relief being put forward. I think that is important and I think it is appropriate.

I also think we ought to pay for it as we go along. We are going to every year somewhere in this country have a disaster. Each year we do this and then we have a disaster and we do not pay for it and it adds to the deficit and we create this mortgage disaster for the country on a long-term basis. We really ought to pay for it. That is another separate debate.

I am here to support this issue and this amendment in removing those items that are not emergency appropriations. I do not want to speak about the validity or the need to do any of these specific projects that are in here. I think that can rest for another day. But the question is, are these emergencies or not? Are they things that should appear in an emergency appropriations bill?

I think Senator MCCAIN has articulated very well the list that he has put forward in this amendment. I ask unanimous consent to have printed in the RECORD that list that Senator MCCAIN has been working on, and we have worked in support of his amendment, to put this in as a part of the RECORD that these may be good promises.

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

OBJECTIONABLE PROVISIONS IN S. 672, SENATE-REPORTED FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS BILL

BILL LANGUAGE

P. 25: Makes costs of repairing Wapato irrigation project nonreimbursable. [See report p. 22]

P. 32: $15 million emergency funding for research on environmental risk factors associated with breast cancer. Report language lists Rhode Island, Pennsylvania, New Hampshire, New Jersey, Utah, New York, and California as states which should be considered for ''competitive'' grants. [See report p. 27]

P. 36–37: $10 million earmarked for phase 2 of non-emergency transportation planning at Yosemite Valley (offset by rescission of clean coal technology funding). [See report p. 32]

P. 37: $5 million for development of Legislative Information System in the Office of the Secretary of the Senate (transferred from other Senate appropriations). [See report p. 33]

P. 39–40: Earmarks of funds for highway projects, including: $3.6 million for 2002 Olympics planning in Utah; $450,000 for the ATR Institute to continue the Santa Teresa border technologies project in New Mexico; additional funding for Warrior Loop project in Alabama; $12.6 million to complete the William H. Natcher Bridge in Maceo, Kentucky; additional funding for Highway 17 Cooper River Bridges replacement project in South Carolina; $100,000 for 86th Street Highway Project in Polk County, Iowa; and discretionary authority to spend additional funds to repair or reconstruct any portion of Highway 1 in San Mateo, California, that was destroyed in 1982–1983. [See report p. 34–35]

P. 41: $1.95 million earmarked for Colorado to provide security for Denver Summit of Eight (June 20–22) concurrently with Oklahoma City bombing trial. [See report p. 35]

P. 42: Set-aside of $12.3 million for discretionary authority to construct parking garage at VA medical center in Cleveland, Ohio. [See report p. 36]

P. 42–43: Earmark of $500,000 from previously appropriated funds for a parking garage in Ashland, Kentucky, to instead restore the Paramount Theater in that city. [See report p. 36–37]

P. 47: $3 million earmarked from Justice Department Counterterrorism Fund for Ogden, Utah, preparation for 2002 Winter Olympics. [See report p. 41]

REPORT LANGUAGE

P. 8: Directs transfer of $11.2 million in F–15 program contract savings to fund acquisition and installation of High-Speed Anti-Radiation missile target systems on Air National Guard F–16 aircraft.

P. 13: $10.8 million for emergency expenses to repair damage to fish hatcheries in the Pacific Northwest.

P. 14: Directs Small Business Administration to provide disaster loans for housing repair and replacement in Arkansas even when no local building permit has been granted.

P. 16: Special emphasis on need for flood prevention efforts at Devils Lake and Ramsey County Rural Sewer System in North Dakota.

P. 17: Directs expenditures for study of flood control mitigation at Lualualei Naval Magazine in Hawaii and flood preparedness and warning plan for Reno, Nevada.

P. 19: $250,000 to replace salmon fry killed during April snowstorm in New England, and $1.1 million to complete fire restoration at Bosque Del Apache National Wildlife Refuge, New Mexico.

P. 21: Provides $9.5 million above request for Park Service construction projects, allocated specifically for 8 parks for which no funds were requested and increases funding for 5 other parks above requested amount.

P. 22: Earmarks $486,000 for restoration of Markleeville guard station in region 4 of the National Forest System (Idaho, Nevada, California).

P. 38: Directs EPA to provide Federal grant to Middlebury, Vermont, to complete project in 1997.

Mr. BROWNBACK. These projects may be worthwhile. They may be things that we should finance, even though we are over $5.4 trillion in debt. Maybe they are things we need to do, but they are not emergencies. This is an emergency supplemental. We should remove the name ''emergency'' from it if that is the case, and we are just going through on a regular supplemental proceedings bill.

I know a lot of people worked very hard in putting these together. At the end of the day, I think as you go down Senator MCCAIN's list and ask, is the $250,000 to replace salmon fry killed during an April snowstorm in New England, is that truly an emergency? Are some of the things he listed, spoke about, truly emergencies? I think one would have to conclude under any reasonable review of those that they are not emergencies. They may be things we ought to do, but they are not things we should do here. They are not things we should do in this bill.

I urge my colleagues to vote for the McCain amendment, to not table this issue, and pull these out and deal with these in the regular process in which they should dealt with.

I yield back the remainder of my time.

Mr. MCCONNELL. Mr. President, I have come to the floor to strongly oppose the McCain amendment to strike the funding designation for two items I have proposed to the legislation being considered, the Natcher Bridge and the grant redirection for the Paramount Theater in Ashland.

The proponents of this amendment are wrong to characterize these two provisions as wasteful and unnecessary. The fact of the matter is that these are important projects to the communities of Owensboro and Ashland, KY. Elimination of these two provisions will not save a single dime. In fact, this amendment would unnecessarily waste more tax dollars.

Mr. President, in 1992, a special purpose grant was included in the VA-HUD appropriations bill giving $1 million to the city of Ashland to construct a parking garage. City officials have studied this proposal further and determined that it would be more cost effective to purchase existing lots. This alternative will add more parking spaces overall and at a lower price. The city has requested that the remaining funds be used to restore a downtown landmark, the Paramount Theater.

Now, if the McCain amendment passes, the city of Ashland would be left with a grant mandating that they build a parking garage that will yield fewer spaces at a greater cost. Mr. President, this makes no sense.

Mr. President, this supplemental appropriations bill also provides for a long overdue funding correction in Federal-aid highway funding. This bill will provide Kentucky with $29.8 million to correct the funding shortfall. I was able to include language that directs the State of Kentucky to provide $12.6 million of the $29.8 million allocated for completion of the Natcher Bridge. This will ensure the completion of Natcher Bridge.

Again, by striking the language, not one dime will be saved and the bridge will be left unfinished. Keep in mind every year this bridge is left unfinished the total cost of the project increases. So again, this amendment would waste scarce tax dollars and delay the completion of this important project.

Mr. President, I believe the supporters of the amendment have mischaracterized this amendment and are doing a disservice to taxpayers and the citizens of Kentucky. I strongly oppose this amendment.

Mr. STEVENS. Mr. President, I have to oppose the amendment of the Senator from Arizona.

With regard to the funds for the Paramount Theater, for instance, in Kentucky, these are funds that were already made available for a parking garage there in the same area, and those funds are being reprogrammed to another project that is involved in the same area which is a historic landmark.

We have another funding request here concerning the VA hospital. These funds were appropriated in 1997 for this project, but unfortunately the authorizing language was left out of the Veterans Housing Act. What we are doing is going through the act again and reappropriating it with authorizing legislation. That is a technicality, really.

We do have the money, and there are highway funds allocated, in addition to those already allocated in Utah, that will be allocated for the planning and engineering design of projects for the Olympics. These are the Winter Olympics for 2002, a very historic thing to have Olympics in our country. Just as every country, we have to have special parking lots, special entrances, security involved in roads, streets, and highways in connection with the Winter Olympics. That is a noble use of funds for those projects. Of course, the highways and roads and parking lots are usable afterward. I do not argue about that. There is no question about the need for getting going now to allocate those funds for those highway projects that do meet the criteria of past allocations.

We have a whole series of other problems that the Senator mentioned. I only say that some of them may be small disasters, such as the salmon problem which the Senator has mentioned. Others are items that we put in the bill because of the timeliness of the construction that is required.

I will probably be making comments further tomorrow on other matters of the bill to try to explain some of these items. There are items here in several departments, and the Senator has pointed them out, that are not disaster related. That is why this is an emergency and supplemental appropriations bill. These amendments go to the supplemental portion, normal supplemental allocation of funds for items to be completed this year. These are moneys to be used in the remainder of fiscal year 1997.

I am sad to say I do oppose the amendment of the Senator. I understand what he is doing. For the Senator's benefit, I hope he understands what I am saying. Senator MCCAIN has become the chairman's large image on the wall, and I have to tell everyone that has an amendment that is presented to our committee in connection with supplementals or even annual bills, ''You better be sure we have the justification to get these by the Senator from Arizona because he is our watchdog.'' We need watchdogs and we appreciate them, but I have to say I will be glad to tell the Senator sometime about the 1,000 amendments we did not approve. We had more than 1,000, I might add, suggested to our committee. These are the ones that survived.

I defend what we have done, and under the circumstances, it would be my intent to table when the Senator is finished with his remarks.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I think it is important to point out that the Senator from Alaska has been very cooperative and has been very helpful. I appreciate that. I also appreciate the various influences that the Senator is under. I appreciate his understanding. I look forward to working with him as we go through the process. He and I, I believe, along with the Senator from West Virginia, have a clear understanding of where they stand and where I stand, and that relationship is characterized by nothing but respect and, indeed, affection. I appreciate the Senator from Alaska and I do not intend to call for a recorded vote on the motion to table.

Mr. STEVENS. I do ask that the amendment be tabled, and I move to table this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment No. 107.

The motion to lay on the table the amendment (No. 107) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay it on the table.

The motion to lay on the table was agreed to.

U.S. COURTHOUSE IN MONTGOMERY, AL

Mr. SHELBY. Mr. President, I would like to thank the Senator from Rhode Island for his assistance with several issues affecting the U.S. courthouse to be constructed in Montgomery, AL. Last fall, $6 million was included in Public Law 104–208 to help offset cost escalations resulting from: An error made by GSA during its Time Out and Review exercise; inflation; required security upgrades; historic preservation; and, heating, ventilation, and air conditioning improvements.

Because this supplemental project funding cannot be obligated by GSA without authorization by the Committee on Environment and Public Works, I have worked closely with Senator CHAFEE and other members of the authorizing committee to secure their approval. Appropriately, Senator CHAFEE and others wanted to make sure that this additional funding would not cause the project in Montgomery to exceed the GSA benchmarking and project budgeting process. At my and Senator CHAFEE's request, GSA confirmed in a letter dated April 21, 1997, that this additional $6 million will not cause the Montgomery project to exceed its benchmark. That is, this additional funding is necessary for GSA to complete the very critical and basic features of a modern courthouse facility.

Mr. CHAFEE. The Senator from Alabama is correct. After numerous conversations with GSA officials, and after receiving the GSA letter my colleague referred to, I have confirmed that the $6 million included in last year's Omnibus Appropriations Act is necessary and appropriate for the courthouse project in Montgomery. Indeed, the additional $6 million will not cause this project to exceed its GSA benchmark cost. As such, I have no objection to GSA obligating these funds and encourage the agency to move expeditiously on this project.

Mr. President, let me make it clear that absent the extraordinary circumstances faced by this project, I would insist upon authorizing the additional money through the committee resolution process, in accordance with the 1959 Public Buildings Act. As the Senator from Alabama mentioned at the outset, this project has already incurred cost increases as the result of delayed construction starts. A GSA budgeting error on Montgomery has yielded inflationary cost increases of $2.6 million. In addition, the project recently suffered a bid bust which threatens to delay construction further unless additional funds are provided expeditiously. This project must proceed as soon as possible to prevent further wasteful expenses.

Mr. SHELBY. I appreciate the Senator from Rhode Island's assistance on this matter and am thankful for his recognition of the special circumstances. As the former chairman of GSA's appropriations subcommittee, I am fully aware and supportive of the need to abide by national project cost standards.

AGRICULTURAL CREDIT ISSUES

Mr. DASCHLE. Mr. President, many farmers and ranchers in South Dakota have contacted me over the past few months to express their concerns with the eligibility requirements and availability of Department of Agriculture

disaster loans. I had hoped these could be addressed in the supplemental appropriation bill.

Mr. DORGAN. I share the concerns of my colleague from South Dakota. Our States have witnessed the most devastating series of winter storms and spring flooding in memory. Our producers need help in rebuilding their farming and ranching operations. However, I am afraid the credit needs of many farm and ranch families are not being met.

For example, some producers cannot access USDA's Emergency Disaster Loan Program, even though they have a qualifying disaster loss. Others, Native American tribes, do not have a loan program available to them to replace livestock lost during the disaster. I believe it is important that we give them an opportunity to rebuild their lives and livelihoods, by giving serious consideration to updating the programs.

These are the reasons I filed amendments cosponsored by Senators DASCHLE, CONRAD and JOHNSON.

Mr. LUGAR. Mr. President, I am sensitive to the concerns expressed by my colleagues. At the same time, significant reforms were made to USDA lending programs by the 1996 FAIR Act. I want to maintain the integrity of these reforms, and therefore believe that any measures which would substantially alter the basic terms of the lending programs should be subject to review by the Committee on Agriculture, Nutrition and Forestry.

Mr. DASCHLE. I support the amendments offered by my colleague from North Dakota but understand the concerns of the distinguished Senator from Indiana. Would my colleague from Indiana agree to a review by the Committee on Agriculture, Nutrition, and Forestry, of these and other disaster related credit issues affecting farmers and ranchers?

Mr. LUGAR. Mr. President, I believe that is a constructive idea. The committee will review not only the issues raised by the Senator from South Dakota and our other colleagues, but potentially also other issues relating to rural credit, including the effectiveness of certain USDA loan guarantee programs, an issue brought to my attention recently by several community bankers.

Mr. DORGAN. While I would prefer to see passage of my amendments, I also understand the chairman's concern and will not offer them today. I would encourage the Senator from Indiana to move expeditiously. Rural Americans from our region need some help soon.

1997 DISASTER IN THE RED RIVER VALLEY

Mr. GRAMS. Mr. President, a good deal has been said about the terrible devastation in Minnesota in the Red River Valley and along the Minnesota River. When we visualize the disaster, we picture communities like Ada, Granite Falls, East Grand Forks, Montevideo, Breckenridge, Moorhead, and Warren submerged in river water. I have seen most of these communities first hand and have at once anguished over their loss and admired them for their courage. We tend to overlook some other folks in Minnesota who were equally devastated by the terrible floods that came so soon on the heels of a very long and blistering cold winter. We tend to overlook the same folks who, year-in and year-out, are charged with an enormous responsibility: feeding the world.

It is estimated that over 3 million acres of prime farmland were under water at the height of the flooding. These are the same acres that Minnesota farmers use to produce much of the world's supply of potatoes, wheat, sugar, barley, corn, and soybeans. In short, without any exaggeration, this disaster upset the bread basket of the world.

But, I am inexpressibly proud to report to my colleagues that it takes more than ''hell and high water,'' as the Grand Forks Herald put it, to keep Minnesota's farmers down. As a matter of fact, despite the absolutely staggering statistics—3 million acres under water, the loss of 2,300 farm homes, 2,500 farm buildings, 3,400 pieces of farm equipment, countless fences, 10,000 head of cattle, hogs, and sheep, 130,000 poultry, 2.3 million pounds of milk, and 15 percent of Minnesota's stored crop—Minnesota farmers have not shrunk from their occupation, or indeed, their avocation. Minnesota farmers have not shrunk from their job of feeding the world. In fact, I want my colleagues here to know that within 1 week of this calamity, every farmer that could manage, was back in the field. Mr. President, when one reflects on all the adversity Minnesota farmers have experienced in recent years—highlighted by the drought of 1988, the floods of 1993, the harsh winter storms in 1996 and 1997, and now the flooding—it instills in me a solid respect for our Minnesota farmers who work through whatever Mother Nature throws at them—and sometimes even get the best of her.

But, just like everyone else, even the hardiest of people need a hand from time to time. And, this is such a time. That is why I am pleased that the disaster relief we now consider provides some $18 million in additional emergency loan assistance and $77 million in emergency conservation cost-share dollars. I am also pleased this legislation, which I trust will have speedy consideration and passage, provides $50 million for a livestock indemnity program to help livestock producers.

Mr. President, on behalf of Minnesota farmers and ranchers, I am grateful for the commitment Congress and the President have made to those who guarantee America has the most abundant, most affordable, and most wholesome food supply in the world.

Consistent with this commitment, I hope the administration, particularly the Department of Agriculture, will help our farmers through this difficult time. Specifically, in recent days, I have expressed to the Secretary of Agriculture my concern and the concern of many farmers and Farm Service Agency personnel in Minnesota over some very important matters. First, I am concerned the existing emergency loan assistance (ELA) Program may not assist all our disaster-stricken producers as the Federal Emergency Management Agency and the Small Business Administration assist homeowners and businesses. Second, under current Federal Crop Insurance Corporation regulation, I am concerned that farmers may not be able to plant in time to ensure their crops are fully insured until fully harvested. And, third, I am concerned about many of our farmers who lost program or non-program crops in storage since these crops were largely uninsured. In the interest of equity for Minnesota's disaster-stricken farmers, I hope the Secretary will use his existing authorities to work with me to prevent these inequitable results.

Mr. President, some time ago, Rudyard Kipling fondly wrote about the one who could:

> watch the things [he] gave [his] life to, broken, and stoop and build 'em up with worn-out tools . . . [or] make one heap of all [his] winnings, and risk it on one turn of pitch-and-toss, and lose, and start again at [his] beginnings, and never breathe a word about [his] loss.

I suspect Rudyard Kipling would have had a profound respect for Minnesota farmers.

Mr. MCCAIN. Mr. President, the supplemental appropriations bill should allow the Federal Aviation Administration [FAA] to spend additional funding on commercially available explosive detection systems for the Nation's airports, rather than for only one type of system as proposed by the House. The House bill provides an additional $40 million for the FAA to purchase this one system, while the Senate bill provides no additional funding. When the conference report returns to the Senate floor, however, we should make sure that any additional funding given to the FAA can be used to purchase whatever explosive detection equipment it believes will do the best job.

The development and deployment of various devices that can detect explosives are a key component of the overall security for commercial aviation. Unfortunately, the House version of the supplemental appropriations bill does not move us in this direction because it earmarks additional funding for only one type of explosive detection system. This earmarking does not provide for a multilevel approach to security as recommended by the White House Commission on Aviation Safety and Security. In its recent report, the Commission suggested that various explosive detection systems should be implemented at the Nation's airports because each one has its strengths and weaknesses. The Commission also urged FAA to deploy commercially available systems while continuing to

develop, evaluate, and certify such equipment. Additionally, the General Accounting Office has criticized the FAA for ignoring a strategy more heavily focused on integrating several different procedures and technologies for detecting explosives. Explosive detection devices vary in their ability to detect the types, quantities, and shapes of explosives. For example, one device excels in its ability to detect certain explosive substances but not others. Other devices cannot detect explosives in certain shapes.

The FAA believes that the greatest threat to aviation is explosives placed in checked baggage. It was an explosive placed in a checked bag that brought down Pan Am 103 more than 8 years ago with the loss of 270 lives. In response to this tragedy, the Congress approved the Aviation Security Improvement Act of 1990. Among other things, the legislation directed the FAA to certify explosive detection equipment. It also established a goal of having new explosive detection equipment in place by November of 1993. The TWA Flight 800 accident last July, however, highlighted the fact that no new explosive detection devices had been deployed in the United States since the Pan Am bombing. Congress responded, in part, in the Federal Aviation Reauthorization Act of 1996 by mandating that the FAA immediately deploy commercially available explosive detection equipment.

The threat of terrorism against the United States has increased and aviation is, and will remain, an attractive terrorist target. The terrorist threat faced by the United States overseas has been with us for some time, as illustrated by the bombing in Saudi Arabia of the United States barracks. However, other incidents, such as the bombings of the World Trade Center in New York and the Federal building in Oklahoma City have also made terrorism an issue at home. In 1994, the Federal Bureau of Investigation reported that the most important development concerning terrorism inside the United States was the emergence of radical terrorist groups with an infrastructure that can support terrorists' activities. That same year, the State Department reported an increase in attacks by radical fundamentalist groups, who operate more autonomously than state-sponsored, secular terrorist groups. Fundamentalist groups are more difficult to infiltrate. Consequently, it is difficult to predict and prevent their attacks.

Given the potential for a terrorist act against aviation, explosive detection systems should be deployed as quickly as possible. As the General Accounting Office reported in January 1994, terrorists' activities are continually evolving and present unique challenges to the FAA and law enforcement agencies. The bombing of Philippines Airlines Flight 434 in December 1994, which resulted in the death of one passenger and injuries to several others, illustrates the extent of terrorists' motivation and capabilities as well as the attractiveness of aviation as a target. According to information that was uncovered by accident in early January 1995, this bombing was a rehearsal for multiple attacks on specific United States flights in Asia.

Today, various explosive detection devices are commercially available for checked and carry-on baggage and could improve security. Some of these devices are already being used in foreign countries such as the United Kingdom and Israel. Other devices are under development and may soon be available. We must untie the FAA's hand and allow them to dedicate additional resources to the technologies they believe would be the most effective in detecting explosives. To see that this occurs as quickly as possible, any additional funding appropriated by the Congress should be available to purchase commercially available explosive detection devices. By taking such action we can move toward deploying the best systems for the Nation's airports.

Mrs. BOXER. Mr. President, I want to take this opportunity to thank Senator STEVENS, the chairman of the Appropriations Committee, and Senator HARRY REID, the ranking member for the Subcommittee on Energy and Water Development, for their help in obtaining the Senate's unanimous consent for an amendment I had requested to the disaster supplemental appropriations bill.

The Senate on Tuesday accepted the amendment offered by Senator STEVENS for Senator REID that would allow the U.S. Army Corps of Engineers to conduct emergency dredging and snagging and clearing of the San Joaquin River, CA, as well as the Truckee River, NV, channels. Funding for this operation would be obtained from available balances from the $137 million appropriated by the Senate for operations and maintenance for corps navigation projects.

I had previously requested $10 million for this operation for about 20 sites along the San Joaquin River, which filled with debris and sediment from the January 1997 floods in California. As a result of this flooding, the capacity of the San Joaquin was severely diminished and poses a threat of continued flooding before the flood season is over. The scope of this debris and fill was not evident until the river flows had receded. At that point, however, the emergency authority for corps' clearing operations had passed.

The hazard to navigation and to flooding posed by the debris fill is now quite obvious. What is less obvious is the obstruction that the deposited debris and sediment created to the migration and passage of anadramous and other fish, some of which are federally listed as endangered or threatened.

I appreciate Senators STEVENS' and REID's help on this amendment and urge their continued support for this provision when we conference with the House.

FUNDING FOR U.S. ARREARS TO THE UNITED NATIONS

Mr. GRAMS. Mr. President, I rise to discuss a provision in the fiscal year 1997 supplemental appropriations bill which has received little attention so far, but would fund $100 million to begin paying U.S. arrears to the United Nations.

As the chairman of the Subcommittee on International Operations, I believe U.N. reform should be one of Congress' top foreign policy priorities this year. I know that this view is shared by the Republican leadership and other influential Members in both the House and Senate.

There is general consensus among Republicans, and, perhaps, even some agreement among Democrats, that the only way to get real reforms enacted at the United Nations is by linking the payment of U.S. arrears, in legislation, to their achievement. The appropriation of $100 million in fiscal year 1997, which is even earlier than the administration had requested, for a down payment on U.S. arrears demonstrates congressional seriousness on this issue.

I want to thank the chairman of the Appropriations Committee, Senator STEVENS, and Senator GREGG, chairman of the Appropriations Subcommittee on Commerce, Justice, State and Judiciary, for working so closely with the Foreign Relations Committee on this provision.

In the past, there has not always been such a cooperative spirit between the authorizing and appropriating committees on funding for foreign affairs and, therefore, I very much appreciate the efforts that Senators STEVENS and GREGG have made to consult with those of us on the Foreign Relations Committee.

Indeed, I am supporting this fiscal year 1997 appropriation to pay U.S. arrears because the bill specifically states that such funding must be subsequently authorized. The language reads that ''none of the funds appropriated or otherwise made available by this Act for payment of U.S. arrearages to the United Nations may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of a subsequent act.''

This language explicitly reinforces the role of the Foreign Relations Committee in authorizing or approving any funding for U.S. arrears. Therefore, let me make absolutely clear what I believe must happen before this $100 million appropriation for fiscal year 1997 can be expended.

First, as I stated earlier, any legislation authorizing payment of U.S. arrears must condition such payment on the achievement of specific, meaningful U.N. reforms.

Second, legislation authorizing any payment of U.S. arrears must be a comprehensive, multiyear plan. I would not support a 1-year authorization bill, which would simply allow the $100 million appropriated in fiscal year 1997 to be expended, but would fail to outline a

longer-term vision for how this issue should be addressed.

U.S. arrears provide crucial and unique leverage that can help encourage the United Nations and its member states to finally enact budget, personnel, and structural changes that will have a lasting, positive impact on how the United Nations functions. We should not squander or dilute this leverage by failing to enact comprehensive legislation that lays out exactly what the United States expects from the United Nations in exchange for almost $1 billion.

Republicans have developed and proposed a 5-year plan to repay all legitimate arrears to the United Nations as long as specified reforms are achieved. This 5-year plan is fiscally responsible because it gives Congress a reasonable opportunity to find funding for U.S. arrears within the international affairs budget, known as the 150 account. It is sensible because it gives the United Nations a realistic timetable for enacting some of the more difficult reforms. And it is accountable to the American taxpayers by ensuring that the dollars the United States sends to the United Nations will go toward a more efficient organization.

Just last year, President Clinton proposed a 5-year repayment plan for U.S. arrears. But this year, the administration has declined to support our responsible approach and, instead, insisted that it wants all arrears paid in full by the end of fiscal year 1999.

As part of this request, the administration asked that Congress provide $100 million for arrears in fiscal year 1998 to give it diplomatic leverage in negotiating U.N. reforms. With the provision in S. 672, Congress has indicated that it is willing to begin paying back arrears even sooner, provided that an authorization bill is enacted and provided that the United Nations meets the reform conditions stipulated in that bill for the release of arrears in fiscal year 1997.

Mr. President, in the next few weeks, the Foreign Relations Committee will be moving toward its markup of the fiscal year 1998–99 State Department authorization bill. Included in that bill will be our 5-year plan for paying U.S. arrears in exchange for U.N. reforms. If the administration wishes to have funding available to pay arrears in fiscal year 1997 or in future years, it would do well to give this legislation more serious consideration and embrace its commonsense provisions to advance meaningful reform at the United Nations.

Mr. STEVENS. I cannot announce there will be no more votes, but it is not our intention to call upon amendments that would require votes tonight. We do expect to start very early in the morning and have a vote at approximately 10 o'clock in the morning on one amendment and then a period of debate on Senator BYRD's amendment to strike the continuing resolution proposal in the supplemental emergency bill. We will have a vote on that. It is our intention to finish this bill tomorrow evening.

I might say to Senators who have amendments, I urge them to come and present their amendments and try to work out, to the extent we can, time agreements on obtaining time tomorrow. It will be very much in short supply, Mr. President. We are going to move to go to third reading at or around 6 o'clock. I say that again: We are going to move to go to third reading at or around 6 o'clock if that is parliamentarily possible at that time. I think it will be.

AMENDMENT NO. 169

(Purpose: To increase the number of units available for FHA insurance under the HUD/State Housing Finance Agency Risk-Sharing program)

Mr. STEVENS. Mr. President, I send amendment No. 169 to the desk.

The PRESIDING OFFICER. There is a pending amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. STEVENS. For the purposes of the remaining amendments, I ask the Reid amendment not come before the Senate before tomorrow.

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

The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BOND, Mr. SARBANES, Mr. D'AMATO, and Ms. MIKULSKI, proposes an amendment numbered 169.

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

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

The amendment is as follows:

In Title III, Chapter 10, add the following new section:

SEC. . The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 is amended by striking out ''on not more than 12,000 units during fiscal year 1996'' and inserting in lieu thereof: ''on not more than 12,000 units during fiscal year 1996 and not more than an additional 7,500 units during fiscal year 1997.''.

Mr. STEVENS. This is to increase the number of units available for FHA under the HUD/State Housing Finance Agency Risk-Sharing Program. It is a matter that deals with adding units for 1997.

It is cosponsored by, as I understand it, by Senators SARBANES, D'AMATO and MIKULSKI.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. STEVENS. Mr. President, I ask the amendment be agreed to.

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

The amendment (No. 169) was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 232, 233, AND 234, EN BLOC

Mr. STEVENS. Mr. President, I ask unanimous consent that three amendments on behalf of Senator CONRAD be considered and agreed to en bloc. I am going to send those amendments to the desk in a minute. These amendments have been cleared by the chairman and ranking member of the subcommittee. They provide additional emergency disaster funding for farm operating loans and flood plain easements and offset these additional amounts.

I send these three amendments to the desk and ask they be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. CONRAD, proposes amendments Nos. 232, 233 and 234, en bloc.

Mr. STEVENS. I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments (Nos. 232, 233, and 234), en bloc, are as follows:

AMENDMENT NO. 232

(Purpose: To make an additional $10,000,000 available for the cost of subsidized guaranteed farm operating loans under Title II, Chapter 1)

On page 9, line 21, strike ''emergency insured'' and insert in lieu thereof ''direct and guaranteed''.

On page 9, line 25, strike ''$18,000,000, to remain available until expended'' and insert in lieu thereof ''$28,000,000, to remain available until expended, of which $18,000,000 shall be available for emergency insured loans and $10,000,000 shall be available for subsidized guaranteed operating loans''.

On page 10, line 3, strike ''$18,000,000'' and insert in lieu thereof ''$28,000,000''.

AMENDMENT NO. 233

(Purpose: To reduce funding for The Emergency Food Assistance Program commodity purchases to offset emergency disaster funding for subsidized guaranteed farm operating loans and additional funding for flood plain easements)

On page 74, between lines 4 and 5, insert:

FOOD AND CONSUMER SERVICE

THE EMERGENCY FOOD ASSISTANCE PROGRAM

Notwithstanding section 27(a) of the Food Stamp Act, the amount specified for allocation under such section for fiscal year 1997 shall be $80,000,000.

AMENDMENT NO. 234

On page 13, line 1, strike ''$161,000,000'' and insert ''$171,000,000''.

On page 13, line 15, strike ''$10,000,000'' and insert ''$20,000,000''.

Mr. STEVENS. They are, as I said, necessary to assure that funding during a disaster period now on emergency basis are available for farm operating loans and flood plain easements and the offsets for those amounts that are necessary.

I ask the amendments be agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (No. 232, 233, and 234), en bloc, were agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. BYRD. I move to lay it on the table.

The motion to lay on the table was agreed to.

INTERIOR PORTION

Mr. DASCHLE. I would like to engage my colleague Senator GORTON, the chairman of the Subcommittee on Interior and Related Agencies, in a colloquy on the Interior portion of the bill.

Mr. GORTON. I am happy to do so.

Mr. DASCHLE. As the Senator knows, the Dakotas and many upper Midwestern States were battered by a series of storms this winter and spring. Many of the States affected by weather-related emergencies are still battling and will not have a complete or accurate assessment of the damage until later this spring. Indian tribes, many of which live in remote areas, are among those whose communities suffer most in this kind of disaster.

Mr. GORTON. I fully appreciate the sentiments of the Senator from South Dakota. The President's request for emergency funding for the Bureau of Indian Affairs is $10,800,000. The Appropriation Committee's recommendation, based on updated information about the costs associated with these storms, is $20,566,000. Of the additional amount included in the committee-reported bill, $1,059,000 is directly attributable to the efforts of Senator DASCHLE.

Mr. DASCHLE. I want to thank the committee for adding $1,059,000 to the supplemental spending bill for the Bureau of Indian Affairs. I am particularly grateful to the efforts of Senators GORTON, STEVENS and BYRD in working to ensure sufficient funding in this bill to mitigate the impacts of this year's weather disasters on so many tribes, including those in South Dakota. It is my hope that of the funds appropriated in the bill for the Bureau of Indian Affairs, the Bureau will consider the additional needs of the Cheyenne River Sioux Tribe for welfare assistance costs, the Mni Sose Intertribal Water Rights Coalition to support their work in helping the tribes of my region obtain disaster assistance, the Crow Creek Sioux Tribe for snow removal, and the Flandreau Santee Sioux Tribe for snow removal.

Mr. GORTON. I agree that the Bureau should consider the additional needs you have identified in distributing the funds provided.

Mr. DASCHLE. Since the markup, I have received a request for an additional $1,200,000 for emergency assistance for the Crow Creek Sioux Tribe in South Dakota. The Crow Creek community of Fort Thompson suffered damages that require road repairs, monitoring and cleanup of sewage, repairs to the tribal administration building, and repair to the irrigation pump on the tribal farm. Is it the chairman's belief that these repairs can be accomplished within the funding provided?

Mr. GORTON. Within the $20,566,000 provided for the Bureau of Indian Affairs, an estimated $4,736,000 has been identified for emergency needs in South Dakota, including emergency assistance for the Crow Creek Sioux. In distributing these amounts, I agree that the Bureau should take into consideration additional needs, including those of the Crow Creek Sioux, to the extent that Bureau policy regarding historical priorities for funding Indian roads, tribal administration buildings and irrigation projects is met. In addition, the Bureau must consider the availability of funding through other Federal agencies, including the Federal Emergency Management Agency and the Federal Highway Administration's emergency road program [ERFO].

Mr. BYRD. Mr. President, I concur with the Subcommittee Chairman that the Bureau should give consideration to the additional requirements identified by the Crow Creek Sioux tribe, as well as other tribes. The funds provided are to address the most critical health and safety and emergency response needs associated with the disasters. If the additional emergency appropriations are not sufficient to address all requests from all tribes, the Bureau of Indian Affairs will have to prioritize the requests, but they are encouraged to consider the particular needs in South Dakota.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 59

(Purpose: To strike title VII)

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order for me to call up amendment No. 59.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 59.

On page 81, beginning with line 1, strike all through page 85, line 9.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the very last sections of this bill, title VII, beginning on page 81, line 1, through page 85, line 9, contains language which its proponents call the Government Shutdown Prevention Act. I believe it could be more aptly dubbed the Adequate Oversight Prevention Act. During a committee markup of this emergency disaster assistance bill, after considerable debate, my motion to strike this proposal was defeated by a party line vote of 13 yeas to 15 nays.

The language of title VII is the same language as is contained in S. 47, which was introduced some weeks ago by Senators MCCAIN, HUTCHISON, STEVENS, and others. The provisions provide that if any of the 13 regular appropriations bills for fiscal year 1998 do not become law prior to the beginning of the fiscal year on October 1, there will be an automatic appropriation for each such program, project or activity contained in that bill at the arbitrary rate of 98 percent of the funding that was provided for the program, project or activity in the corresponding regular appropriations act for fiscal year 1997. This level of funding would continue for each appropriation bill for the entirety of fiscal year 1998, unless another continuing resolution or a separate appropriation bill is enacted into law to replace it.

If these provisions were in effect for the entire fiscal year for all 13 regular appropriations bills, the effect could be cuts totaling $35 billion, or 7 percent below President Clinton's discretionary budget request. This level of cuts would cause severe devastation to worthy national efforts in law enforcement, education, transportation and transportation safety, Health and Human Services, and a host of other programs throughout the Federal Government.

Mr. President, I am especially concerned about the impact that this so-called Government Shutdown Prevention Act would have on our law enforcement agencies and the Federal courts. For these agencies, this proposal would, in fact, be a shutdown bill. It would itself be a severe setback in the war on crime and illegal narcotics. We finally have seen positive results from our efforts to bolster the Justice and Treasury Departments and our anticrime programs. The Bureau of Justice Statistics' most recent crime reports show that we are finally turning the corner on violent crime in America. They report a decline of 12.8 percent in violent crime—rape, robbery and assault. There is far too much crime in America. But we are starting to win the war, we hope. We should be enhancing our efforts, as the President's budget proposes. Instead, this shutdown proposal would hurt our law enforcement agencies, our men and women in uniform, as much as any terrorist or Mexican drug cartel or gang or organized crime figure could hope to. It would cause an about-face and undercut Federal law enforcement right in the midst of battle.

Let us look briefly at what this shutdown proposal would mean to specific Federal law enforcement agencies. These are conservative estimates that were supplied by the agencies themselves.

This proposal would cut the Federal Bureau of Investigation by $261 million below the President's budget request. It would eliminate at least 2,281 positions, including 965 FBI agents and 1,316 support staff. Reductions would

include 199 agents that investigate domestic terrorism and 175 agents that develop capabilities to counter the threat from chemical, biological, and nuclear materials. We have been adding positions to the FBI to deal with terrorist acts like the bombings in Oklahoma City and at the Atlanta Olympics. This would reverse the gains that we have made in mobilizing a Federal response to domestic and international terrorism.

Funding would not be available to complete the new FBI laboratory at Quantico, VA. We are all concerned with reports of problems in the operations of the current laboratory at headquarters. The FBI must have state-of-the-art facilities and continue to be the world's premier law enforcement forensic laboratory. We need to complete this $130 million laboratory, which is so important to Federal, State and local law enforcement.

Funding would not be available to continue the telephone carrier compliance effort called for under the Communications Assistance For Law Enforcement Act. All Senators know just how rapidly the telecommunications industry is changing. Telephones are now portable, and they are adopting digital technologies. Without funding for retrofitting telephone switches, we will be unable to conduct court-ordered wiretaps of drug dealers and organized crime and national security threats. This shutdown proposal would cut the Drug Enforcement Administration by $106 million. It would require the DEA to absorb $36 million in must-pay bills for cost-of-living adjustments, inflation and contract costs. It would force DEA to stop hiring agents, and we would not be able to provide for the 168 new special agents that are proposed in the President's budget.

DEA would have to cut back, rather than increase, its efforts to combat methamphetamine, or ''meth,'' as it is known, and drug trafficking in cocaine and heroin by the Colombian and Mexican cartels. DEA estimates that this bill would require a reduction in force of up to 263 special agents. It would stop dead in the water DEA's efforts to expand mobile enforcement teams that sweep through rural communities to weed out drug dealers. And it would severely set back our efforts to combat illegal narcotics on the southwest border, in Texas, California, New Mexico and Arizona.

This shutdown proposal would strike a blow against our efforts to make American borders secure against illegal immigration and drug smuggling. It would devastate the Customs Service and the Department of the Treasury and the Immigration and Naturalization Service in the Department of Justice. The proposal would cut $64 million and 201 agents from the U.S. Customs Service. It would result in reductions in antismuggling and drug-interdiction efforts, efforts that are important in keeping American borders safe and secure.

But reductions in staffing are only one component of keeping the borders secure. The reduction would also delay acquisition of high-energy detection systems and eliminate funding for border passenger processing systems. These systems identify attempts to smuggle illegal chemicals, refrigerants, and illegal aliens across the border. The reduction would also delay funding for the automated targeting system, which increases Customs' capability to conduct intensive border inspection.

This proposal would destroy the progress that we have made in building up the capability of the Border Patrol and the Immigration and Naturalization Service. These efforts really started with hearings on illegal immigration that I held in 1994 when I served as chairman of the Appropriations Committee. The INS advises that this bill would require the reduction of $385 million and would severely impact major enforcement programs such as detention and deportation, investigations, work site enforcement, and the apprehension of illegal aliens. This bill would stop dead in their tracks our efforts to build up the Border Patrol by 1,000 agents per year. We just reaffirmed this commitment in last year's immigration bill. The Border Patrol and INS advise that if they have to operate at 2 percent below current levels during fiscal year 1998, they will have to eliminate at least 1,671 personnel that were added just this year.

One of the real success stories in Federal law enforcement has been our Bureau of Prisons. We are putting away more criminals under lock and key and keeping them away from the public for longer periods. I fear that this shutdown bill would reverse this progress. The prison system advises us that this bill would require a reduction of $119 million from the President's budget request. They would be unable to activate a new medium security prison in Beaumont, TX. There would be no funds for the annualization costs of six new prisons scheduled for activation this year, resulting in the loss of more than 7,300 beds. We have been funding new construction. Now we need to have the money to staff and operate these institutions. Overcrowding would increase to 23 percent for the overall Federal prison system, rather than the planned goal of 12 percent for fiscal year 1998. Of course, we have learned that overcrowding is unsafe and often leads to institutional disturbances. Mr. President, we should not and we must not risk the safety of our dedicated correctional officers who serve in the Federal prisons throughout this country.

This shutdown proposal would require the reduction of $110 million and at least 280 personnel at the U.S. attorney offices across the country. This would impact our ability to prosecute violent criminals and criminal aliens. In case after case, from the current Oklahoma City bombing case in Denver to the World Trade Center bombing case, we turn to dedicated assistant U.S. attorneys to represent the people of the United States. All our investigations by the FBI, DEA and other agencies will come to naught; our investigations of the Mafia, drug traffickers, terrorists and violent criminals will be meaningless if we cannot rely on our prosecutors to fight in court and gain a conviction for these criminals. This provision would reduce prosecutors, increase caseloads, and delay prosecution.

This is a bad idea. This proposal would force the U.S. marshals to eliminate 61 positions hired in fiscal year 1997. The marshals are responsible for custody of presentenced Federal prisoners, finding fugitives, administering the court security program, and protection of Federal judges. They have advised us that with this reduction of $28 million, they would be unable to complete security improvements and projects at prisoner transportation holding areas. Since Oklahoma City, we have tried to build up court security with equipment and security guards, and we must not let down our guard.

I would be remiss if I did not discuss this proposal's impact on the Federal judiciary, our third branch of the Government. In short, the impact would be devastating. It would require a reduction of $425 million from the budget request for the courts. It would require the reduction of over 3,500 positions. The judiciary estimates that appellate and district courts would be reduced by almost 1,200 positions. There would be reduced staff in courtrooms for filings, motions, pleadings and scheduling of cases. The bankruptcy court's clerk's offices would be forced to eliminate approximately 1,000 clerks. This reduction would increase the backlog in issuing discharges, closing cases and processing claims. Probation and pretrial services would be reduced by approximately 1,330 positions. The supervision of offenders and defendants would be cut in half. Panel attorney payments would have to be suspended as early as July 1998. Mr. President, what we are talking about is failing to provide for basic constitutional rights like the right to be represented by counsel.

For education, the effects of full-year funding for 1998 at 98 percent of 1997 levels would also do great harm. College aid would be cut by $1.8 billion, 400,000 students would lose Pell grants, 52,000 children would be cut from Head Start, and aid to 2,000 local school districts would be cut.

For Health and Human Services, dramatic cuts would occur to the NIH, Ryan White and the Indian Health Service and, moreover, WIC would serve several hundred thousand fewer women, infants and children in 1998, and the Veterans Administration would have to deny care to 200,000 veterans.

In the area of transportation safety, the FAA would be unable to hire the

additional 500 air traffic controllers, 325 flight inspection and certification personnel and 173 security staff included in the 1998 budget.

Why anyone would think that enacting such a measure is a good idea is beyond me. Should we fail to enact one of the 13 bills, this so-called automatic measure would go into effect for up to 1 year, making mindless cuts in many beneficial programs like the ones I have mentioned, and yet all the while continuing funding in other programs that may have been slated for elimination because they are no longer needed.

This is mindless legislating. It is very much like saying because we have missed the deadline for the budget resolution, which we have by more than 2 weeks this year already, we should enact legislation which says we will just use last year's budget resolution minus 2 percent across the board and get on with our business.

Furthermore, the same delayed budget resolution has made it highly likely the Senate will be unable to pass all of the appropriations bills in a timely fashion and, therefore, highly likely that this automatic provision will be used. This is not to mention the obvious possible misuse of the automatic provision which could be employed by the majority if it were intent on cutting certain programs and could not get the minority or the President to go along. All that has to occur is for an appropriations bill to conveniently bog down beyond October 1, and the cuts I have previously mentioned could very magically occur without further consideration by the Appropriations Committee and without any further vote by the Senate.

I appreciate the ingenuity and the political acuity demonstrated by the authors of this device, but I would like to remind us all that making political trump cards on an emergency disaster bill may not be appreciated by the American people, especially the disaster victims who are waiting for our help.

It should be obvious to everyone that this is some kind of political ploy, else the attempt would not be made to attach it to a bill the President naturally would find very difficult to veto. In fact, if one can believe what one reads in the press, the reasons for this proposal are set out rather starkly in an article which appeared in the April 18, 1997 issue of a publication called Inside the New Congress. That publication discusses this so-called automatic CR provision under a heading entitled ''Automatic PR.''

Mr. President, I will continue my statement in support of my amendment on tomorrow. I yield the floor.

Mr. MCCAIN addressed the Chair.

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

Mr. MCCAIN. Mr. President, I understand the concern of the Senator from West Virginia. I hope that he will then understand why the Senator from Texas, Senator HUTCHISON, and I have an amendment to raise the spending to a full 100 percent of the previous year rather than 98 percent, rather than force the impact that the Senator from West Virginia, as always, so eloquently described. So, therefore, I hope that the Senator from West Virginia will have no objection to a unanimous-consent request to lay aside his amendment so I can bring up my amendment, No. 112, which calls for 100 percent funding at the previous year's level and, that way, I hope that most of the concerns that the Senator from West Virginia has will be allayed and he then, of course, hopes that many of his concerns he voiced will be addressed.

So, Mr. President, I ask unanimous consent to lay aside the pending amendment and call up amendment No. 112.

Mr. BYRD. Mr. President, I object for the time being. It might not be that on tomorrow morning I will have objection. I am not sure. I would just like——

Mr. MCCAIN. I say to the Senator from West Virginia, if he will yield.

Mr. BYRD. Yes.

Mr. MCCAIN. I, of course, will have to make a motion to table the amendment of the Senator from West Virginia and ask for an immediate vote, because I believe that it is only fair to raise the spending level to 100 percent. I think that it is important for us to do that. I think the Senator from West Virginia, or his staff, knew that Senator HUTCHISON and I had planned on doing that when the original schedule was we were going to bring up his amendment and ours tomorrow morning.

So I hope that the Senator from West Virginia will agree to allow our amendment for 100 percent funding to be considered and his amendment be laid aside.

Mr. BYRD. Mr. President, as I say, I might not object tomorrow morning, but as of now, I would like to object and give the matter a little thought.

The PRESIDING OFFICER. Objection is heard. The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, I intend to talk for quite a while on the issue and hope that perhaps sometime this evening the Senator from West Virginia will find it agreeable to raise the spending level, which is a very important part of this legislation, to 100 percent.

Frankly, I do not understand the rationale of why we cannot go ahead and just have that done and move forward with the debate on the issue itself. The issue itself is whether we are going to subject the American people, citizens, both Federal workers and non-Federal workers, to the hardship and the incredible discomfort and sometimes the wrecking of entire lives as a result of a shutdown of the Government.

In 1995, there were thousands of people in my State, non-Federal workers—non-Federal workers—who, unfortunately, were dislocated because of the shutdown of the Government and, therefore, not allowed to ever recover as the Federal workers were.

Some people have questioned what we are trying to do here and why. Perhaps their memories are not as good as mine as to the impact on my State and the Nation. I received this information from the Office of Management and Budget.

The National Park Service facilities were closed. On an average day, 383,000 people visit National Park Service facilities. Potential per day losses for businesses in communities adjacent to national parks could reach $14 million due to reduced recreational tourism.

As a result of the closing of Yosemite National Park, Mariposa County declared a state of emergency and asked Governor Wilson of California to declare the county an economic disaster area and, therefore, eligible for State aid.

Access to and use of national forests was restricted. The Forest Service-operated campgrounds, monuments and visitor centers were closed in the 155 national forests. No timber sales activities, including preparation, advertising and award of sales, occurred. Harvesting continued for sales awarded prior to the shutdown.

FHA mortgages and housing vouchers were halted. On an average day, the Federal Housing Administration processes 2,500 home purchase loans and refinancing totaling $230 million worth of mortgage loans for moderate- and low-income working families nationwide.

Last January of 1996, HUD was unable to renew 49,000 vouchers and other section 8 rental subsidies for low- and moderate-income households, which could have led to the eviction of those families.

Applications for passports were not processed. Foreign visitors were unable to obtain visas. On an average day, the State Department receives 23,000 applications for passports. On an average day, the State Department issues 20,000 visas to visitors, who spend an average of $3,000 on their trips, for a total of $60 million. Foreign students studying in the United States and home for the holidays were unable to obtain visas to return to the United States for their classes.

Veterans' benefits were not delivered. When the continuing resolution provided funding for certain benefits and payments, it expired and consequently contractors providing services and supplies to hospitals were not paid and benefits for January were not paid in February.

In addition, approximately 170,000 veterans did not receive their December Montgomery GI bill education benefits and did not receive benefits in January. Funding had lapsed for processing veterans' claims, for rehabilitation counseling, and veterans were unable to obtain VA guaranteed home loans.

Programs for the elderly were at risk. Some 600,000 elderly Americans faced the loss of Meals on Wheels, transportation, and personal care provided by the Health and Human Services Administration on Aging because the continuing resolution was not passed.

Contractors that handled Medicare claims were not paid. Approximately 24,000 contracting employees were involved in paying Medicare claims which averages about $3.5 billion per week, and most had to self-finance payrolls and other expenses or stop their activities. Federal funds to States for Medicaid were limited and will be limited in the case of another shutdown. In December 22 States received only 40 percent of the estimated quarterly payment for Medicaid. Without further action, the Federal match for Medicaid and its 36 million beneficiaries, including 18 million children, would have run out in late January.

Mr. President, I intend to talk more about the impact of the shutdown last time and the potential impact this time of a shutdown.

Let me just say that in some quarters, the Congress of the United States is not held in the highest esteem. When we shut down the Government because of our failure to agree with the President of the United States, that esteem plummets even further. What we did to the American people, average citizens who had no control over the situation, in December of 1995, is unconscionable and should not and cannot be repeated.

The whole purpose of what Senator HUTCHISON and I are trying to do, with the able leadership and assistance of the Senator from Alaska, is to make sure it does not happen again. We cannot let this kind of thing happen again. Too many innocent lives are injured and harmed permanently.

I understand the very eloquent statement of the Senator from West Virginia about what a shutdown would do at 98 percent. That is why the Senator from Texas and I are willing to raise it to 100 percent of the previous year's funding. Every program will be funded at the previous year's funding level until such time as there is agreement.

Mr. President, there are many other arguments that have been made against this shutdown-of-the-Government provision, one of them being perhaps there would be no incentive for the executive branch and legislative branch to agree on an appropriations bill.

We all know that there are many, many issues addressed in appropriations bills, far more than I would like, many of which I have complained about from time to time. There are policy changes, if I may be so crass, a great deal of earmarked spending which I have objected to from time to time.

It is still clearly in the interest for there to be an agreement. And it is still clearly in our interest to work together with the President of the United States. But, Mr. President, the option of such irresponsible behavior on the part of both branches that we would shut down the Government again is not thinkable and inexcusable, and I will not be a party—I will not be a party—to a situation again where the citizens of my State, who I am responsible for, when I have that responsibility will suffer as they did.

I note that the Senator from Wyoming is in the chair as the Presiding Officer. He knows the devastation that was wreaked in the national park—I believe Grand Teton in Jackson Hole—when the national park was shut down. We cannot have that repetition, and will not. And I would hope that the administration would continue to negotiate with us so we can avoid this and at the same time come to an agreement where we can prevent a future shutdown of the Government.

I would hope that the Senator from West Virginia would change his mind and agree to setting aside his amendment so that we may take up the 100 percent funding. And I intend to make that motion in a very short time again.

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

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

Mrs. HUTCHISON. Mr. President, I want to thank my colleague from Arizona for his leadership in this area, because actually the Senator from Arizona and I have talked about this ever since the Government shutdown and then last year when we did not have a shutdown, but it really was not the normal course of negotiations when you get toward that September 30 deadline.

We have a freestanding bill that will in fact take care of the needs of Government after September 30, if we do not have an appropriations agreement. But then when we started looking at the fact that this is the supplemental appropriations bill, the first bill that has really hit the floor from the Appropriations Committee—it is May—if we waited much later than this I think perhaps agencies could say, ''Well, but we can't plan.''

I think it is important that the Federal agencies know exactly what is going to happen. I think it is important that we lay the groundwork in the first bill that we have on the floor in May before the September 30 deadline of how the process of appropriations is really going to work.

So that is why Senator MCCAIN and I introduced this, which we actually thought and hoped would have bipartisan support. We thought that if we did something that would say this is the way we are going to do it, if we put it on the table, that everybody would agree, because clearly no one wants to shut down Government. The President certainly does not. I am sure the distinguished minority leader from North Dakota does not. I am sure that Senator BYRD from West Virginia would not want to shut down the Government, and neither do any of us.

So what we are trying to do is say, how can we accomplish this in an orderly way? Senator MCCAIN and I and Senator LOTT and Senator STEVENS believe that this is the time to do it, so that we are not talking in the heat of a negotiation that is not going well on September the 29th of this year. What we are saying is we are going to run Government responsibly.

We had 98 percent of the 1997 expenditure level. Since that original amendment was filed, there has been a budget agreement. There has been a budget agreement between the President and Congress that has yet to pass Congress but nevertheless it is laying some parameters of higher spending levels going into 1998. But what we do not have is exactly what the policy is going to be in that 1998 level of expenditure. So there still is going to be negotiation about where the appropriations go within an agency's budget and what the policies might be.

So it is very important that we continue to work on making sure that we do not have a Government shutdown because there may be legitimate disagreements that cannot be solved by September 30. Of course, we hope they will be solved, but we all have seen that many times this has not happened because we have a President who is a Democrat and we have a Congress that is Republican, and sometimes our priorities are different. And we need the ability to negotiate in good faith without the hammer of a shutdown of Government over our heads.

So since we had the budget agreement that came into play that does have higher spending levels for 1998, Senator MCCAIN and I are willing to go from 98 percent to 100 percent, because letting the agencies continue to spend at the same levels that they are spending now seems to be reasonable since we now know that the levels will be higher.

There was a time last year when the President submitted his budget that the spending levels were not higher. Congress, in its original budget resolution, did not have the same 1998 level of expenditures. They are higher. So now that we know that, I think the 100 percent of present spending is certainly reasonable.

You know, I go back to what I said in the first place. If you cannot continue to run Government at a 2 percent discount or 100 percent of what you had last year, then you probably should not be managing a Federal agency because everybody has had to cut their budgets from time to time. They have had to cut them a lot more than 2 percent in small businesses around our country, in families that are trying to make ends meet because they have two kids in college at the same time. People have to stretch. And they do not quite understand why their hard-earned tax dollars are out there and we cannot cut

back 2 percent on Government expenditures that are actually their expenditures because they are paying for this Government.

But 100 percent, since we are going to be going to higher levels, is fine and I can go along with that. I am certainly willing to try to make sure that we do not disrupt Government, but I think we need to take the step. I think we need to go forward and say, here is how we are going to run the appropriations process. I think every American can understand that if we do not have the ability to negotiate, without the threat of shutting down Government, that we are not going to be able to stand on our principles. Perhaps the President does not feel that he can stand on his principles. And we would like to be able to do that and come to terms in the normal course of business.

So that is why we are trying to plan ahead. That is why we are trying to make sure that the Government is not shut down, that Federal employees who would like to come to work, but cannot because it is a law that they cannot, are not in any way put to the test of wondering if they are going to be able to make ends meet because their salary will not be there. I cannot imagine, in my wildest dreams, that Congress would not pay the salaries of people who would like to come to work but cannot because of some artificial deadline that says Government stops if we do not have an appropriations bill.

So we are trying to keep that from happening so that Federal employees will not be forced to take leave, so that veterans will not worry whether their benefits are going to be there, so that people who are traveling back from college to home will not be unable to do that because perhaps they do not have their passport, so that people will not be inconvenienced with their long-awaited family vacation to the Grand Canyon or the Washington Monument. I think it is important that we take this process step.

There is one other point I think is very important to make. And Senator STEVENS has made it many times on the floor, but I think it bears repeating, because there is somehow the implication that the flood victims in North Dakota, with whom all of us have great sympathy, might not get the payments they need to start rebuilding.

In fact, Mr. President, they are getting the money now. There is no holdup in the emergency money that the flood victims are getting for rebuilding their homes or their office buildings. In fact, they are getting that money now. What we are talking about is a supplemental appropriations that would refill the coffers of the Federal Emergency Management Agency so that it will be ready for the next emergency. And we are trying to make sure that we cover all the expenditures that we are having to make right now.

But does anyone, for 1 minute, think that the loan processors and the people who are processing the claims of the flood victims in North Dakota are sitting there waiting for an appropriations bill to come through? Does anyone really believe that that is not going forward right now? I hope not, because nothing could be further from the truth.

In fact, the Federal Emergency Management Agency is on the job. They are on the spot. They are beginning to rebuild in North Dakota. And the money is there for them, as it should be. But what we are talking about is making sure that the money that is being spent now is replenished. So we have time to do this in the right way.

I think many people are concerned that there are other parts of this bill besides the emergency appropriations supplemental for North Dakota flood victims and for the people who are serving in Bosnia that—in fact, I would just make the same point for those in Bosnia who are serving there. They are not not getting what they would have. It is not as if this billion dollars that we are appropriating is going to do something that they do not now have. We are giving our young men and women who are protecting our country—if they are deployed to Bosnia on that mission, they are getting everything that they need to do that job.

But what we are talking about in this supplemental appropriations is replenishing the money that has been taken out of the Department of Defense for training, for equipment, for spare parts, for quality of life issues, such as housing and pay raises for our military.

We are putting the money back in that has been spent from the Department of Defense. And the Department of Defense does indeed need that money. And we are going to make sure that it goes in so that we do not interrupt the training and the equipment purchases and the spare parts purchases and the airplane purchases that are needed for our Defense Department.

So we are replenishing the coffers, but no one that is on a mission in Bosnia or a flood victim in North Dakota is not getting the services that have been authorized in previous legislation, previous bills for the Federal Emergency Management Agency.

So I want to make sure that everyone understands the money is going out. But there are some concerns among many of our colleagues on both sides of the aisle about some of the other parts of the bill. There are some clearly nonemergency, nonsupplemental needs that are being met in this bill. And I think some people are questioning whether maybe that should be put off to an appropriations process that is not in any way supplemental but is just the normal course of business.

So I think certainly debate is warranted. We do not want to in any way rush something through, because the people that need this money are getting the money that they need. I hope that we will be able to move forward on this.

I hope that at some point all of us will be able to vote on a continuing resolution that will assure that our Government goes along in an orderly way, that we also are able to negotiate in an orderly way on September 30 of this year if we do still have differences. We need to provide for those differences in an orderly way. And that is what our bill is trying to do.

I certainly appreciate the leadership of the Senator from Arizona. I am certainly with him on the McCain-Hutchison Government Shutdown Prevention Act which we believe very strongly is a matter of principle, it is a matter of responsible Government, it is a matter of fulfilling our responsibility to the Federal employees who serve our country, to the men and women in uniform that serve our country, to the people of our country who depend on Government services, such as running the parks and passports and veterans' benefits. All of these people deserve to know that we will make sure that they are taken care of in an orderly way, even if we have not been able to come to agreements on some appropriations bills by September 30.

Thank you, Mr. President.

I certainly appreciate once again the Senator from Arizona coming up and trying to make sure that we talk about this in an orderly way.

I yield the floor.

Mr. MCCAIN addressed the Chair.

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

Mr. MCCAIN. I want to thank the Senator from Texas for her commitment to the people of her State and her efforts now for a long time to make sure that never again do we put the American people through the trauma of a Government shutdown.

I, as a conservative, believe in a minimal role of Government, but I am not a Libertarian. I do believe that there is a role for Government, and that is to provide basic and fundamental services to our citizens. That did not happen during the Government shutdown. I think we have an obligation to see that it does not happen again.

Mr. President, I want to point out again, we have been in negotiations with the White House on this issue. I believe the President of the United States, along with the Senator from West Virginia, who has many Federal workers in his State and many people who are dependent on the Federal Government, does not want another shutdown of the Government. I am still hopeful that at some point before we have a real showdown here and a possible veto of this very much needed supplemental appropriations bill, emergency supplemental appropriations bill, that we can get an agreement worked out that would prevent a shutdown of the Government ever again.

I have a lot to say, and I know that the Senator from West Virginia does, too. In fact, we were discussing the outlines of a unanimous consent agreement where the Senator from West Virginia would consume about 2½ hours tomorrow on this issue before we would vote on it. I look forward to that debate. I do not think we will need that much time.

I always pay attention to the arguments and discussions of the issues as articulated by the Senator from West Virginia. There is no one more respected in this body than the Senator from West Virginia. Some day he may leave, I am sure it will be after I do, but if and when he ever does, we will lose the corporate memory and the standards of conduct and behavior that was handed down to us by our predecessors. That flame is kept alive by the Senator from West Virginia. Over the past 10 years when I have been in the Senate in the company of the Senator from West Virginia, we have engaged in spirited but always respectful debate, occasionally on issues that the Senator from West Virginia feels the most passionate about—the line-item veto, of course, comes to mind.

I must admit again—I am almost sorry I brought it up—but I must admit again that the Senator from West Virginia has won the first round, a major victory in a Supreme Court decision concerning the line-item veto. I say to my friend from West Virginia the words of the famous philosopher Casey Stengel, ''It isn't over till it's over,'' and I am glad the U.S. Supreme Court has expedited their procedures to give us a final rendering on this issue.

I yield to the Senator from Texas for a question.

Mrs. HUTCHISON. Mr. President, I correct the RECORD, because it was in fact the great philosopher Yogi Berra who said, ''It ain't over till it's over.'' I did not want that to go unchallenged.

Mr. MCCAIN. I thank the Senator from Texas, who is always in tune with the world's great philosophers, for correcting me on that, and I appreciate that.

But back to the issue at hand, I hope the Senator from West Virginia recognizes that I do take to heart his admonitions concerning a 98-percent funding as opposed to a full funding. It is clearly our intention to make this 100 percent funding, and that we could debate this issue on those parameters. I think it would be not as useful for us to be conducting this debate on this issue of the Prevention of the Shutdown of Government Act under conditions which would not prevail in the event of a final vote on this issue.

I respectfully, again, request the Senator from West Virginia if he would allow me to raise this to 100 percent and perhaps we could adjourn and discuss this issue tomorrow where we would have more attention from our colleagues and the American people. I do not mind debating and discussing this issue tonight, and the Senator from West Virginia and I have spent many evenings in debate and discussion, but I think with the importance of this issue, that it deserves tomorrow where we have, frankly, our friends in the media who will pay more attention and perhaps report this issue to the American people in a more accurate fashion than tonight.

So, having said all that, I request of my friend from West Virginia if I could make a unanimous consent agreement to set aside the pending amendment and call up amendment 112 for purposes of consideration and voice vote, and then return to the amendment of the Senator from West Virginia.

Mr. BYRD. Reserving the right to object, first of all, I appreciate very much the kind remarks that the distinguished Senator from Arizona has made in my direction. I can reciprocate by saying there is no Senator in this body who works harder, and few, perhaps, who work as hard and as effectively as does the distinguished Senator from Arizona. He amazes me with his ability to come up with amendments on almost every bill, and he seems to be conversant on virtually any subject to come before the Senate. I admire him for that.

Mr. President, whether it is 98 percent or 100 percent, I have to oppose such an amendment. I join with the Senator in expressing the hope that we can discuss this tomorrow where we, hopefully, will have a larger audience.

I prefer not to accede to his request tonight. I have lined up several speakers who are ready to speak on this language that is in the bill, and that is the language I attempted to strike in the committee earlier when we had markup. The Senator will get a vote one way or another on his proposal, I am sure. I hope, however, he would not press the request tonight, and let us return in the morning and think about it overnight. It may be I would accede to the request then, or I might not. But whether I do, he will find ways to get a vote on his amendment, or, as he says, he will move to table mine. He has several alternatives open to him. I hope we would not press the matter tonight, and we will come back, and, after a good night's rest, I will be prepared to take another look at it.

So I am constrained to object tonight, Mr. President.

The PRESIDING OFFICER. The objection is heard.

Mr. MCCAIN. Mr. President, I am, of course, disappointed in the response of the Senator from West Virginia. I guess at this time I have to contemplate an amendment to table the motion of the Senator from West Virginia based on the grounds that if other speakers came and spoke on this issue, Mr. President, they would not be speaking about it in its entirety, in its actuality, when the entire Senate would decide on this issue.

In fact, I have already gotten a taste of that debate by saying that it would make all these draconian cuts to different programs, et cetera. I do not feel it is appropriate not to have an agreement that we should debate the issue as the Senator from Texas and I intended. I say that with all respect. I do not think it is appropriate not to have a debate and discussion until the true parameters and the intention of the sponsors of the amendment are taken into consideration.

So, Mr. President, in a moment I will suggest the absence of a quorum and then decide as to whether I will move to table, and call for a recorded vote at this time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call.

Mr. STEVENS. 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. STEVENS. We had almost arranged for an amendment to be called up at 9 o'clock, to be voted on at 10 o'clock, and I discussed with Senator BYRD, does the Senator have any objection if we set aside this situation now and took up that other amendment and have it argued between 9 o'clock and 10 o'clock and come back to this amendment at 10 o'clock.

Mr. MCCAIN. I think that would be a reasonable compromise. I thank the Senator for his indulgence.

Mr. STEVENS. I am informed another Senator involved in that cannot be here before 10 o'clock.

Mr. MCCAIN. I do not see any other option I have except to move to table the amendment.

Mr. STEVENS. Mr. President, under the circumstances, under the informal agreements we have entered into before, I ask the vote on that motion to table be carried over until 10 o'clock in the morning; is that agreeable?

Mr. MCCAIN. Yes.

Mr. STEVENS. The vote will not occur tonight, and we will try to work in another amendment and take up this vote on this motion to table at a later time.

Mr. MCCAIN. I say, in due respect to the Senator from Alaska, I cannot agree at this moment that we will not have a recorded vote on a motion to table tonight. I have to reserve that right.

Mr. STEVENS. That is correct, because we still have to ask for unanimous consent, Senator, and we have not gotten that. I stated that is our intent not to have a vote tonight. We will try to work out this triangle and see if we can get the other amendment in before the vote, and if we can, we will do our best.

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

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I want to make it clear to the Senator from West Virginia that I am not trying to preclude debate and discussion on his amendment, and I would like to have an agreement which would allow, obviously, what the Senator from Texas and I are seeking, and that is raising to a 100 percent level, but also I would not presume, after all these years, to make a motion to table which would prevent the Senator from West Virginia in making full use of whatever time he feels necessary to debate this very important issue. I want to make that clear.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his characteristic courtesy and generosity. I would hope that we could wait until tomorrow so we could have more time, so that others on my side could be here to participate in the debate. And may I say, it may very well be that, by the time the sun rises on tomorrow, I may decide to remove my objection and let the Senator proceed with his amendment.

Mr. STEVENS. May I inquire if the Senator would agree that we could come in and start the debate earlier? I know the Senator didn't want to vote until later because of other Senators' arrival. Would the Senator agree that we could come back on the bill before 10? We are trying to finish by 6 o'clock tomorrow night. So the proceedings at that time could start.

Mr. BYRD. Could we begin at 9:30?

Mr. STEVENS. I would be delighted. I shall convey that to the leader. That will not be a vote; that will be continued debate.

Mr. BYRD. Exactly. Leave everything in the status quo until that moment.

Mr. STEVENS. We have other agreements we may get tonight pertaining to other Members. I will go back to a quorum call if everybody is finished.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment of the Senator from West Virginia be set aside and the amendment which is at the desk, No. 112, be called up for immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object. I hope that the Senator will simply ask unanimous consent that the ''98 percent'' be changed to ''100 percent'' so that my amendment may not be set aside.

UNANIMOUS CONSENT AGREEMENT

Mr. MCCAIN. MR. PRESIDENT, I ASK UNANIMOUS CONSENT THAT THE PENDING AMENDMENT BE RAISED FROM ''98 PERCENT'' TO ''100 PERCENT'' OF FUNDING.

The PRESIDING OFFICER. For clarification, the words ''98 percent'' appear on line 19 of page 81; is that where you are changing that?

Mr. MCCAIN. Yes. I asked that it be changed to 100 percent.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, again, I thank the Senator from West Virginia, as always, for his courtesy. I look forward to a spirited elocution and informative debate on tomorrow.

I thank the Senator from West Virginia.

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

Mr. WARNER. Mr. President, I rise to associate myself with comments made previously by my colleagues, Senator MCCAIN and Senator HUTCHISON. I rise in support of the Government Shutdown Prevention Act and the efforts to add this to the supplemental appropriations bill. This provision will create a statutory continuing resolution to safeguard Federal and military pay in the event of a Government shutdown. Further, it would provide for continuing appropriations for key Government functions in the event of a spending impasse like we suffered in 1995.

This provision, when attached to the emergency supplemental, will only take effect if the appropriations acts do not become law or if there is no continuing resolution in place at the beginning of the new fiscal year on October 1.

Although I am a strong supporter of the balanced budget and the reconciliation process, I am deeply concerned that our Federal employees could again be held hostage to the politics of the budget process between the Congress and the administration. Our Nation's dedicated civilian and uniformed Federal personnel should never again be penalized for the inability of Congress and the administration to agree on spending priorities.

As stated in a 1991 GAO report on Government shutdowns, closing the Government does not save money. In fact, the GAO reported that a mere 3-day workweek shutdown would cost taxpayers between $245 and $600 million. In this time of tight budgetary constraints, such irresponsible actions make no sense.

Mr. President, with more than 300,000 Federal employees and retirees in the Commonwealth of Virginia, the effects of a Government shutdown, even one of a short duration, would be devastating to our local economy.

The impact of the shutdown over the 1996 Federal budget spread beyond just our Federal employees in the metropolitan Washington region. It caused a ripple effect well beyond the Capital Beltway. From trips canceled due to lack of passports; to the closure of our National Parks and the economic impact on those communities who depend on tourists for their economic well-being; to our prisons and VA hospitals that must ask vendors to supply food on credit—the shutdown created havoc.

Federal employee are not the only group that is affected by a Federal Government shutdown. Thousands of companies, who contract with the Government, would be impacted unless a safety net is in place. These firms are dependent upon revenues for services and goods rendered, in order to keep their doors open and to continue paying their employees.

By an overwhelming majority, the American people are still fearful of the reoccurrence of a Government shutdown. Our Federal employees remember November 14, 1995, and the following 6-day shutdown as Congress feuded over the 1996 Federal budget, at a total cost to the taxpayer of $800 million. They remember December 15, 1995, when the Government shut down again, this time for 21 days, at a total cost of $520 million.

I applaud the Republican leadership of Senator MCCAIN and Senator HUTCHISON. By providing this safety net against a potential trainwreck, we are changing the way that Government does business. We cannot continue business as usual when we play politics and appear cavalier in attitude toward our Federal employees—both civilian and military.

Mr. ABRAHAM. Mr. President, the bill before us addresses the effects of natural disasters which occurred in the Midwest and California. I would like, right now, to address a portion of the bill that is designed to prevent a man-made disaster. That provision, the safety net continuing resolution for fiscal year 1998, would, as Senator MCCAIN has made clear, prevent a Government shutdown in the event the regular annual appropriation bills are not enacted into law by October 1.

Mr. President, just over a year ago, on April 26, 1996, President Clinton signed legislation which ended a 7 month budget stalemate. That stalemate involved no fewer than 15 continuing resolutions, 2 full-fledged Government shutdowns—one lasting a record 27 days—and numerous Presidential vetoes. By President Clinton's own account, it cost the taxpayers $1.5 billion.

But the costs of this shutdown went beyond this $1.5 billion. Thousands upon thousands of Federal employees were furloughed. Thousands of small businesses, particularly those near national parks closed during the Government shutdown, suffered crippling loss of business. And American citizens suffered innumerable inconveniences, many of them quite serious.

For example, Mr. President, 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits and 800,000 toll-

free calls for information and assistance were turned away each day. Hundreds of thousands of ordinary Americans were inconvenienced, or had to temporarily forego benefits for which the Government requires things like Social Security cards, because we could not reach a budget agreement.

And the problems did not stop there. Some of our most vulnerable people suffered from the Government shutdown: 13 million AFDC recipients, 273,000 foster care children, over 100,000 children receiving adoption assistance services and over 100,000 Head Start children had their services delayed. And I have not even mentioned the 9 million Americans whose vacations and outings were ruined because they were turned away from our national parks and museums.

Mr. President, we must prevent this situation from occurring ever again. The Government shutdown caused inconvenience, occasional trauma, and a wide-spread increase in the cynicism of the American people, now more convinced than ever that our executive and legislative branches of Government are incapable of doing their jobs.

We can do our jobs, Mr. President, and we must see to it that we do them without allowing the Federal Government to again shut down. We must come to grips with the fact that, under current rules, Government shutdowns are a risk that must be addressed. 1995 was not the first year in which we had a Government shutdown. Over the last 20 years there have been numerous such occurrences, and even more numerous stopgap funding bills passed at the last minute to prevent them.

Part of the problem Mr. President, is our complicated budget process. As currently constituted, this process seems designed to confuse the people as they seek to understand what we are doing and exactly who is holding up agreement. In addition, Mr. President, the American people have elected divided government. They have chosen a President with one set of priorities, and a majority in Congress that in some ways has significantly different priorities.

As a result of a convoluted process and conflicting priorities, we are in the midst of a 2-year budget stalemate. I sincerely hope that the budget agreement announced on Friday will produce tax relief for the American people, a balanced budget by 2002, sufficient funding for our national defense, and much-needed spending restraint. If it includes these things, Mr. President, we may at last see an end to the budget stalemate.

But we cannot sit idly by in the hope that all will be well. We can and must strive in the meantime to ensure that this year no shutdown will occur even if the budget deal breaks down.

That is why I am urging my colleagues to support provisions in this continuing resolution that would put a safety net under our Government, and under the American people. It would create a statutory continuing resolution, triggered only if the appropriations acts do not become law or if there is no governing continuing resolution in place. This legislation would ensure that the Government does not shut down by funding Government programs next year at 98 percent.

What this means, Mr. President, is that the Federal Government, in case of a budget impasse, would be funded at a level sufficient to continue essential services—sufficient to prevent any real inconvenience to the American people—without undermining the incentive to pass appropriations bills on time.

It is my hope that we will not need this provision. It is my conviction that we should enact it so that the American people will continue to receive the services they expect from their Federal Government even if there is a budget impasse. I urge my colleagues to support this important, safety net provision.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD. Mr. President, I ask unanimous consent that my pending amendment be set aside temporarily.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 235

(Purpose: To assure sufficient funding for Essential Air Service under the Rural Air Service Survival Act)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. KERREY, for himself, and Mr. DORGAN, proposes an amendment numbered 235.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following new language:

SEC. . Section 45301(b)(1)(A) of title 49, United States Code, is amended inserting before the semicolon ''and at least $50,000,000 in FY 1998 and every year thereafter''.

Mr. STEVENS. Mr. President, it is my understanding that the proponents of amendments Nos. 95 and 96 agree to this language. This new language is to be a substitute for the proposals before the body regarding international flight user fees. It has been agreed to by both sides and, therefore, is ready for passage.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 235) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that we now go into a period for routine morning business.

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

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 2

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending May 2, the United States imported 8,106,000 barrels of oil each day, 805,000 barrels more than the 7,301,000 imported during the same week 1 year ago.

Americans relied on foreign oil for 55.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 8,106,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 6, the Federal debt stood at $5,337,028,737,421.51.

One year ago, May 6, 1996, the Federal debt stood at $5,096,257,000,000.

Five years ago, May 6, 1992, the Federal debt stood at $3,882,040,000,000.

Ten years ago, May 6, 1987, the Federal debt stood at $2,278,744,000,000.

Fifteen years ago, May 6, 1982, the Federal debt stood at $1,057,151,000,000, which reflects a debt increase of more than $4 trillion (4,279,877,737,421.51) during the past 15 years.

TOBACCO TAXES

Mr. KENNEDY. Mr. President, last Friday's Wall Street Journal published the results of an April 1997 poll it conducted with NBC News. One of the questions in the survey deserves special attention.

The poll asked whether the American people support increasing cigarette taxes by 43 cents a pack, and returning much of the revenues to the States to provide health care for the Nation's uninsured children.

An overwhelming 72 percent of the respondents favored this proposal, which is contained in the legislation that Senator HATCH and I introduced last month.

The detailed breakdown of the responses shows that the plan has broad support among people of all ages, incomes, races, educational backgrounds, party affiliations, and geographic regions. Support is at least two-to-one in all 36 groups, and it is three-to-one or even four-to-one in 17 of the groups.

North and South, East and West, the American people support the Hatch-Kennedy bill.

I ask unanimous consent that the detailed breakdown of the Wall Street Journal-NBC News poll may be included in the RECORD.

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

Question: Two Senators, a Republican and a Democrat, have proposed increasing cigarette taxes by 43 cents a pack, and giving much of the money raised to help states provide health insurance for uninsured children. Based on this description, do you favor or oppose this plan?

WALL STREET JOURNAL/NBC NEWS POLL—APRIL 26–28, 1997

[Figures in percentage]

	Favor	Oppose	Not Sure
All adults	72	24	4
Men	67	30	3
Women	76	20	4
Northeast	73	20	7
Midwest	73	26	1
South	69	28	3
West	74	23	3
Whites	70	26	4
Blacks	80	16	4
Age 18–34	73	25	2
Age 35–49	74	23	3
Age 50–64	66	30	4
Age 65 and over	72	21	7
Under $20,000 income	74	23	3
$20,000–$30,000	76	21	3
$30,000–$50,000	70	28	2
Over $50,000	70	26	4
Urban	76	21	3
Suburb/towns	70	26	4
Rural	70	28	2
Registered voters	73	23	4
Non–registered adults	65	32	3
Democrats	79	18	3
Republicans	67	29	4
Independents	69	27	4
Clinton voters	80	17	3
Dole voters	64	31	5
Liberals	79	19	2
Moderates	79	19	2
Conservatives	64	31	5
Professionals/managers	76	21	3
White collar workers	77	20	3
Blue collar workers	62	35	3
High school or less	66	30	4
Some college	75	22	3
College graduates	75	21	4

CONSERVATION RESERVE PROGRAM

Mr. GORTON. Mr. President, the Conservation Reserve Program, a program vitally important to my State and many others, has recently been threatened on many fronts. I would like to make clear my intentions and views on several matters relating to the CRP.

Last week Congressman BOB SMITH was successful in passing H.R. 1342, legislation requiring USDA to reenroll winter crop land not accepted in the new CRP for one year. For the record, H.R. 1342 has received strong support from producers in my State and like Chairman SMITH, I, too, am very concerned for winter crop producers throughout the country. Unfortunately, we have received a loud message from the President that he strongly objects to the bill and would veto the measure if passed by Congress.

Knowing the President would veto H.R. 1342, I felt it necessary, at the very least, to send a letter to Secretary Glickman requesting that he permit producers to begin preparing CRP ground immediately for fall planting. I would like producers in my State to know that I will continue to work with Secretary Glickman to see that he addresses this problem. Further, let it be known, that I will oppose any attempt to cap or earmark enrollments to the Conservation Reserve Program.

Yesterday, 13 Senators joined me in sending a letter to Secretary Glickman outlining 3 critical issues concerning the Conservation Reserve Program. Let me now outline the issues raised in the letter.

First, producers throughout the country are currently faced with serious uncertainty as to whether or not their bids to enroll land in the CRP will be accepted. I believe it is very important for Secretary Glickman to notify producers this month whether their offers are accepted. I understand that Secretary Glickman is sympathetic to this problem and has announced he will notify all producers by late May. I have expressed my concern to Secretary Glickman and have encouraged him to allow producers to immediately begin preparing their land for fall planting of winter crops without penalty. This will allow producers to begin ground preparation in the event they are not accepted into the program. Producers in my State are concerned they will not have enough time nor enough moisture in the ground to grow winter crops if they do not begin preparing their land immediately. Simply put, time is running out for producers in my State. I understand that Secretary Glickman is willing to help solve this problem and I am hopeful that he will address this situation in a timely fashion.

Second, the House Appropriations Committee has placed a provision in the Emergency Disaster Supplemental bill capping CRP enrollments at 14 million acres. Many Senators, including myself, believe that this cap threatens the environmental commitment we made when we passed, and the President enacted, the 1996 Farm Bill. As a member of the Senate Appropriations Committee, I will work hard to see that this provision is omitted during the Emergency Disaster Supplemental Conference.

Third, the President has proposed reducing CRP enrollments by 2 million acres to pay for the development rights of Crown Butte, Inc. I believe, as do many other Senators, that any cap or reduction in CRP enrollments would jeopardize the commitment Congress made to improve water quality, enhance wildlife habitat, and reduce wind and soil erosion.

In closing, I thank my colleagues for their support. The CRP is a vitally important program and I look forward to working with my colleagues and Secretary Glickman as we address these concerns.

Mr. President, I ask unanimous connsent that our letter to Secretary Glickman be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, May 6, 1997.

Hon. DAN GLICKMAN,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: We are writing to bring to your attention three matters of concern regarding the Conservation Reserve Program (CRP).

First, it is critically important that you fulfill the pledge you made in your April 29 letter to House Agriculture Committee Chairman Bob Smith that producers will be notified by late May of whether their offers to enroll land in the CRP have been accepted. As you are well aware, growers whose offers are not accepted into the program will not have enough time, nor the appropriate weather conditions, to prepare their current CRP acreage for fall planting. We understand that you are sympathetic to this unfortunate predicament and ask that you rectify this situation immediately. We seek your prompt approval of ground preparation practices necessary for fall planting of winter crops on all expiring CRP acreage without loss of payments. Specifically, we request that producers be permitted to remove cover crops without penalty beginning immediately.

Second, we applaud your opposition to any effort that would cap or earmark CRP enrollments. Like you, we believe the provision by the House Appropriations Committee to cap CRP enrollments at 14 million acres would jeopardize USDA's efforts to improve water quality, enhance wildlife habitat, reduce wind and soil erosion, and enroll additional acres under the Department's continuous signup initiative. We will be working hard to see that this provision, or any similar effort, is struck during the Emergency Supplemental Appropriations Conference. We welcome your support in this effort.

Third, we do not support President Clinton's proposal to reduce CRP enrollment by 2 million acres to pay for the development rights of Crown Butte Mines, Inc. We believe that limiting CRP enrollments would threaten the substantial environmental commitment we made when Congress passed and the President enacted the Federal Agriculture Improvement and Reform Act of 1996.

We strongly encourage you to address the time sensitive nature of our request. Winter crop producers throughout the country are in serious jeopardy and if they so choose, should be allowed to prepare their land for fall planting immediately.

We look forward to hearing from you and appreciate your support for an extremely important program.

Sincerely,

RICHARD G. LUGAR.

SLADE GORTON.
GORDON SMITH.
DIRK KEMPTHORNE.
PATTY MURRAY.
SAM BROWNBACK.
CHUCK HAGEL.
TOM HARKIN.
LARRY E. CRAIG.
CONRAD BURNS.
RON WYDEN.
PAT ROBERTS.
MAX BAUCUS.
MICHAEL B. ENZI.

MESSAGES FROM THE HOUSE

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1463. An act to authorize appropriations for fiscal years 1998 and 1999 for the Customs Service, the Office of the United States Trade Representative, and the International Trade Commission.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1463. An act to authorize appropriations for fiscal years 1998 and 1999 for the Customs Service, the Office of the United States Trade Representative, and the International Trade Commission; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1798. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, a rule (RIN1121–AA24) received on April 24, 1997; to the Committee on the Judiciary.

EC–1799. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, a rule entitled ''Young American Medals Program'' (RIN1121–AA37) received on April 24, 1997; to the Committee on the Judiciary.

EC–1800. A communication from the Regulatory Policy Officer of the Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting, pursuant to law, a rule entitled ''Residency Requirements for Persons Acquiring Firearms'' (RIN1512–AB66) received on April 21, 1997; to the Committee on the Judiciary.

EC–1801. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled ''Visas'' received on April 28, 1997; to the Committee on the Judiciary.

EC–1802. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled ''Visas'' received on April 28, 1997; to the Committee on the Judiciary.

EC–1803. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1804. A communication from the Acting General Counsel of the Office of Community Oriented Policing Services, Department of Justice, transmitting, pursuant to law, a rule entitled ''Solid Waste Programs'' (FRL5670–6) received on May 5, 1997; to the Committee on the Judiciary.

EC–1805. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, a report relative to sentencing guidelines; to the Committee on the Judiciary.

EC–1806. A communication from the Acting Chair of the National Indian Gaming Commission, transmitting, a draft of proposed legislation relative to assess fees; to the Committee on Indian Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Donald Rappaport, of the District of Columbia, to be Chief Financial Officer, Department of Education.

Hans M. Mark, of Texas, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring April 17, 2002. (Reappointment)

Anthony R. Sarmiento, of Maryland, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Susan E. Trees, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

Marsha Mason, of New Mexico, to be a Member of the National Council on the Arts for a term expiring September 3, 2002.

Gerald N. Tirozzi, of Connecticut, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HAGEL:

S. 709. A bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts; to the Committee on Governmental Affairs.

By Mr. BREAUX:

S. 710. A bill to amend the Internal Revenue Code of 1986 to extend the credit for producing fuel from a nonconventional source to taxpayers using biomass fuel sources in the generation of electricity through the use of a suspension burning process; to the Committee on Finance.

By Mr. BREAUX (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. FRIST):

S. 711. A bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. HELMS):

S. 712. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information; to the Committee on Governmental Affairs.

By Mr. DODD (for himself and Mr. DEWINE):

S. 713. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. HOLLINGS, Mr. WELLSTONE, and Mr. JEFFORDS):

S. 714. A bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans' Affairs; to the Committee on Veterans Affairs.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 715. A bill to redesignate the Dublin Federal Courthouse building located in Dublin, Georgia, as the J. Roy Rowland Federal Courthouse; to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. BURNS, Mr. GORTON, Mr. KEMPTHORNE, and Mr. ENZI):

S. 716. A bill to establish a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the countries with respect to the production, processing, and sale of cattle and beef, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. LOTT, Mr. KENNEDY, Mr. COATS, Mr. DODD, Mr. GREGG, Ms. MIKULSKI, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Mrs. MURRAY, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, and Mr. REED):

S. 717. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GREGG (for himself and Mr. SMITH of New Hampshire):

S. Res. 85. A resolution expressing the sense of the Senate that individuals affected by breast cancer should not be alone in their fight against the disease; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 709. A bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts; to the Committee on Governmental Affairs.

THE PRIVATE PROPERTY FAIRNESS ACT OF 1997

Mr. HAGEL. Mr. President, I rise today to introduce the Private Property Fairness Act of 1997. This bill will

help ensure that when the Government issues regulations for the benefit of the public as a whole, it does not saddle just a few landowners with the whole cost of compliance. This bill will help enforce the U.S. Constitution's guarantee that the Federal Government cannot take private property without paying just compensation to the owner.

The dramatic growth in Federal regulation in recent decades has focused attention on a very murky area of property law, a regulatory area in which the law of takings is not yet settled to the satisfaction of most Americans.

The bottom line is that the law in this area is unfair. For example, if the Government condemns part of a farm to build a highway, it has to pay the farmer for the value of his land. But if the Government requires that same farmer stop growing crops on that same land in order to protect endangered species or conserve wetlands, the farmer gets no compensation. In both situations the Government has acted to benefit the general public and, in the process, has imposed a cost on the farmer. In both cases, the land is taken out of production and the farmer loses income. But only in the highway example is the farmer compensated for his loss. In the regulatory example, the farmer, or any other landowner, has to absorb all of the cost himself. This is not fair.

The legislation I am introducing today is an important step toward providing relief from these so-called regulatory takings. I know my distinguished colleague, Senator HATCH, intends to introduce an omnibus private property rights bill, and I look forward to working with him. My bill is a narrowly tailored approach that will make a real difference for property owners across America. It protects private property rights in two ways. First, it puts in place procedures that will stop or minimize takings by the Federal Government before they occur. The Government would have to jump a much higher hurdle before it can restrict the use of someone's privately owned property. For the first time, the Federal Government will have to determine in advance how its actions will impact the property owner, not just the wetland or the endangered species. This bill also would require the Federal Government to look for options other than restricting the use of private property to achieve its goal.

Second, if heavy Government regulations diminish the value of private property, this bill would allow the landowners to plead their case in a Federal district court, instead of forcing them into the U.S. Court of Federal Claims. This means, for example, that Nebraskans can have their case heard in a Nebraska courthouse; they won't have to travel to Washington, DC, at their own expense to seek relief. This bill makes the process easier, less costly, and more accessible and accountable so all citizens can fully protect their property rights.

For too long, Federal regulators have made private property owners bear the burdens and the costs of Government land use decisions. The result has been that real people suffer.

Joe Jeffrey is a farmer in Lexington, NE. Like most Americans, he is proud of his land. He believed his property was his to use and control as he saw fit.

Then he met the U.S. Fish and Wildlife Service and the Army Corps of Engineers.

In 1987, the long arm of the Federal bureaucracy reached onto Mr. Jeffrey's property in the form of wetlands regulations. Mr. Jeffrey was notified that he had to destroy two dikes on his land because they were constructed without the proper permits. Nearly 2 years later, the corps partially changed its mind and allowed Mr. Jeffrey to reconstruct one of the dikes because the corps lacked authority to make him destroy it in the first place.

Then floods damaged part of Mr. Jeffrey's irrigated pastureland and changed the normal water channel. Mr. Jeffrey set out to return the channel to its original course by moving sand that the flood had shifted. But the Government said ''no.'' The corps told him he had to give public notice before he could repair his own property.

Then came the Endangered Species Act.

Neither least terns nor piping plovers—both federally protected endangered species—have ever nested on Mr. Jeffrey's property. But that didn't stop the regulators. The U.S. Fish and Wildlife Service wanted to designate Mr. Jeffrey's property as ''critical habitat'' for these protected species.

The bureaucrats could not even agree among themselves on what they wanted done. The Nebraska Department of Environmental Control wanted the area re-vegetated. But the U.S. Fish and Wildlife Service wanted the area kept free of vegetation. Mr. Jeffrey was caught in the middle.

This is a real regulatory horror story. And there's more.

Today—10 years after his regulatory struggle began—Mr. Jeffrey is faced with eroded pastureland that cannot be irrigated and cannot be repaired without significant personal expense. The value of Mr. Jeffrey's land has been diminished by the Government's regulatory intrusion—but he has not been compensated. In fact, he has had to spend money from his own pocket to comply with the regulations. The Fish and Wildlife Service asked Mr. Jeffrey to modify his center pivot irrigation system to negotiate around the eroded area—at a personal cost of $20,000. And the issue is still not resolved.

Mr. President, we do not need more stories like Joe Jeffrey's in America. Our Constitution guarantees our people's rights. Congress must act to uphold those rights and guarantee them in practice, not just in theory. Government regulation has gone too far. We must make it accountable to the people. Government should be accountable to the people, not the people accountable to the Government.

What this issue comes down to is fairness. It is simply not fair and it is not right for the Federal Government to have the ability to restrict the use of privately owned property without compensating the owner. It violates the principles this country was founded on. This legislation puts some justice back into the system. It reins in regulatory agencies and gives the private property owner a voice in the process. It makes it easier for citizens to appeal any restrictions imposed on their land or property. It is the right thing to do. It is the just and fair thing to do.

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

S. 709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Property Rights Act of 1997''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the ownership of private property plays an important role in the economic and social well-being of the Nation;

(2) the protection of private property from a taking by the Government without just compensation is an integral protection for private citizens incorporated into the United States Constitution by the fifth amendment and made applicable to the States by the fourteenth amendment;

(3) Federal agency actions that restrict the use of private property and result in a significant diminution in value of such property constitute a taking of that property and should be properly compensated;

(4) Federal agencies should consider the impact of agency actions, including regulations, on the use and ownership of private property; and

(5) owners of private property that is taken by a Federal agency action should be permitted to seek relief in Federal district court.

SEC. 3. STATEMENT OF POLICY.

The policy of the Federal Government is to protect the health, safety, and general welfare of the public in a manner that, to the extent practicable, avoids takings of private property.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term ''agency'' means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(2) the term ''agency action'' means any action, inaction, or decision taken by an agency and includes such an action, inaction, or decision taken by, or pursuant to—

(A) a statute, rule, regulation, order, guideline, or policy; or

(B) the issuance, denial, or suspension of any permit, license, or authorization;

(3) the term ''owner'' means the person with title, possession, or other property rights in property affected by any taking of such property; and

(4) the term ''taking of private property'' means any action whereby private property is taken in such a way as to require compensation under the fifth amendment to the United States Constitution.

SEC. 5. REQUIREMENT FOR PRIVATE PROPERTY TAKING IMPACT ANALYSIS.

(a) IN GENERAL.—To the fullest extent possible—

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies under this Act; and

(2) subject to subsection (b), each agency shall complete a private property taking impact analysis before taking any agency action (including the promulgation of a regulation) which is likely to result in a taking of private property.

(b) NONAPPLICATION.—Subsection (a)(2) shall not apply to—

(1) an action in which the power of eminent domain is formally exercised;

(2) an action taken—

(A) with respect to property held in trust by the United States; or

(B) in preparation for, or in connection with, treaty negotiations with foreign nations;

(3) a law enforcement action, including seizure, for a violation of law, of property for forfeiture or as evidence in a criminal proceeding;

(4) a communication between an agency and a State or local land-use planning agency concerning a planned or proposed State or local activity that regulates private property, regardless of whether the communication is initiated by an agency or is undertaken in response to an invitation by the State or local authority;

(5) the placement of a military facility or a military activity involving the use of solely Federal property;

(6) any military or foreign affairs function (including a procurement function under a military or foreign affairs function), but not including the civil works program of the Army Corps of Engineers; and

(7) any case in which there is an immediate threat to health or safety that constitutes an emergency requiring immediate response or the issuance of a regulation under section 553(b)(B) of title 5, United States Code, if the taking impact analysis is completed after the emergency action is carried out or the regulation is published.

(c) CONTENT OF ANALYSIS.—A private property taking impact analysis shall be a written statement that includes—

(1) the specific purpose of the agency action;

(2) an assessment of the likelihood that a taking of private property will occur under such agency action;

(3) an evaluation of whether such agency action is likely to require compensation to private property owners;

(4) alternatives to the agency action that would—

(A) achieve the intended purposes of the agency action; and

(B) lessen the likelihood that a taking of private property will occur; and

(5) an estimate of the potential liability of the Federal Government if the Government is required to compensate a private property owner as a result of the agency action.

(d) SUBMISSION TO OMB.—Each agency shall provide the analysis required under this section as part of any submission otherwise required to be made to the Office of Management and Budget relating to an agency action.

(e) PUBLIC AVAILABILITY OF ANALYSIS.—An agency shall—

(1) make each private property taking impact analysis available to the public; and

(2) to the greatest extent practicable, transmit a copy of such analysis to the owner and any other person with a property right or interest in the affected property.

SEC. 6. ALTERNATIVES TO TAKING OF PRIVATE PROPERTY.

Before taking any final agency action, the agency shall fully consider alternatives described in section 5(c)(4) and shall, to the maximum extent practicable, alter the action to avoid or minimize the taking of private property.

SEC. 7. CIVIL ACTION.

(a) STANDING.—If an agency action results in the taking of private property, the owner of such property may obtain appropriate relief in a civil action against the agency that has caused the taking to occur.

(b) JURISDICTION.—Notwithstanding sections 1346 or 1491 of title 28, United States Code—

(1) a civil action against the agency may be brought in either the United States District Court in which the property at issue is located or in the United States Court of Federal Claims, regardless of the amount in controversy; and

(2) if property is located in more than 1 judicial district, the claim for relief may be brought in any district in which any part of the property is located.

SEC. 8. GUIDANCE AND REPORTING REQUIREMENTS.

(a) GUIDANCE.—The Attorney General shall provide legal guidance in a timely manner, in response to a request by an agency, to assist the agency in complying with this Act.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and at the end of each 1-year period thereafter, each agency shall submit a report to the Director of the Office of Management and Budget and the Attorney General that identifies—

(A) each agency action that has resulted in the preparation of a taking impact analysis;

(B) the filing of a taking claim; and

(C) any award of compensation pursuant to the just compensation clause of the fifth amendment to the Constitution.

(2) PUBLICATION OF REPORTS.—The Director of the Office of Management and Budget and the Attorney General shall publish in the Federal Register, on an annual basis, a compilation of the reports of all agencies made under this paragraph.

SEC. 9. PRESUMPTIONS IN PROCEEDINGS.

For the purpose of any agency action or administrative or judicial proceeding, there shall be a rebuttable presumption that the costs, values, and estimates in any private property takings impact analysis shall be outdated and inaccurate, if—

(1) such analysis was completed 5 years or more before the date of such action or proceeding; and

(2) such costs, values, or estimates have not been modified within the 5-year period preceding the date of such action or proceeding.

SEC. 10. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed to—

(1) limit any right or remedy, constitute a condition precedent or a requirement to exhaust administrative remedies, or bar any claim of any person relating to such person's property under any other law, including claims made under this Act, section 1346 or 1402 of title 28, United States Code, or chapter 91 of title 28, United States Code; or

(2) constitute a conclusive determination of—

(A) the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages; or

(B) any other material issue.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect 120 days after the date of enactment of this Act.

By Mr. BREAUX (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. FRIST):

S. 711. A bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits; to the Committee on Finance.

THE DISTILLED SPIRITS TAX PAYMENT SIMPLIFICATION ACT OF 1997

Mr. BREAUX. Mr. President, I rise today with Mr. BRYAN, Mr. D'AMATO and Mr. FRIST to introduce the Distilled Spirits Tax Payment Simplification Act of 1997, a bill more readily known as All-in-Bond. This bill would streamline the way in which the government collects federal excise tax on distilled spirits by extending the current system of collection now applicable only to imported products to domestic products as well.

Today wholesalers purchase foreign bottled distilled spirits in bond—tax free—paying the Federal excise tax directly after sale to a retailer. In contrast, when the wholesaler buys domestically bottled spirits—nearly 86 percent of total inventory—the price includes the Federal excise tax, pre-paid by the distiller. This means that hundreds of U.S. family-owned wholesale businesses increase their inventory carrying costs by 40 percent when buying U.S. products, which often have to be financed through borrowing.

Under my bill, wholesalers would be allowed to purchase domestically bottled distilled spirits in-bond from distillers just as they are now permitted to purchase foreign produced spirits. Products would become subject to tax on removal from wholesale premises. This legislation is designed to be revenue neutral and includes the requirement that any wholesaler electing to purchase spirits in bond must make certain estimated tax payments to Treasury before the end of the fiscal year.

All-in-Bond is an equitable and sound way to streamline our tax collection system. I hope my colleagues will join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Distilled Spirits Tax Payment Simplification Act of 1997''.

(b) REFERENCE TO 1986 CODE.—Except as otherwise expressly provided, whenever an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TRANSFER OF DISTILLED SPIRITS BETWEEN BONDED PREMISES.

(a) IN GENERAL.—Section 5212 is amended to read as follows:

''SEC. 5212. TRANSFER OF DISTILLED SPIRITS BETWEEN BONDED PREMISES.

''Distilled spirits on which the internal revenue tax has not been paid as authorized by law may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises in any approved container. For the purposes of this chapter, except in the case of any transfer from a premise of a bonded dealer, the removal of distilled spirits for transfer in bond between bonded premises shall not be construed to be a withdrawal from bonded premises.''.

(b) CONFORMING AMENDMENT.—The first sentence of section 5232(a) (relating to transfer to distilled spirits plant without payment of tax) is amended to read as follows: ''Distilled spirits imported or brought into the United States, under such regulations as the Secretary shall prescribe, may be withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on such distilled spirits.''.

SEC. 3. ESTABLISHMENT OF DISTILLED SPIRITS PLANT.

Section 5171 (relating to establishment) is amended—

(1) in subsection (a), by striking ''or processor'' and inserting ''processor, or bonded dealer'';

(2) in subsection (b), by striking ''or as both'' and inserting ''as a bonded dealer, or as any combination thereof'';

(3) in subsection (e)(1), by inserting '', bonded dealer,'' before ''processor''; and

(4) in subsection (e)(2), by inserting ''bonded dealer,'' before ''or processor''.

SEC. 4. DISTILLED SPIRITS PLANTS.

Section 5178(a) (relating to location, construction, and arrangement) is amended by adding at the end the following:

''(5) BONDED DEALER OPERATIONS.—Any person establishing a distilled spirits plant to conduct operations as a bonded dealer may, as described in the application for registration—

''(A) store distilled spirits in any approved container on the bonded premises of such plant, and

''(B) under such regulations as the Secretary shall prescribe, store taxpaid distilled spirits, beer, and wine, and such other beverages and items (products) not subject to tax or regulation under this title on such bonded premises.''.

SEC. 5. BONDED DEALERS.

(a) DEFINITIONS.—Section 5002(a) (relating to definitions) is amended by adding at the end the following:

''(16) BONDED DEALER.—The term 'bonded dealer' means any person who has elected under section 5011 to be treated as a bonded dealer.

''(17) CONTROL STATE ENTITY.—The term 'control State entity' means a State, a political subdivision of a State, or any instrumentality of such a State or political subdivision, in which only the State, political subdivision, or instrumentality is allowed under applicable law to perform distilled spirit operations.''.

(b) ELECTION TO BE TREATED AS A BONDED DEALER.—Subpart A of part I of subchapter A of chapter 51 (relating to distilled spirits) is amended by adding at the end the following:

''SEC. 5011. ELECTION TO BE TREATED AS BONDED DEALER.

''(a) ELECTION.—Any wholesale dealer or any control State entity may elect, at such time and in such manner as the Secretary shall prescribe, to be treated as a bonded dealer if such wholesale dealer or entity sells bottled distilled spirits exclusively to a wholesale dealer in liquor, to an independent retail dealer subject to the limitation set forth in subsection (b), or to another bonded dealer.

''(b) LIMITATION IN CASE OF SALES TO RETAIL DEALERS.—

''(1) BY BONDED DEALER.—Any person, other than a control State entity, who is a bonded dealer shall not be considered as selling to an independent retail dealer if—

''(A) the bonded dealer has a greater than 10 percent ownership interest in, or control of, the retail dealer;

''(B) the retail dealer has a greater than 10 percent ownership interest in, or control of, the bonded dealer; or

''(C) any person has a greater than 10 percent ownership interest in, or control of, both the bonded and retail dealer.

For purposes of this paragraph, ownership interest, not limited to stock ownership, shall be attributed to other persons in the manner prescribed by section 318.

''(2) BY CONTROL STATE ENTITY.—In the case of any control State entity, subsection (a) shall be applied by substituting 'retail dealer' for 'independent retail dealer'.

''(c) INVENTORY OWNED AT TIME OF ELECTION.—Any bottled distilled spirits in the inventory of any person electing under this section to be treated as a bonded dealer shall, to the extent that the tax under this chapter has been previously determined and paid at the time the election becomes effective, not be subject to such additional tax on such spirits as a result of the election being in effect.

''(d) REVOCATION OF ELECTION.—The election made under this section may be revoked by the bonded dealer at any time, but once revoked shall not be made again without the consent of the Secretary. When the election is revoked, the bonded dealer shall immediately withdraw the distilled spirits on determination of tax in accordance with a tax payment procedure established by the Secretary.

''(e) EQUITABLE TREATMENT OF BONDED DEALERS USING LIFO INVENTORY.—The Secretary shall provide such rules as may be necessary to assure that taxpayers using the last-in, first-out method of inventory valuation do not suffer a recapture of their LIFO reserve by reason of making the election under this section or by reason of operating a bonded wine cellar as permitted by section 5351.

''(f) APPROVAL OF APPLICATION.—Any person submitting an application under section 5171(c) and electing under this section to be treated as a bonded dealer shall be entitled to approval of such application to the same extent such person would be entitled to approval of an application for a basic permit under section 104(a)(2) of the Federal Alcohol Administration Act (27 U.S.C 204(a)(2)), and shall be accorded notice and hearing as described in section 104(b) of such Act (27 U.S.C. 204(b)).''.

(c) CONFORMING AMENDMENT.—The tables of sections of subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following:

''Sec. 5011. Election to be treated as bonded dealer.''.

SEC. 6. DETERMINATION OF TAX.

The first sentence of section 5006(a)(1) (relating to requirements) is amended to read as follows: ''Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are transferred from a distilled spirits plant to a bonded dealer or are withdrawn from bond.''.

SEC. 7. LOSS OR DESTRUCTION OF DISTILLED SPIRITS.

Section 5008 (relating to abatement, remission, refund, and allowance for loss or destruction of distilled spirits) is amended—

(1) in subsections (a)(1)(A) and (a)(2), by inserting ''bonded dealer,'' after ''distilled spirits plant,'' both places it appears;

(2) in subsection (c)(1), by striking ''of a distilled spirits plant''; and

(3) in subsection (c)(2), by striking ''distilled spirits plant'' and inserting ''bonded premises''.

SEC. 8. TIME FOR COLLECTING TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5061(d) (relating to time for collecting tax on distilled spirits, wines, and beer) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following:

''(5) ADVANCED PAYMENT OF DISTILLED SPIRITS TAX.—Notwithstanding the preceding provisions of this subsection, in the case of any tax imposed by section 5001 with respect to a bonded dealer who has an election in effect on September 20 of any year, any payment of which would, but for this paragraph, be due in October or November of that year, such payment shall be made on such September 20. No penalty or interest shall be imposed for the period from such September 20 until the due date determined without regard to this paragraph to the extent that tax due exceeds the tax which would have been due with respect to distilled spirits in the preceding October and November had the election under section 5011 been in effect.''.

(b) CONFORMING AMENDMENT.—Section 5061(e)(1) (relating to payment by electronic fund transfer) is amended by inserting ''or any bonded dealer,'' after ''respectively,''.

SEC. 9. EXEMPTION FROM OCCUPATIONAL TAX NOT APPLICABLE.

Section 5113(a) (relating to sales by proprietors of controlled premises) is amended by adding at the end the following: ''This subsection shall not apply to a proprietor of a distilled spirits plant whose premises are used for operations of a bonded dealer.''.

SEC. 10. CONFORMING AMENDMENTS.

(1) Section 5003(3) is amended by striking ''certain''.

(2) Section 5214 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

''(b) EXCEPTION.—Paragraphs (1), (2), (3), (5), (10), (11), and (12) of subsection (a) shall not apply to distilled spirits withdrawn from premises used for operations as a bonded dealer.''.

(3) Section 5215 is amended—

(A) in subsection (a), by striking ''the bonded premises'' and all that follows through the period and inserting ''bonded premises.'';

(B) in the heading of subsection (b), by striking ''A DISTILLED SPIRITS PLANT'' and inserting ''BONDED PREMISES''; and

(C) in subsection (d), by striking ''a distilled spirits plant'' and inserting ''bonded premises''.

(4) Section 5362(b)(5) is amended by adding at the end the following: ''The term does not mean premises used for operations as a bonded dealer.''.

(5) Section 5551(a) is amended by inserting ''bonded dealer,'' after ''processor'' both places it appears.

(6) Subsections (a)(2) and (b) of section 5601 are each amended by inserting '', bonded dealer,'' before ''or processor'' .

(7) Paragraphs (3), (4), and (5) of section 5601(a) are each amended by inserting ''bonded dealer,'' before ''or processor'' .

(8) Section 5602 is amended—

(A) by inserting '', warehouseman, processor, or bonded dealer'' after ''distiller''; and

(B) in the heading, by striking ''**by distiller**''.

(9) Sections 5115, 5180, and 5681 are repealed.

(10) The table of sections for part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(11) The table of sections for subchapter B of chapter 51 is amended by striking the item relating to section 5180.

(12) The item relating to section 5602 in the table of sections for part I of subchapter J of chapter 51 is amended by striking ''by distiller''.

(13) The table of sections for part IV of subchapter J of chapter 51 is amended by striking the item relating to section 5681.

SEC. 11. REGISTRATION FEES.

(a) GENERAL RULE.—The Director of the Bureau of Alcohol, Tobacco, and Firearms shall, in accordance with this section, assess and collect registration fees solely to defray a portion of any net increased costs of regulatory activities of the Government resulting from enactment of this Act.

(b) PERSONS SUBJECT TO FEE.—Fees shall be paid in a manner prescribed by the Director by the bonded dealer.

(c) AMOUNT AND TIMING OF FEES.—Fees shall be paid annually and shall not exceed $1,000 per bonded premise.

(d) DEPOSIT AND CREDIT.—The moneys received during any fiscal year from fees described in subsection (a) shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to conduct the regulatory activities of the Government resulting from enactment of this Act.

(e) LIMITATION.—The aggregate amount of fees assessed and collected under this section may not exceed in any fiscal year the aggregate amount of any net increased costs of regulatory activity referred to in subsection (a).

SEC. 12. COOPERATIVE AGREEMENTS.

(a) STUDY.—The Secretary of the Treasury shall study and report to Congress concerning possible administrative efficiencies which could inure to the benefit of the Federal Government of cooperative agreements with States regarding the collection of distilled spirits excise taxes. Such study shall include, but not be limited to, possible benefits of the standardization of forms and collection procedures and shall be submitted 1 year after the date of enactment of this Act.

(b) COOPERATIVE AGREEMENT.—The Secretary of the Treasury is authorized to enter into such cooperative agreements with States which the Secretary deems will increase the efficient collection of distilled spirits excise taxes.

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act take effect on the date which is 120 days after the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) ESTABLISHMENT OF DISTILLED SPIRITS PLANT.—The amendments made by section 3 take effect on the date of enactment of this Act.

(2) SPECIAL RULE.—Each wholesale dealer who is required to file an application for registration under section 5171(c) of the Internal Revenue Code of 1986 whose operations are required to be covered by a basic permit under sections 103 and 104 of the Federal Alcohol Administration Act (27 U.S.C. 203, 204) and who has received such basic permits as an importer, wholesaler, or as both, and has obtained a bond required under subchapter B of chapter 51 of subtitle E of such Code before the close of the fourth month following the date of enactment of this Act, shall be qualified to operate bonded premises until such time as the Secretary of the Treasury takes final action on the application. Any control State entity (as defined in section 5002(a)(17) of such Code, as added by section 5(a)) that has obtained a bond required under such subchapter shall be qualified to operate bonded premises until such time as the Secretary of the Treasury takes final action on the application for registration under section 5171(c) of such Code.

By Mr. MOYNIHAN (for himself and Mr. HELMS):

S. 712. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information; to the Committee on Governmental Affairs.

THE GOVERNMENT SECRECY ACT OF 1997

Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleague from North Carolina, Senator HELMS, in introducing the Government Secrecy Act of 1997. Congressmen LARRY COMBEST of Texas and LEE HAMILTON of Indiana are introducing companion legislation in the House of Representatives this afternoon. The four of us, along with eight other distinguished individuals, served for the past 2 years on the Commission on Protecting and Reducing Government Secrecy.

Earlier today, the four of us testified together at a hearing of the Committee on Governmental Affairs called by Chairman THOMPSON to review the Commission's report, issued in March. The legislation that we introduce today is intended to implement one of the core recommendations of that Commission: The need for a statute establishing the principles to govern the classification and declassification of information. The remarks that follow track my testimony before the Governmental Affairs Committee this morning.

We begin by defining our subject. ''Secrecy is a form of government regulation.'' It can be understood in terms of a now considerable literature concerning how organizations function. Begin with the German scholar Max Weber, writing eight decades ago in his chapter ''Bureaucracy'' in ''Wirtschaft und Gesellschaft'' (Economy and Society):

> Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and intentions secret. Bureaucratic administration always tends to be an administration of ''secret sessions''; in so far as it can, it hides its knowledge and action from criticism. The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the ''official secret'' is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be substantially defended beyond these specifically qualified areas.

Normal regulation concerns how citizens are to behave. As the administrative state developed in the United States, beginning with the Progressive Era at the turn of the century and expanding greatly under the New Deal, legal scholars began to ask just what these new rules were. Were they laws? If not, then what? In 1938, Roscoe Pound, chairman of the American Bar Association's Special Committee on Administrative Law and former Dean of the Harvard Law School, attacked those ''who would turn the administration of justice over to administrative absolutism . . . a Marxian idea,'' and inveighed against those ''progressives, liberals, or radicals who desire to invest the National Government with totalitarian powers in the teeth of constitutional democracy . . .''

We managed to get a handle on that system, in no small measure through the efforts of Erwin Griswold, also a dean of the Harvard Law School, and others who decried the fact that administrative regulations equivalent to law had become increasingly important to everyday life and yet were not available to the public. One year after Professor Griswold published a seminal article calling for the publication of such rules and regulations, Congress enacted the Federal Register Act of 1935. Eleven years later, in 1946, working from the recommendations made in 1941 by the Attorney General's Committee on Administrative Procedure, chaired by Dean Acheson, Congress enacted the Administrative Procedure Act.

Thus, today our system of public regulation is public indeed. Regulations are both widely accessible and subject to the APA's set of procedural requirements—bringing a degree of order and accountability to this regime.

Secrecy, by contrast, concerns what citizens may know, but the citizen does not know what may not be known. Our Commission states:

> Americans are familiar with the tendency to overregulate in other areas. What is different with secrecy is that the public cannot know the extent or the content of the regulation.

Thus, secrecy is the ultimate mode of regulation; the citizen does not even know that he or she is being regulated. It is a parallel regulatory regime with a far greater potential for damage if it malfunctions.

Flowing from this understanding of secrecy as regulation is the recognition that, to paraphrase Justice Potter Stewart's opinion in the Pentagon Papers case, when everything is secret, nothing is secret. We state:

> The best way to ensure that secrecy is respected, and that the most important secrets remain secret, is for secrecy to be returned to its limited but necessary role. Secrets can be protected more effectively if secrecy is reduced overall.

It is time to reexamine the foundations of that secrecy system. The Information Security Oversight Office report to Congress last week estimated the direct costs of secrecy at $5.2 billion in 1996 alone. The same Office reports that in 1995 we had 21,871 original new top secret designations and another 374,244 derivative top secret designations. Meaning that, in a single year, roughly 400,000 new secrets were created at the Top Secret level alone—the disclosure of any one of which would cause exceptionally grave damage to the national security.

It is also time to examine the appropriateness of security arrangements

put in place during an earlier age, when the perceived threats were so different from those of today. In 1957, the only previous commission established by the Congress to examine the secrecy system—the Commission on Government Security—issued a report that, for any number of reasons—in particular the fact that its core recommendation that amounted to prior restraint of the press—did nothing to change the prevailing mode. Although the Commission did understand classification as a cost; its report ''stresses the dangers to national security that arise out of overclassification of information which retards scientific and technological progress, and thus tend to deprive the country of the lead time that results from the free exchange of ideas and information.''

When the Commission on Government Security presented its report to President Eisenhower and the Congress, we still were consumed with concerns about a Federal Government infiltrated by ideological enemies of the United States. Today, the public and its representatives have few such concerns; indeed, today it is the U.S. Government that increasingly is the object of what Edward Shils in 1956, in ''The Torment of Secrecy,'' termed the ''phantasies of apocalyptic visionaries.''

We are not proposing putting an end to secrecy. It is at times terribly necessary and used for the most legitimate reasons. But secrecy need not remain the only norm: We must develop a competing culture of openness, fully consistent with our interests in protecting national security, but in which power is no longer derived primarily from one's ability to withhold information.

I am struck in this regard by a most remarkable letter that I received on March 25 from George F. Kennan, professor emeritus at the Institute for Advanced Study in Princeton, NJ, in response to our Commission report. As lucid and thoughtful as ever at age 93, Professor Kennan builds a compelling case for the proposition that much of our secrecy system arose out of our efforts to penetrate the obsessively secretive Soviet Communist regime of the Stalin era. And that the system we put in place remains largely intact today, even as that adversary has disappeared. Professor Kennan writes:

> It is my conviction, based on some 70 years of experience, first as a government official and then in the past 45 years as an historian, that the need by our government for secret intelligence about affairs elsewhere in the world has been vastly over-rated. I would say that something upwards of 95% of what we need to know about foreign countries could be very well obtained by the careful and competent study of perfectly legitimate sources of information open and available to us in the rich library and archival holdings of this country.

I ask unanimous that the full text of Professor Kennan's letter be inserted in the RECORD.

I should note further that Professor Kennan's conclusion about the share of information available from open sources also has been reached by other notable observers of the secrecy system—the estimable George P. Shultz among them.

Developing a culture of openness within the Federal Government requires that secrecy be defined in statute. A statute will not put an end to overclassification and needless classification, but it will help by ensuring that the present regulatory regime cannot simply continue to flourish without any restraint. Classification should proceed according to law; classifiers should know that they are acting lawfully and properly. We need to balance the possibility of harm to national security against the public's right to know what the Government is doing, or not doing. We should establish by statute that secrecy belongs in the realm of national security and must serve that interest alone. It should not be employed as a badge of office or a status symbol.

Thus we propose this statute, the Government Secrecy Act of 1997. As noted, Representatives COMBEST and HAMILTON are cosponsoring a companion measure in the House of Representatives. This legislation—defining the principles and standards to govern classification and declassification, and establishing within an existing agency a National Declassification Center to coordinate responsibility for declassifying historical documents—is drawn directly from the Commission's recommendation for such a statute, as set out in the summary and in chapter I of our report.

I look forward to reviewing the legislation, as well as the other findings and recommendations of the Commission, with Members of this body, as well as our colleagues in the House of Representatives, executive branch officials, and interested persons outside of Government, in the weeks ahead.

I send the bill to the desk and ask unanimous consent that it be printed in the RECORD and be referred to the appropriate committee.

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

S. 712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Secrecy Act of 1997''.

SEC. 2. PURPOSE.

It is the purpose of this Act to promote the effective protection of classified information and the disclosure of information where there is not a well-founded basis for protection or where the costs of maintaining a secret outweigh the benefits.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) The system for classifying and declassifying national security information has been based in regulation, not in statute, and has been governed by six successive Executive orders since 1951.

(2) The Commission on Protecting and Reducing Government Secrecy, established under Public Law 103–236, issued its report on March 4, 1997 (S. Doc. 105–2), in which it recommended reducing the volume of information classified and strengthening the protection of classified information.

(3) The absence of a statutory framework has resulted in unstable and inconsistent classification and declassification policies, excessive costs, and inadequate implementation.

(4) The implementation of Executive orders will be even more costly as more documents are prepared and used on electronic systems.

(5) United States taxpayers incur substantial costs as several million documents are classified each year. According to figures submitted to the Information Security Oversight Office and the Congress, the executive branch and private industry together spent more than $5.2 billion in 1996 to protect classified information.

(6) A statutory foundation for the classification and declassification of information is likely to result in a more stable and cost-effective set of policies and a more consistent application of rules and procedures.

(7) Enactment of a statute would create an opportunity for greater oversight by the Congress of executive branch classification and declassification activities, without impairing the responsibility of executive branch officials for the day-to-day administration of the system.

SEC. 4. CLASSIFICATION AND DECLASSIFICATION OF INFORMATION.

(a) CLASSIFICATION FOR NATIONAL SECURITY REASONS.—The President may, in accordance with this Act, protect from unauthorized disclosure information in the possession and control of the executive branch when there is a demonstrable need to do so in order to protect the national security of the United States. The President shall ensure that the amount of information classified is the minimum necessary to protect the national security.

(b) PROCEDURES FOR CLASSIFICATION AND DECLASSIFICATION.—

(1) IN GENERAL.—The President shall, to the extent necessary, establish categories of information that may be classified and procedures for classifying information under subsection (a). The President shall, concurrently with the establishment of such categories and procedures, establish, and allocate resources for the implementation of, procedures for declassifying information previously classified.

(2) PUBLICATION OF CATEGORIES AND PROCEDURES.—

(A) The President shall publish notice in the Federal Register of any categories and procedures proposed to be established under paragraph (1) with respect to both the classification and declassification of information, and shall provide an opportunity for interested agencies and other interested persons to submit comments thereon. The President shall take into account such comments before establishing the categories and procedures, which shall also be published in the Federal Register.

(B) The procedures set forth in subparagraph (A) shall apply to any modifications in categories or procedures established under paragraph (1).

(3) AGENCY STANDARDS AND PROCEDURES.—The head of each agency shall establish standards and procedures for classifying and declassifying information created by that agency on the basis of the categories and procedures established by the President under paragraph (1). Each agency head, in establishing and modifying standards and procedures under this paragraph, shall follow the procedures required of the President in paragraph (2) for establishing and modifying

categories and procedures under that paragraph.

(c) CONSIDERATIONS IN DETERMINING CLASSIFICATION AND DECLASSIFICATION.—

(1) IN GENERAL.—In determining whether information should be classified or declassified, the agency official making the determination shall weigh the benefit from public disclosure of the information against the need for initial or continued protection of the information under the classification system. If there is significant doubt as to whether information requires such protection, it shall not be classified.

(2) WRITTEN JUSTIFICATION.—

(A) ORIGINAL CLASSIFICATION.—The agency official who makes the decision to classify information shall identify himself or herself and shall provide in writing a detailed justification for that decision.

(B) DERIVATIVE CLASSIFICATION.—In any case in which an agency official classifies a document on the basis of information previously classified that is included or referenced in the document, that agency official shall identify himself or herself in that document.

(d) STANDARDS FOR DECLASSIFICATION.—

(1) INITIAL CLASSIFICATION PERIOD.—Information may not remain classified under this Act for longer than a 10-year period unless the head of the agency that created the information certifies to the President at the end of such period that the information requires continued protection, based on a current assessment of the risks of disclosing the information, carried out in accordance with subsection (c)(1).

(2) ADDITIONAL CLASSIFICATION PERIOD.—Information not declassified prior to or at the end of the 10-year period referred to in paragraph (1) may not remain classified for more than a 30-year period unless the head of the agency that created the information certifies to the President at the end of such 30-year period that continued protection of the information from unauthorized disclosure is essential to the national security of the United States or that demonstrable harm to an individual will result from release of the information.

(3) DECLASSIFICATION SCHEDULES.—All classified information shall be subject to regular review pursuant to schedules each agency head shall establish and publish in the Federal Register. Each agency shall follow the schedule established by the agency head in declassifying information created by that agency.

(4) ASSESSMENT OF EXISTING CLASSIFIED INFORMATION.—Each agency official responsible for information which, before the effective date of this Act—

(A) was determined to be kept protected from unauthorized disclosure in the interest of national security, and

(B) had been kept so protected for longer than the 10-year period referred to in paragraph (1),

shall, to the extent feasible, give priority to making decisions with respect to declassifying that information as soon as is practicable.

(e) REPORTS TO CONGRESS.—Not later than December 31 of each year, the head of each agency that is responsible for the classification and declassification of information shall submit to the Congress a report that describes the application of the classification and declassification standards and procedures of that agency during the preceding fiscal year.

(f) AMENDMENT TO FREEDOM OF INFORMATION ACT.—Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

''(1)(A) specifically authorized to be classified under the Government Secrecy Act of 1997, or specifically authorized, before the effective date of that Act, under criteria established by an Executive order to be kept secret in the interest of national security (as defined by section 7(6) of the Government Secrecy Act of 1997), and (B) are in fact properly classified pursuant to that Act or Executive order;''.

SEC. 5. NATIONAL DECLASSIFICATION CENTER.

(a) ESTABLISHMENT.—The President shall establish, within an existing agency, a National Declassification Center, the functions of which shall be—

(1) to coordinate and oversee the declassification policies and practices of the Federal Government; and

(2) to provide technical assistance to agencies in implementing such policies and practices, in accordance with this section.

(b) FUNCTIONS.—

(1) DECLASSIFICATION OF INFORMATION.—The Center shall, at the request of any agency and on a reimbursable basis, declassify information within the possession of that agency pursuant to the guidance of that agency on the basis of the declassification standards and procedures established by that agency under section 4, or if another agency created the information, pursuant to the guidance of that other agency on the basis of the declassification standards and procedures established by that agency under section 4. In carrying out this paragraph, the Center may use the services of officers or employees or the resources of another agency, with the consent of the head of that agency.

(2) COORDINATION OF POLICIES.—The Center shall coordinate implementation by agencies of the declassification policies and procedures established by the President under section 4 and shall ensure that declassification of information occurs in an efficient, cost-effective, and consistent manner among all agencies that create or otherwise are in possession of classified information.

(3) DISPUTES.—If disputes arise among agencies regarding whether information should or should not be classified, or between the Center and any agency regarding the Center's functions under this section, the heads of the agencies concerned or of the Center may refer the matter to the President for resolution of the dispute.

(c) NATIONAL DECLASSIFICATION ADVISORY COMMITTEE.—

(1) IN GENERAL.—There is established a 12-member National Declassification Advisory Committee. 4 members of the Advisory Committee shall be appointed by the President and 2 members each shall be appointed by the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives.

(2) MEMBERSHIP.—The members of the Advisory Committee shall be appointed from among distinguished historians, political scientists, archivists, other social scientists, and other members of the public who have a demonstrable expertise in declassification and the management of Government records. No officer or employee of the United States Government shall be appointed to the Advisory Committee.

(3) DUTIES.—The Advisory Committee shall provide advice to the Center and make recommendations concerning declassification priorities and activities.

(d) ANNUAL REPORTS.—The Center shall submit to the President and the Congress, not later than December 31 of each year, a report on its activities during the preceding fiscal year, and on the implementation of agency declassification practices and its efforts to coordinate those practices.

SEC. 6. INFORMATION TO THE CONGRESS.

Nothing in this Act shall be construed to authorize the withholding of information from the Congress.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term ''Advisory Committee'' means the National Declassification Advisory Committee established under section 5(c);

(2) the term ''agency'' means any executive agency as defined in section 105 of title 5, United States Code, any military department as defined in section 102 of such title, and any other entity in the executive branch of the Government that comes into the possession of classified information;

(3) the term ''Center'' means the National Declassification Center established under section 5(a);

(4) the terms ''classify'', ''classified'', and ''classification'' refer to the process by which information is determined to require protection from unauthorized disclosure pursuant to this Act in order to protect the national security of the United States;

(5) the terms ''declassify'', ''declassified'', and ''declassification'' refer to the process by which information that has been classified is determined to no longer require protection from unauthorized disclosure pursuant to this Act; and

(6) the term ''national security of the United States'' means the national defense or foreign relations of the United States.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of the enactment of this Act.

INSTITUTE FOR ADVANCED STUDY,
SCHOOL OF HISTORICAL STUDIES,
Princeton, NJ, March 25, 1997.

Senator DANIEL P. MOYNIHAN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR: Thank you for your note of the 7th, and for the copy of your recent talk at Georgetown, which I have read with deep appreciation.

There are several points you touched on in that talk which, were we sitting at leisure around a fireside, I would like to pursue. I cannot treat them all here. But there is one matter on which you did not specifically mention but which lies close to the subject you had in mind, and on which I am moved to say a word. It is a matter on which I have long looked for, but never found, a suitable chance to comment publicly.

It is my conviction, based on some 70 years of experience, first as a government official and then in the past 45 years as an historian, that the need by our government for secret intelligence about affairs elsewhere in the world has been vastly over-rated. I would say that something upwards of 95% of what we need to know about foreign countries could be very well obtained by the careful and competent study of perfectly legitimate sources of information open and available to us in the rich library an archival holdings of this country. Much of the remainder, if it could not be found here (and there is very little of it that could not) could easily be non-secretively elicited from similar sources abroad.

In Russia, in Stalin's time and partly thereafter, the almost psychotic preoccupation of the Communist regime with secrecy appeared to many, not unnaturally, to place a special premium on efforts to penetrate that curtain by secretive methods of our own. This led, of course, to the creation here of a vast bureaucracy dedicated to this particular purpose; and this latter, after the fashion of all great bureaucratic structures, has endured to this day, long after most of the reasons for it have disappeared. Even in the Soviet time, much of it was superfluous. A lot of what we went to such elaborate and dangerous means to obtain secretly would have been here for the having, given the requisite quiet and scholarly analysis of what already lay before us.

The attempt to elicit information by secret means has another very serious negative effect that is seldom noted. The development of clandestine sources of information in another country involves, of course, the placing and the exploitation of secret agents on the territory of that country. This naturally incites the mounting of a substantial effort of counterintelligence on the part of the respective country's government. This, in turn, causes us to respond with an equally vigorous effort of counterintelligence in order to maintain the integrity of our espionage effort. But for a variety of reasons, this competition in counterintelligence efforts tends to grow into dimensions that wholly overshadow the original effort of positive intelligence procurement that gave rise to it in the first place. It takes on aspects which cause it to be viewed as a game, played in its own rights. Unfortunately, it is a game requiring such lurid and dramatic character that it dominates the attention both of those that practice it, and of those in the press and the media who exploit it. Such is the fascination it exerts that it tends wholly to obscure, even for the general public the original reasons for it. It would be interesting to know what proportion of the energies and expenses and bureaucratic involvement of the C.I.A. is addressed to this consuming competition, and whether one ever stacks this up against the value of its almost forgotten original purposes. Do people ever reflect, one wonders, that the best way to protect against the penetration of one's secrets by others is to have the minimum of secrets to conceal?

One more point. At the bottom of the whole great effort of secret military intelligence, which has played so nefarious a part in the entire history of great-power relationships in this passing century, there has usually lain the assumption by each party that if it did not engage to the limit in that exercise the other party, working in secret, might develop a weapon so devastating that with it he could confront all others with the demand that they submit to his will ''or else''.

But this sort of anxiety is now greatly outdated. The nuclear competition has taught us that the more terrible the weapons available, the more suicidal becomes any conceivable actual use of them. With the recognition of the implications of this simple fact would go a large part of the motivation for our frantic efforts of secret intelligence. In this respect, too, this is really a new age. It is time we recognized it and drew the inescapable conclusions.

There may still be areas, very small areas really, in which there is a real need to penetrate someone else's curtain of secrecy. All right. But then please, without the erection of false pretenses and elaborate efforts to deceive—and without, to the extent possible—the attempt to maintain ''spies'' on the adversary's territory. We easily become ourselves, the sufferers from these methods of deception. For they inculcate in their authors, as well as their intended victims, unlimited cynicism, causing them to lose all realistic understanding of the interrelationship, in what they are doing, of ends and means.

Forgive me for burdening you with this outburst. I am not unloading upon my friends, in private letters, thoughts I should probably have brought forward publicly long ago. I have to consider that this is the only way I can put some of these thoughts into words before, in the case of a person 93 years of age, it becomes too late.

Warm and admiring greetings.

Very sincerely,

GEORGE KENNAN.

Mr. HELMS. I am pleased to join Senator MOYNIHAN today in introducing a bill that would for the first time place in statute the Government system for the classification of information. To date this has been accomplished solely through Executive order.

The statute is based on the recommendations contained in the report of the Commission to Protect and Reduce Government Secrecy chaired by my colleague PAT MOYNIHAN, the senior Senator from New York. The Secrecy Commission achieved a unified report of recommendations—a feat that should not be underrated, especially in Washington.

The Commission, by law, had the twin goals of studying how to protect important Government secrets and simultaneously reducing the amount of classified documents and materials. All Commissioners began their deliberations with the premise that Government secrecy is a form of regulation that, like all regulations, should be used sparingly, and certainly never for the goal of keeping the truth from the American people. Commissioners also began the process recognizing that over-classification can actually weaken the protections of those secrets that truly are in our national interest.

All the same I am obliged to begin with a reiteration of the obvious—that the protection of true national security information remains vital to the well-being and security of the United States. The end of the cold war notwithstanding, the United States continues to face serious and long-term threats from a variety of fronts. While Communist and anti-American regimes, such as North Korea, Cuba, Iran, and Iraq, continue to wage a war of espionage against the United States, new threats have arisen as well.

Most alarming, perhaps, is the growing trend of espionage conducted not by our enemies but by American allies. Such espionage is on the rise especially against U.S. economic secrets. According to a February 1996 report by GAO, classified military information and sensitive military technologies are high priority targets for the intelligence agencies of U.S. allies.

At first blush, a push to reduce Government secrecy may seem at odds with these increasing threats. I am convinced it is not. The sheer volume of government secrets—and their cost to the taxpayers and U.S. business—is staggering. In 1996 the taxpayers spent more than $5.2 billion to protect classified information. We know all too well from our own experiences that when everything is secret nothing is secret.

Secrecy all too often then becomes a political tool used by executive branch agencies to shield information which may be politically sensitive or policies which may be unpopular with the American public. Worse yet, information may be classified to hide from public view illegal or unethical activity. On numerous occasions I, and other Members of Congress, have found the executive branch to be reluctant to share certain information, the nature of which is not truly a national secret, but which would be potentially politically embarrassing to officials in the executive branch or which would make known an illegal or indefensible policy.

I have also found that one of the largest impediments to openness is the perverse incentives of the Government bureaucracy itself in favor of classification, and the lack of accountability for those who do the actual classification. I strongly endorse the Commission's recommendation of adding individual accountability to the process by requiring original and derivative classifiers to actually identify themselves and include within the documents a justification of the decision to classify.

The only way to change a bureaucracy is to reverse the incentive to classify. A good example of how to change this lack of bureaucratic accountability is a provision contained in H.R. 3121—legislation which we approved in the Foreign Relations Committee last year that was signed into law. Previously, details on U.S. commercial arms sales to foreign governments were not made available to the public unless a citizen requested that the State Department make it public. The incentive therefore was to keep the information closely regulated. H.R. 3121 provides that all arm sales will be made public unless the President determines that the release of the information is contrary to U.S. national security interest. Although this may appear to be a small nuance, the bureaucratic incentive is changed enormously to favor openness. Shifting the burden in this way can introduce more openness into the system and force the bureaucracy to identify true national security threats.

I am convinced, however, that the single most important recommendation of our Commission that Congress should focus on is the concept of creating a life cycle for secrets. This means that all information, classified and unclassified alike, has a life span in which decisions must be made regarding creation, management, and use. This kind of rationalization would shift the burden to favor openness and reduce some of the costs associated with declassification.

I would add a note of caution to the Commission's work on declassification, however. In the course of the 2 years of its work, the Commission became very interested in the declassification of existing documents and materials. In a perfect world, if information remains relevant to true U.S. national interests it should remain classified indefinitely. Information that does not compromise U.S. interests and sources should be made public. We all realize, however, that this is a tremendously costly venture. In fact, the Commission was unable to come up with solid data on the true cost of declassification.

In this era when Congress has finally begun to grasp the essential need to reduce Government spending and balance the budget, the issue of balancing costs

and benefits is an essential one. The financial costs to the American taxpayers must be balanced against the necessity of the declassification. The real lesson to take from the work of this Commission is the need to redress for the future the problems of over classification and a systematic process for declassification, so that the costs and timeliness of declassification does not pose the same economic and regulatory burdens on future generations. At the same time, it may be too costly to declassify all of the countless classified documents now in existence.

With this caveat in mind, I hope the Congress will focus on bringing government-wide rationalization to the classification process. It is an area where tough congressional oversight is long overdue.

By Mr. AKAKA (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. HOLLINGS, Mr. WELLSTONE and Mr. JEFFORDS):

S. 714. A bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

REAUTHORIZATION OF THE NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM LEGISLATION

Mr. AKAKA. Mr. President, I rise to introduce a measure which permanently authorizes the Native American Veteran Housing Loan Program. I am pleased that Senators DASCHLE, INOUYE, HOLLINGS, WELLSTONE, and JEFFORDS have joined me in cosponsoring this important measure.

In 1992, I authored a bill that established a 5-year pilot program of direct home loans to assist native american veterans who reside on trust lands. This pilot program, administered by the Department of Veterans Affairs [VA], provides direct loans to native American veterans to build or purchase homes on trust lands. Previously, native American veterans who reside on trust lands were unable to qualify for VA home loan benefits. This disgraceful treatment of native American veterans was finally corrected when Congress established the native American Direct Home Loan Program.

Despite the complexities of creating a program that addresses the needs of hundreds of different tribal entities, VA has successfully entered into agreements to provide direct VA loans to members of 46 tribes and Pacific Island groups, and negotiations continue with other tribes. Since the program's inception, 127 native American veterans have been able to achieve home ownership, and none of the loans approved by the VA have been foreclosed.

Unfortunately, the authority to issue new loans under this remarkably successful program will cease on September 30, 1997. This would be tragic and devastating to a number of native American veterans who want to participate in this program. Although VA has proposed a 2-year extension for the program, it fails to address the basic reason this program exists—equity. Native American veterans who reside on trust lands should be afforded the same benefits available to other veterans. Without this program, home loan benefits to native Americans living on trust lands will cease. This is the only program available for native American veterans who live on trust lands to finance a home for themselves and their families. There are no alternatives available.

Permanent authorization of this program will ensure that native American veterans are provided equal access to services and benefits available to other veterans. I urge my colleagues to support this important legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended by striking out subsection (c).

(b) CONFORMING AMENDMENTS.—(1) Section 3761(a) of such title is amended—

(A) by striking out ''shall establish and implement a pilot program'' and inserting in lieu thereof ''shall carry out a pilot program''; and

(B) by striking out ''shall establish and implement the pilot program'' and inserting in lieu thereof ''shall carry out the pilot program''.

(2) Sections 3761(b) and 3762(i) of such title are each amended by striking out ''pilot program'' and inserting in lieu thereof ''program''.

(3) Section 3762 of such title is amended—

(A) in subsection (b)(1)(E), by striking out ''pilot program established under this subchapter is implemented'' and inserting in lieu thereof ''program under this subchapter is carried out''; and

(B) in subsection (c)(1)(B), by striking out the second sentence.

(4)(A) The subchapter heading for subchapter V of chapter 37 of such title is amended by striking out ''PILOT''.

(B) The section heading for section 3761 of such title is amended to read as follows:

''§ 3761. Native American Veteran Housing Loan Program''.

(C) The table of sections at the beginning of chapter 37 of such title is amended—

(i) in the item relating to subchapter V, by striking out ''PILOT''; and

(ii) by striking out the item relating to section 3761 and inserting in lieu thereof the following new item:

''3761. Native American Veteran Housing Loan Program.''.

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. BURNS, Mr. GORTON, Mr. KEMPTHORNE, and Mr. ENZI):

S. 716. A bill to establish a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving national, regional, and provincial trade-distorting differences between the countries with respect to the production, processing, and sale of cattle and beef, and for other purposes; to the Committee on Finance.

LEGISLATION TO ESTABLISH CATTLE AND BEEF COMMISSION

Mr. CRAIG. Mr. President, I rise to introduce a bill of critical importance to our Nation's cattle industry. The joint United States-Canada Commission on Cattle and Beef is designed to resolve some of the existing differences in trade practices between the two countries.

I want to thank a number of my colleagues who are joining me as original cosponsors of this legislation. The cosponsors of this bill include Senator BAUCUS, Senator BURNS, Senator GORTON, Senator KEMPTHORNE, and Senator ENZI.

As a former rancher, I have a firsthand understanding of the challenges that face the cattle industry. The prolonged down cycle is especially troubling because it affects the livelihoods of thousands of ranching families in Idaho and across the country.

These beef producers are the largest sector of Idaho and American agriculture. Over 1 million families raise over 100 million head of beef cattle every year. This contributes over $36 billion to local economies. Even with the extended cycle of low prices, direct cash receipts from the Idaho cattle industry were almost $620 million in 1995. These totals only represent direct sales; they do not capture the multiplier effect that cattle ranches have in their local economies from expenditures on labor, feed, fuel, property taxes, and other inputs.

Over the years, cattle operations have provided a decent living and good way of life in exchange for long days, hard work, and dedication. While the investment continues to be high, the returns have been low in recent years.

The problems facing the cattle industry in recent years are complex. The nature of the market dictates that stable consumption combined with increased productivity and growing herd size yield lower prices to producers. This, combined with high feed prices and limited export opportunities, has caused a near crisis.

Many Idahoans have contacted me on a number of cattle industry issues. Some suggest the Federal Government intervene in the market to help producers. However, many others have expressed fear that Federal intervention, if experience is any indication, will only complicate matters and may also create a number of unintended results. I tend to agree with the latter. Time and again, I have seen lawmakers and bureaucrats in Washington, DC, albeit well intentioned, take a difficult situation and make it worse. This does not mean that I believe Government has no role to play. I have supported and will continue to support Government involvement in areas like trade, where individual producers cannot help themselves.

This bill recognizes a number of barriers to international trade that adversely affect American beef producers.

The bill is meant to elevate the importance of all trade issues and specifically address some of the pending cattle trade issues between the United States and Canada.

The United States-Canada Commission on Cattle and Beef is a measure designed to provide immediate, short-term solutions to some of the serious trade problems facing the cattle industry. Specific cattle issues that could be resolved with further discussion include animal health requirements and the availability of feed grains. The bill creates a commission composed of three people from each country along with a number of other nonvoting advisors. Within 30 days of passage, the Commission must be in place and within 6 months must issue a preliminary report on how to resolve the existing differences between United States and Canadian trade.

I know that a number of my colleagues have legislation pending in regards to the cattle market. I would comment that I see this bill as a starting point, not an ending point for cattle industry issues and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOINT UNITED STATES-CANADA COMMISSION ON CATTLE AND BEEF.

(a) ESTABLISHMENT.—There is established a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the United States and Canada with respect to the production, processing, and sale of cattle and beef, with particular emphasis on—

(1) animal health requirements;

(2) transportation differences;

(3) the availability of feed grains; and

(4) Other market-distorting direct and indirect subsidies.

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall be composed of—

(A) 3 members representing the United States, including—

(i) 1 member appointed by the Majority Leader of the Senate;

(ii) 1 member appointed by the Speaker of the House of Representatives; and

(iii) 1 member appointed by the Secretary of Agriculture;

(B) 3 members representing Canada, appointed by the Government of Canada; and

(C) nonvoting members appointed by the Commission to serve as advisers to the Commission, including university faculty, State veterinarians, trade experts, and other members.

(2) APPOINTMENT.—Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

(c) REPORT.—Not later than 180 days after the first meeting of the Commission, the Commission shall submit a report to Congress and the Government of Canada that identifies, and recommends means of resolving, differences between the United States and Canada with respect to the production, processing, and sale of cattle and beef.

By Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. LOTT, Mr. KENNEDY, Mr. COATS, Mr. DODD, Mr. GREGG, Ms. MIKULSKI, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Mrs. MURRAY, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, and Mr. REED):

S. 717. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Labor and Human Resources.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, today along with 16 of my colleagues, I am introducing the Individuals with Disabilities Education Act Amendments of 1997. This legislation is the product of 4 months of intensive discussion among members of the committee, the House Committee on Education and the Workforce, and officials from the U.S. Department of Education.

The process followed in developing this legislation was unprecedented and demonstrates the high priority all involved place on the importance of the education of children with disabilities, their parents, and their educators.

Many people and organizations have helped us to develop this legislation. I would like to name just a few.

First and foremost, I wish to thank the Majority Leader TRENT LOTT for his unwavering support, and, in particular for the assistance of his Chief of Staff, Dave Hoppe. It is my firm belief that without their commitment to the process that we could not have produced this bill.

I would also like to thank my colleagues Senators KENNEDY, COATS, HARKIN, and GREGG, and especially, Chairman GOODLING, Mr. CLAY and our other colleagues in the House, and Secretary Riley, and Assistant Secretary Heumann.

I also wish to especially thank Senator FRIST, who set the direction and standard that led us in our efforts to reauthorize IDEA in the last Congress.

I introduce this bill in a much different climate than the one in which Congress first addressed the issue. In 1975, responding to numerous Federal court cases, Congress passed Public Law 94–142 which guaranteed all children with disabilities a ''free and appropriate public education,'' and promised that the Federal Government would contribute 40 percent of the costs of special education. It is 22 years later and today we are on the threshold of honoring that commitment.

Our efforts in drafting this legislation are driven by a common belief that education is our No. 1 national priority, and that meeting the needs of our children includes meeting the needs our 5.1 million children with disabilities. In this bill we address several important issues: How to increase the flow of Federal dollars to local school districts; how to expand opportunities for children with disabilities to participate and succeed in the classroom along with their nondisabled peers; and how to ensure the appropriate participation of children with disabilities in State and district-wide assessments of student progress.

I hope all of my colleagues will support this legislation when it is considered. It's importance has been demonstrated by the collaborative process in which it was developed, and the valuable group of Americans it is intended to serve.

Thank you, Mr. President.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. ROTH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes.

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 2, supra.

S. 4

At the request of Mr. ASHCROFT, the names of the Senator from Maine [Ms. SNOWE], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 124

At the request of Mr. GRAMM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 124, a bill to invest in the future of the United States by doubling the amount authorized for basic science and medical research.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 231

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 231, a bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes.

S. 394

At the request of Mr. HATCH, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 479

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

S. 535

At the request of Mr. MCCAIN, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 535, a bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease.

S. 536

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 536, a bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes.

S. 609

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 609, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies.

S. 685

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. 685, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for an additional fiscal year.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Washington [Mr. GORTON], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 21, a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

SENATE RESOLUTION 58

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 58, a resolution to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan, and the countries of the Asia-Pacific region, and that the people of Okinawa deserve recognition for their contributions toward ensuring the Treaty's implementation.

AMENDMENT NO. 59

At the request of Mr. LAUTENBERG his name was added as a cosponsor of amendment No. 59 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 76

At the request of Mr. SPECTER the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of amendment No. 76 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 100

At the request of Ms. MOSELEY-BRAUN the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of amendment No. 100 intended to be proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 131

At the request of Mr. SPECTER his name was added as a cosponsor of amendment No. 131 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 145

At the request of Mr. D'AMATO the names of the Senator from California [Mrs. FEINSTEIN], the Senator from New York [Mr. MOYNIHAN], the Senator from California [Mrs. BOXER], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Oregon [Mr. WYDEN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Ms. MIKULSKI], the Senator from Florida [Mr. MACK], the Senator from Nevada [Mr. REID], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of amendment No. 145 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

At the request of Mr. REED his name was added as a cosponsor of amendment No. 145 proposed to S. 672, supra.

AMENDMENT NO. 166

At the request of Mr. D'AMATO the names of the Senator from California [Mrs. FEINSTEIN], the Senator from New York [Mr. MOYNIHAN], and the Senator from California [Mrs. BOXER] were added as cosponsors of amendment No. 166 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 169

At the request of Mr. BOND the names of the Senator from Maryland [Mr. SARBANES], the Senator from New York [Mr. D'AMATO], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of amendment No. 169 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

SENATE RESOLUTION 85— RELATIVE TO BREAST CANCER

Mr. GREGG (for himself and Mr. SMITH of New Hampshire) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 85

Whereas individuals with breast cancer need a support system in their time of need;

Whereas breast cancer is a disease of epidemic proportions, with 43,900 individuals in the United States expected to die from breast cancer in 1997, and 1 out of every 8 women in the United States expected to develop breast cancer in her lifetime;

Whereas the millions of family members, including spouses, children, parents, siblings, and other loved ones of person's with breast cancer can offer strong emotional support to each other in addition to the support they offer to patients and survivors dealing with their challenges;

Whereas it is important that the United States as a whole support the family members and other loved ones of individuals with breast cancer in addition to supporting the individual with breast cancer; and

Whereas 1997 brings the 25th anniversary of the National Cancer Program providing research, training, health information dissemination, and other programs with respect to the cause, diagnosis, prevention and treatment of cancer, rehabilitation from cancer, and the continuing care of cancer patients and their families: Now, therefore, be it

Resolved, That it is the sense of the Senate that an environment be encouraged where—

(1) the family members and loved ones of individuals with breast cancer can support each other in addition to the individual with breast cancer; and

(2) everything possible should be done to support both the individuals with breast cancer as well as the family and loved ones of individuals with breast cancer through public awareness and education.

Mr. GREGG. Mr. President, I rise today to submit, for myself and Senator SMITH of New Hampshire, a Senate resolution expressing the sense of the Senate that individuals afflicted with breast cancer should not be alone in their fight against the terrifying disease. With Mother's Day coming up this Sunday, May 11, it seems especially appropriate that we recognize the extent to which our society is affected by this disease, as well as the

importance of supporting breast cancer patients and their family members and friends who are all meeting the challenges of this disease at the side of their loved one.

In 1997, it is estimated that 1 out of every 8 women will develop breast cancer in her lifetime and nearly 44,000 individuals will die of the disease this year. In New Hampshire alone there are 12,700 women living with breast cancer, and 230 women are expected to die of this terrible disease in 1997. With each of these individuals come loved ones who are also impacted. It is imperative to have a strong support system not only for individuals with breast cancer but for the family and friends who make up their support system. Our recognition of the millions of people who are dealing with similar struggles can help both the breast cancer patients and their loved ones to stay strong during their times of need.

With this resolution, we hope to encourage an environment in New Hampshire, and across the Nation, where support is provided to both the individuals with breast cancer as well as their family and friends through public awareness and education, and where family members and loved ones of individuals with breast cancer support each other in along with the individual facing breast cancer.

AMENDMENTS SUBMITTED

THE GOVERNMENT SHUTDOWN PREVENTION ACT SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

CONRAD AMENDMENT NO. 175

(Ordered to lie on the table.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes; as follows:

In lieu of the matter to be inserted by said amendment, insert: On page 31, line 22, after the word ''facilities,'' insert the following: '': *Provided further,* That of the funds made available under this heading, up to $20,000,000 may be transferred to the Disaster Assistance Direct Loan Program for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided further,* That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $21,000,000 under section 417 of the Stafford Act: *Provided further,* That any such transfer of funds shall be made only upon certification by the Director of the Federal Emergency Management Agency that all requirements of section 417 of the Stafford Act will be complied with: *Provided further,* That the entire amount of the preceding proviso shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress''.

DORGAN AMENDMENT NO. 176

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill, S. 672, supra; as follows:

At the appropriate place, insert the following: ''*Provided further,* That, notwithstanding the provisions of section 903(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3243(a)(2)), the Secretary of Commerce may make a grant to restore electrical and gas service to areas damaged by flooding and other natural disasters: *Provided further,* That a project funded by a grant made under the preceding proviso shall, for purposes of section 704(e)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3214(e)(1)), be considered to be an authorized project.''

HUTCHISON AMENDMENT NO. 177

Mrs. HUTCHISON proposed an amendment to the bill, S. 672, supra; as follows:

Strike out ''September 30, 1997'' and insert in lieu thereof ''June 30, 1998.''

HUTCHISON AMENDMENTS NOS. 178–179

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted two amendments intended to be proposed by her to the bill, S. 672, supra; as follows:

AMENDMENT NO. 178

Strike out ''September 30, 1997'' and insert in lieu thereof ''June 30, 1998.''

AMENDMENT NO. 179

At the appropriate place, insert the following:

SEC. . AGREEMENTS UNDER THE ENDANGERED SPECIES ACT OF 1973.

(a) LISTING.—Section 4(b)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(1)) is amended by adding at the end the following:

''(C) AGREEMENTS.—In determining whether a species is an endangered species or a threatened species, the Secretary shall take into full consideration any—

''(i) conservation agreement;

''(ii) pre-listing agreement;

''(iii) memorandum of agreement;

''(iv) memorandum of understanding; or

''(v) any other agreement designed to promote the conservation of any species;

agreed to by the Secretary, any other Federal agency, State, State agency, political subdivision of a State, or other person, including the reasonably expected future beneficial effects to the species of every provision of the agreement that has been implemented or is reasonably likely to be implemented.''.

(b) RECOVERY PLANS.—Section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)) is amended by adding at the end the following:

''(6) AGREEMENTS.—The Secretary shall—

''(A) give the highest priority to development and implementation of a recovery plan for a species for which the Secretary has entered into a—

''(i) conservation agreement;

''(ii) pre-listing agreement;

''(iii) memorandum of agreement;

''(iv) memorandum of understanding; or

''(v) any other agreement designed to promote the conservation of any species;

(whether before or after the listing of the species as endangered or threatened) with any other Federal agency, State, State agency, political subdivision of a State, or other person; and

''(B) ensure that the commitments made by the Secretary in the agreement are fulfilled before funds are expended on the development and implementation of any other recovery plan.''.

LUGAR AMENDMENTS NOS. 180–81

(Ordered to lie on the table.)

Mr. LUGAR submitted two amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 180

Strike all after **''SEC. ———''** and insert the following: **COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall collect and disseminate, on a weekly basis, statistically reliable information, obtained from cheese manufacturing areas in the United States on prices received and terms of trade involving bulk cheese, including information on the national average price for bulk cheese sold through spot and forward contract transactions. To the maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

(b) CONFIDENTIALITY.—All information provided to, or acquired by the Secretary under subsection (a) shall be kept confidential by each officer and employee of the Department of Agriculture except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.

(c) REPORT.—Not later than 150 days after the date on enactment of this Act, the Secretary shall report to the Committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by subsection (a) terminates effective April 5, 1999.

AMENDMENT NO. 181

''Strike all after **''SEC. ———''** and insert the following: **COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall collect and disseminate, on a weekly basis, statistically reliable information, obtained from cheese manufacturing areas in the United States on prices received and terms of trade involving bulk cheese, including information on the national average price for bulk cheese sold through spot and forward contract transactions. To the maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

(b) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under subsection (a) shall be kept confidential by each officer and employee of the Department of Agriculture except that general weekly statements may be issued that are based on

the information and that do not identify the information provided by any person.

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall report to the Committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by subsection (a) terminates effective April 5, 1999.

CRAIG AMENDMENTS NOS. 182–195

(Ordered to lie on the table.)

Mr. CRAIG submitted 14 amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 182

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 183

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 184

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 185

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 186

In lieu of the matter proposed to be inserted, insert the following:

SEC. 331. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 and 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 187

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 188

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

''(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

''(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).''.

AMENDMENT NO. 189

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

AMENDMENT NO. 190

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

AMENDMENT NO. 191

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

AMENDMENT NO. 192

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

AMENDMENT NO. 193

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(A) CONSULATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

''(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

AMENDMENT NO. 194

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

AMENDMENT NO. 195

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

''(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

''(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

''(B) to address a catastrophic natural event that occurred during 1996 or 1997.''.

GORTON AMENDMENT NO. 196

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following on page 21, after line 15:

''For an additional amount for 'Resource Management', $5,000,000, to remain available until September 30, 1999, for payments to private landowners for the voluntary use of private land to store water in restored wetlands.''

STEVENS AMENDMENTS NOS. 197–207

(Ordered to lie on the table.)

Mr. STEVENS submitted 11 amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 197

At the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 198

At the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 199

At the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 200

At the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogamming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 210

AT the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208.

AMENDMENT NO. 202

At the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogamming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 203

At the end of the amendment add the following: ''*Provided further,* That additional amounts made available may not be obligated pursuant to the reprogamming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 204

At the end of the amendment add the following: ''*Provided further,* that additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208.''

AMENDMENT NO. 205

In lieu of the matter proposed insert the following:

SEC. . None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the use of sampling or any other statistical method [(including any statistical adjustment)] in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the several States that cannot be reversed by future congressional action.

AMENDMENT NO. 206

In lieu of the matter proposed insert the following:

SEC. . None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the use of sampling or any other statistical method [(including any statistical adjustment)] in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the several States that cannot be reversed by future congressional action.

AMENDMENT NO. 207

In lieu of the matter proposed insert the following:

SEC. . None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the use of sampling or any other statistical method [(including any statistical adjustment)] in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the several States that cannot be reversed by future congressional action.

STEVENS AMENDMENT NO. 208

Mr. STEVENS proposed an amendment to the bill, S. 672, supra; as follows:

At the appropriate place in the bill insert the following:

None of the funds made available in the Foreign Operations, Export Financing, and Related Programs, 1997, (as contained in Public Law 104–208) may be made available for assistance to Uruguay unless the Secretary of State certifies to the Committees

on Appropriations that all cases involving seizure of U.S. business assets have been resolved.

GRAMS AMENDMENT NO. 209

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 78 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS; TERMINATION OF CURRENT MILK MARKETING ORDERS AND MILK PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended to read as follows:

"SEC. 141. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

''(a) DEFINITION OF MILK PRODUCER.—In this section:

''(1) IN GENERAL.—The term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1996, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use.

''(2) INCLUSIONS.—The term 'milk producer' includes a person considered to be a producer-handler that satisfies the requirements of paragraph (1).

''(b) MARKET TRANSITION CONTRACTS AUTHORIZED.—The Secretary shall offer to enter into a contract (referred to in this section as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for payments under the contract, to comply with applicable—

''(1) conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

''(2) wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

''(c) TIME FOR CONTRACTING; TERM.—

''(1) TIME FOR CONTRACTING.—The Secretary shall begin to offer to enter into market transition contracts as soon as practicable after the date of enactment of this paragraph.

''(2) TERM.—The term of each market transition contract shall extend through December 31, 2001.

''(d) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for calendar year 1997.

''(e) TIME FOR PAYMENTS.—

''(1) INITIAL PAYMENT.—The Secretary shall make the payment for calendar year 1997 under a market transition contract as soon as practicable after the date of enactment of the Supplemental Appropriations and Rescissions Act of 1997.

''(2) SUBSEQUENT PAYMENTS.—The Secretary shall make subsequent payments under a market transition contract not later than January 15 of each of calendar years 1998 through 2002.

''(f) PAYMENT RATE.—The Secretary shall calculate payments under a market transition contract for a calendar year based on the maximum rate that the Secretary determines may be paid using savings derived for the calendar year from the termination of Federal milk marketing orders, and the milk price support program, by amendments made by the Supplemental Appropriations and Rescissions Act of 1997.

''(g) CONTRACT PAYMENTS BASED ON PRODUCTION HISTORY.—

''(1) IN GENERAL.—

''(A) HISTORIC PRODUCTION.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary.

''(B) HUNDREDWEIGHTS.—Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

''(2) PRODUCERS WITH 3 OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least 3 calendar years during the period from 1992 through 1996, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the 3 years of the period in which the largest quantities of milk were marketed by the milk producer.

''(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—

''(A) IN GENERAL.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer a historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production.

''(B) ENDING DATE.—The Secretary shall not consider months of production after December 31, 1996.

''(h) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

''(1) the payment rate in effect for that fiscal year under subsection (f); and

''(2) the historic annual milk production for the milk producer determined under subsection (g).

''(i) ASSIGNMENT OF PAYMENTS.—

''(1) IN GENERAL.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer.

''(2) NOTICE.—The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

''(j) EFFECT OF VIOLATION.—

''(1) TERMINATION OF CONTRACT.—

''(A) IN GENERAL.—If a milk producer subject to a market transition contract violates any requirement described in subsection (b), the Secretary may terminate the producer's market transition contract.

''(B) FORFEITURE AND REFUND.—On the termination, the milk producer shall—

''(i) forfeit all rights to receive future payments under the contract; and

''(ii) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary.

''(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract to—

''(A) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary; or

''(B) accept an adjustment in the amount of future payments otherwise required under the contract.

''(k) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.''.

(b) TERMINATION OF MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(A) in the first sentence of paragraph (2)—

(i) in subparagraph (A), by striking ''Milk, fruits'' and inserting ''Fruits''; and

(ii) in subparagraph (B), by inserting ''milk,'' after ''honey,''; and

(B) by striking paragraphs (5) and (18).

(2) CONFORMING AMENDMENTS.—

(A) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking '', other than milk and its products,''.

(B) Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) in paragraph (6), by striking '', other than milk and its products,'';

(ii) in paragraph (7)(B), by striking ''(except for milk and cream to be sold for consumption in fluid form)'';

(iii) in paragraph (11)(B), by striking ''Except in the case of milk and its products, orders'' and inserting ''Orders'';

(iv) in paragraph (13)(A), by striking '', except to a retailer in his capacity as a retailer of milk and its products''; and

(v) in the first sentence of paragraph (17), by striking the second proviso.

(C) Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the second sentence.

(D) Section 10(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 610(b)(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) by striking clause (i);

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(iii) in the first sentence of clause (i) (as so redesignated), by striking ''other commodity'' and inserting ''commodity''.

(E) Section 11 of the Agricultural Adjustment Act (7 U.S.C. 611), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking ''and milk, and its products,''.

(F) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103–111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date that is 1 year after the date of enactment of this Act.

GRAMS AMENDMENT NO. 210

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 77 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS; TERMINATION OF CURRENT MILK MARKETING ORDERS AND MILK PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended to read as follows:

"SEC. 141. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

''(a) DEFINITION OF MILK PRODUCER.—In this section:

''(1) IN GENERAL.—The term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1996, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use.

''(2) INCLUSIONS.—The term 'milk producer' includes a person considered to be a producer-handler that satisfies the requirements of paragraph (1).

''(b) MARKET TRANSITION CONTRACTS AUTHORIZED.—The Secretary shall offer to enter into a contract (referred to in this section as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for payments under the contract, to comply with applicable—

''(1) conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

''(2) wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

''(c) TIME FOR CONTRACTING; TERM.—

''(1) TIME FOR CONTRACTING.—The Secretary shall begin to offer to enter into market transition contracts as soon as practicable after the date of enactment of this paragraph.

''(2) TERM.—The term of each market transition contract shall extend through December 31, 2001.

''(d) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for calendar year 1997.

''(e) TIME FOR PAYMENTS.—

''(1) INITIAL PAYMENT.—The Secretary shall make the payment for calendar year 1997 under a market transition contract as soon as practicable after the date of enactment of the Supplemental Appropriations and Rescissions Act of 1997.

''(2) SUBSEQUENT PAYMENTS.—The Secretary shall make subsequent payments under a market transition contract not later than January 15 of each of calendar years 1998 through 2002.

''(f) PAYMENT RATE.—The Secretary shall calculate payments under a market transition contract for a calendar year based on the maximum rate that the Secretary determines may be paid using savings derived for the calendar year from the termination of Federal milk marketing orders, and the milk price support program, by amendments made by the Supplemental Appropriations and Rescissions Act of 1997.

''(g) CONTRACT PAYMENTS BASED ON PRODUCTION HISTORY.—

''(1) IN GENERAL.—

''(A) HISTORIC PRODUCTION.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary.

''(B) HUNDREDWEIGHTS.—Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

''(2) PRODUCERS WITH 3 OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least 3 calendar years during the period from 1992 through 1996, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the 3 years of the period in which the largest quantities of milk were marketed by the milk producer.

''(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—

''(A) IN GENERAL.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer a historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production.

''(B) ENDING DATE.—The Secretary shall not consider months of production after December 31, 1996.

''(h) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

''(1) the payment rate in effect for that fiscal year under subsection (f); and

''(2) the historic annual milk production for the milk producer determined under subsection (g).

''(i) ASSIGNMENT OF PAYMENTS.—

''(1) IN GENERAL.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer.

''(2) NOTICE.—The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

''(j) EFFECT OF VIOLATION.—

''(1) TERMINATION OF CONTRACT.—

''(A) IN GENERAL.—If a milk producer subject to a market transition contract violates any requirement described in subsection (b), the Secretary may terminate the producer's market transition contract.

''(B) FORFEITURE AND REFUND.—On the termination, the milk producer shall—

''(i) forfeit all rights to receive future payments under the contract; and

''(ii) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary.

''(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract to—

''(A) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary; or

''(B) accept an adjustment in the amount of future payments otherwise required under the contract.

''(k) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.''.

(b) TERMINATION OF MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(A) in the first sentence of paragraph (2)—

(i) in subparagraph (A), by striking ''Milk, fruits'' and inserting ''Fruits''; and

(ii) in subparagraph (B), by inserting ''milk,'' after ''honey,''; and

(B) by striking paragraphs (5) and (18).

(2) CONFORMING AMENDMENTS.—

(A) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking '', other than milk and its products,''.

(B) Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) in paragraph (6), by striking '', other than milk and its products,'';

(ii) in paragraph (7)(B), by striking ''(except for milk and cream to be sold for consumption in fluid form)'';

(iii) in paragraph (11)(B), by striking ''Except in the case of milk and its products, orders'' and inserting ''Orders'';

(iv) in paragraph (13)(A), by striking '', except to a retailer in his capacity as a retailer of milk and its products''; and

(v) in the first sentence of paragraph (17), by striking the second proviso.

(C) Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the second sentence.

(D) Section 10(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 610(b)(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) by striking clause (i);

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(iii) in the first sentence of clause (i) (as so redesignated), by striking ''other commodity'' and inserting ''commodity''.

(E) Section 11 of the Agricultural Adjustment Act (7 U.S.C. 611), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking ''and milk, and its products,''.

(F) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103–111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date that is 1 year after the date of enactment of this Act.

GRAMS AMENDMENT NO. 211

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 76 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS; TERMINATION OF CURRENT MILK MARKETING ORDERS AND MILK PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended to read as follows:

"SEC. 141. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

''(a) DEFINITION OF MILK PRODUCER.—In this section:

''(1) IN GENERAL.—The term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous

States on September 15, 1996, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use.

''(2) INCLUSIONS.—The term 'milk producer' includes a person considered to be a producer-handler that satisfies the requirements of paragraph (1).

''(b) MARKET TRANSITION CONTRACTS AUTHORIZED.—The Secretary shall offer to enter into a contract (referred to in this section as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for payments under the contract, to comply with applicable—

''(1) conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

''(2) wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

''(c) TIME FOR CONTRACTING; TERM.—

''(1) TIME FOR CONTRACTING.—The Secretary shall begin to offer to enter into market transition contracts as soon as practicable after the date of enactment of this paragraph.

''(2) TERM.—The term of each market transition contract shall extend through December 31, 2001.

''(d) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for calendar year 1997.

''(e) TIME FOR PAYMENTS.—

''(1) INITIAL PAYMENT.—The Secretary shall make the payment for calendar year 1997 under a market transition contract as soon as practicable after the date of enactment of the Supplemental Appropriations and Rescissions Act of 1997.

''(2) SUBSEQUENT PAYMENTS.—The Secretary shall make subsequent payments under a market transition contract not later than January 15 of each of calendar years 1998 through 2002.

''(f) PAYMENT RATE.—The Secretary shall calculate payments under a market transition contract for a calendar year based on the maximum rate that the Secretary determines may be paid using savings derived for the calendar year from the termination of Federal milk marketing orders, and the milk price support program, by amendments made by the Supplemental Appropriations and Rescissions Act of 1997.

''(g) CONTRACT PAYMENTS BASED ON PRODUCTION HISTORY.—

''(1) IN GENERAL.—

''(A) HISTORIC PRODUCTION.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary.

''(B) HUNDREDWEIGHTS.—Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

''(2) PRODUCERS WITH 3 OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least 3 calendar years during the period from 1992 through 1996, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the 3 years of the period in which the largest quantities of milk were marketed by the milk producer.

''(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—

''(A) IN GENERAL.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer a historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production.

''(B) ENDING DATE.—The Secretary shall not consider months of production after December 31, 1996.

''(h) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

''(1) the payment rate in effect for that fiscal year under subsection (f); and

''(2) the historic annual milk production for the milk producer determined under subsection (g).

''(i) ASSIGNMENT OF PAYMENTS.—

''(1) IN GENERAL.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer.

''(2) NOTICE.—The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

''(j) EFFECT OF VIOLATION.—

''(1) TERMINATION OF CONTRACT.—

''(A) IN GENERAL.—If a milk producer subject to a market transition contract violates any requirement described in subsection (b), the Secretary may terminate the producer's market transition contract.

''(B) FORFEITURE AND REFUND.—On the termination, the milk producer shall—

''(i) forfeit all rights to receive future payments under the contract; and

''(ii) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary.

''(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract to—

''(A) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary; or

''(B) accept an adjustment in the amount of future payments otherwise required under the contract.

''(k) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.''.

(b) TERMINATION OF MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(A) in the first sentence of paragraph (2)—

(i) in subparagraph (A), by striking ''Milk, fruits'' and inserting ''Fruits''; and

(ii) in subparagraph (B), by inserting ''milk,'' after ''honey,''; and

(B) by striking paragraphs (5) and (18).

(2) CONFORMING AMENDMENTS.—

(A) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking '', other than milk and its products,''.

(B) Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) in paragraph (6), by striking '', other than milk and its products,'';

(ii) in paragraph (7)(B), by striking ''(except for milk and cream to be sold for consumption in fluid form)'';

(iii) in paragraph (11)(B), by striking ''Except in the case of milk and its products, orders'' and inserting ''Orders'';

(iv) in paragraph (13)(A), by striking '', except to a retailer in his capacity as a retailer of milk and its products''; and

(v) in the first sentence of paragraph (17), by striking the second proviso.

(C) Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the second sentence.

(D) Section 10(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 610(b)(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) by striking clause (i);

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(iii) in the first sentence of clause (i) (as so redesignated), by striking ''other commodity'' and inserting ''commodity''.

(E) Section 11 of the Agricultural Adjustment Act (7 U.S.C. 611), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking ''and milk, and its products,''.

(F) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103–111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date that is 1 year after the date of enactment of this Act.

GRAMS AMENDMENT NO. 212

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 78 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPEAL OF CONSENT OF CONGRESS FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is repealed.

GRAMS AMENDMENT NO. 213

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 76 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPEAL OF CONSENT OF CONGRESS FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is repealed.

GRAMS AMENDMENT NO. 214

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him

to the amendment No. 77 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPEAL OF CONSENT OF CONGRESS FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is repealed.

MCCAIN AMENDMENT NO. 215

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the amendment No. 113 proposed by Mr. MCCAIN to the bill, S. 672, supra; as follows:

On page 2, line 14, delete the period at the end of the sentence and insert in lieu thereof the following: ''. The Secretary of the Interior may apply the policy referred to in this section to all counties nationwide that were declared Federal Disaster Areas at any time prior to 1997.''.

D'AMATO (AND OTHERS) AMENDMENT NO. 216

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUYE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD) submitted an amendment intended to be proposed by them to the bill, S. 672, supra; as follows:

At the end of the pending amendment, insert the following:

TITLE ____—WOMEN'S HEALTH AND CANCER RIGHTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Women's Health and Cancer Rights Act of 1997''.

SEC. ___2. FINDINGS.

Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

SEC. ___3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 702(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

''SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

''(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

''(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 1998;

whichever is earlier.

''(e) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 603 of the Newborns' and Mothers' Health Protection Act of 1996 and section 702 of the Mental Health Parity Act of 1996, is amended by inserting after the item relating to section 712 the following new item:

''Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act

(as added by section 604(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 703(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

"SEC. 2706. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTION SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

''(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

''(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 1998;

whichever is earlier.

''(e) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to group health plans for plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Subpart 3 of part B of title XXVII of the Public Health Service Act (as added by section 605(a) of the Newborn's and Mother's Health Protection Act of 1996) is amended by adding at the end the following new section:

"SEC. 2752. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

''The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

SEC. ___6. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 (relating to group health plan portability, access, and renewability requirements) is amended by redesignating sections 9804, 9805, and 9806 as sections 9805, 9806, and 9807, respectively, and by inserting after section 9803 the following new section:

"SEC. 9804. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) RECONSTRUCTIVE SURGERY.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

''(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

''(d) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance

with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

''(1) in the next mailing made by the plan to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 1998;

whichever is earlier.

''(e) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(f) PROHIBITION ON PENALTIES.—A group health plan may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (e).''.

(b) CONFORMING AMENDMENTS.—

(1) Sections 9801(c)(1), 9805(b) (as redesignated by subsection (a)), 9805(c) (as so redesignated), 4980D(c)(3)(B)(i)(I), 4980D(d)(3), and 4980D(f)(1) of such Code are each amended by striking ''9805'' each place it appears and inserting ''9806''.

(2) The heading for subtitle K of such Code is amended to read as follows:

''Subtitle K—Group Health Plan Portability, Access, Renewability, and Other Requirements''.

(3) The heading for chapter 100 of such Code is amended to read as follows:

''CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, RENEWABILITY, AND OTHER REQUIREMENTS''.

(4) Section 4980D(a) of such Code is amended by striking ''and renewability'' and inserting ''renewability, and other''.

(c) CLERICAL AMENDMENTS.—

(1) The table of contents for chapter 100 of such Code is amended by redesignating the items relating to sections 9804, 9805, and 9806 as items relating to sections 9805, 9806, and 9807, and by inserting after the item relating to section 9803 the following new item:

''Sec. 9804. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.''.

(2) The item relating to subtitle K in the table of subtitles for such Code is amended by striking ''and renewability'' and inserting ''renewability, and other''.

(3) The item relating to chapter 100 in the table of chapters for subtitle K of such Code is amended by striking ''and renewability'' and inserting ''renewability, and other''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

HOLLINGS AMENDMENTS NOS. 217–218

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 217

Strike all after the section number in the pending amendment and insert the following:

None of the funds available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the conduct of the year 2000 decennial census in a manner that is not the most cost effective and in a manner that will not provide for greater accuracy in estimating population than the year 1990 census.

AMENDMENT NO. 218

Strike all after the section number in the pending amendment and insert the following:

None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to make plans irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

FEINGOLD AMENDMENT NO. 219

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 84 submitted by him to the bill, S. 672, supra; as follows:

On page 4, line 6, strike out ''September 30, 1997'' and insert in lieu thereof ''June 30, 1998''.

FEINGOLD AMENDMENT NO. 220

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 83 submitted by him to the bill, S. 672, supra; as follows:

Strike out ''September 30, 1997'' and insert in lieu thereof ''June 30, 1998''.

FEINGOLD AMENDMENT NO. 221

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 76 submitted by Mr. SPECTER to the bill, S. 672, supra; as follows:

On page 3, line 1, strike ''The authority provided by subsection'' and insert in lieu thereof ''Subsection''.

REID (AND BAUCUS) AMENDMENTS NOS. 222–223

(Ordered to lie on the table.)

Mr. REID (for himself and Mr. BAUCUS) submitted two amendments intended to be proposed by them to the bill, S. 672, supra; as follows:

AMENDMENT NO. 222

Beginning on page 50, strike line 15 and all that follows through page 51 and insert the following:

The policy issued on February 19, 1997, by the United States Fish and Wildlife Service implementing emergency provisions of the Endangered Species Act and applying to 46 California counties that were declared Federal disaster areas shall—

(1) apply to all counties nationwide heretofore or hereafter declared Federal disaster areas at any time during 1997; or

(2) apply to repair activities on flood control facilities in response to an imminent threat to human lives and property; and

(3) remain in effect for the purposes of paragraphs (1) and (2) until the Assistant Secretary of the Army for Civil Works determines that 100 percent of emergency repairs have been completed, but shall not remain in effect later than December 31, 1998.

AMENDMENT NO. 223

Beginning on page 50, strike line 15 and all that follows through page 51 and insert the following:

The policy issued on February 19, 1997, by the United States Fish and Wildlife Service implementing emergency provisions of the Endangered Species Act and applying to 46 California counties that were declared Federal disaster areas shall apply to all counties nationwide heretofore or hereafter declared Federal disaster areas at any time during 1997 and shall apply to repair activities on flood control facilities in response to an imminent threat to human lives and property and shall remain in effect until the Assistant Secretary of the Army for Civil Works determines that 100 percent of emergency repairs have been completed, but shall not remain in effect later than December 31, 1998.

STEVENS (AND DOMENICI) AMENDMENT NO. 224

Mr. STEVENS (for himself and Mr. DOMENICI) proposed an amendment to amendment No. 131 submitted by Mr. BIDEN to the bill, S. 672, supra; as follows:

Strike line 5 of amendment #131 and all thereafter and insert the following:

The Secretary of the Interior or his designee shall serve as the alternate member of the Susquehana River Basin Commission appointed under the Susquehana River Basin Compact (Public Law 91–575) and the alternate member of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328).

STEVENS (AND DOMENICI) AMENDMENT NO. 225

Mr. STEVENS (for himself and Mr. DOMENICI) proposed an amendment to amendment No. 70 submitted by Mr. JOHNSON to the bill, S. 672, supra; as follows:

On line 7 of amendment #70, following ''(Public Law 99–662; 100 Stat. 4128)'', insert the following:

If the Secretary of the Army determines that the need for such restoration and improvements constitutes an emergency.

STEVENS (AND DOMENICI) AMENDMENT NO. 226

(Ordered to lie on the table.)

Mr. STEVENS (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to amendment No. 132 submitted by Mr. BIDEN to the bill, S. 672, supra; as follows:

Strike line 5 of amendment #132 and all thereafter and insert the following:

The Secretary of the Interior or his designee shall serve as the alternate member of the Susquehana River Basin Commission appointed under the Susquehana River Basin Compact (Public Law 91–575) and the alternate member of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328).

HOLLINGS AMENDMENT NO. 227

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to amendment No. 79 submitted by Mr. COATS to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . CHILDREN'S VIOLENCE PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Children's Protection from Violent Programming Act''.

(b) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Broadcast television, cable television, and video programming are—

(A) uniquely pervasive presences in the lives of all American children; and

(B) are readily accessible to all American children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent video programming at a young age have a higher tendency to engage in violent and aggressive behavior later in life than those children not so exposed.

(5) Children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(6) Children exposed to violent video programming have an increased fear of becoming a victim of violence, resulting in increased self-protective behaviors and increased mistrust of others.

(7) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(8) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(9) Age-based ratings systems do not allow parents to block programming based solely on violent content thereby rendering ineffective any technology-based blocking mechanism designed to limit violent video programming.

(10) If programming is not rated specifically for violent content and therefore cannot be blocked solely on the basis of its violent content, then restricting the hours when violent video programming is shown is the least restrictive and most narrowly tailored means to achieve a compelling governmental interest.

(11) Studies show that warning labels based on age restrictions tend to encourage children's desire to watch restricted programming.

(12) Technology-based solutions may be helpful in protecting some children, but may not be effective in achieving the compelling governmental interest in protecting all children from violent programming when parents are only able to block programming based on the age of the child and not on the violent content of the programming.

(13) Absent the ability to block programming based specifically on the violent content of the programming, the channeling of violent programming is the least restrictive means to limit unsupervised children from the harmful influences of violent programming.

(14) Restricting the hours when violent programming can be shown protects the interests of children whose parents are unavailable, unable to supervise their children's viewing behavior, do not have the benefit of technology-based solutions, or unable to afford the costs of technology-based solutions.

(c) UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.—Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following:

''SEC. 718. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING NOT SPECIFICALLY BLOCKABLE BY ELECTRONIC MEANS.

''(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to distribute to the public any violent video programming not blockable by electronic means specifically on the basis of its violent content during hours when children are reasonably likely to comprise a substantial portion of the audience.

''(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of the Children's Protection from Violent Programming Act. As part of that proceeding, the Commission—

''(1) may exempt from the prohibition under subsection (a) programming (including news programs and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 551(a) of the Telecommunications Act of 1996;

''(2) shall exempt premium and pay-per-view cable programming; and

''(3) shall define the term 'hours when children are reasonably likely to comprise a substantial portion of the audience' and the term 'violent video programming'.

''(c) REPEAT VIOLATIONS.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, immediately revoke any license issued to that person under this Act.

''(d) CONSIDERATION OF VIOLATIONS IN LICENSE RENEWALS.—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

''(e) DEFINITIONS.—For purposes of this section—

''(1) BLOCKABLE BY ELECTRONIC MEANS.—The term 'blockable by electronic means' means blockable by the feature described in section 303(x).

''(2) DISTRIBUTE.—The term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.''.

(d) ASSESSMENT OF EFFECTIVENESS.—

(1) REPORT.—The Federal Communications Commission shall—

(A) assess the effectiveness of measures undertaken under section 718 of the Communications Act of 1934 (47 U.S.C. 718) and under subsections (w) and (x) of section 303 of that Act (47 U.S.C. 303(w) and (x)) in accomplishing the purposes for which they were enacted; and

(B) report its findings to the Committee on Commerce, Science, and Transportation of the United States Senate and the Committee on Commerce of the United States House of Representatives,

within 18 months after the date on which the regulations promulgated under section 718 of the Communications Act of 1934 (as added by subsection (c) of this section) take effect, and thereafter as part of the biennial review of regulations required by section 11 of that Act (47 U.S.C. 161).

(2) ACTION.—If the Commission finds at any time, as a result if its assessment under paragraph (1), that the measures referred to in paragraph (1)(A) are insufficiently effective, then the Commission shall initiate a rulemaking proceeding to prohibit the distribution of violent video programming during the hours when children are reasonably likely to comprise a substantial portion of the audience.

(3) DEFINITIONS.—Any term used in this subsection that is defined in section 718 of the Communications Act of 1934 (47 U.S.C. 718), or in regulations under that section, has the same meaning as when used in that section or in those regulations.

(e) SEPARABILITY.—If any provision of this section, or any provision of an amendment made by this Act, or the application thereof to particular persons or circumstances, if found to be unconstitutional, the remainder of this Act or that amendment, or the application thereof to other persons or circumstances shall not be affected.

(f) EFFECTIVE DATE.—The prohibition contained in section 718 of the Communications Act of 1934 (as added by subsection (c) of this section) and the regulations promulgated thereunder shall take effect 1 year after the regulations are adopted by the Commission.

STEVENS AMENDMENT NO. 228

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 110 submitted by Mr. MCCAIN to the bill, S. 672, supra; as follows:

In amendment number 110, beginning with the word ''provisos:'' on line 2, strike all through ''proposal'' on line 6 and insert in lieu thereof ''sentence:

''Consistent with the restriction in the preceding sentence and within 90 days of the date of enactment of this Act, the Secretary of the Interior, in consultation with State and local government officials in each affected State, shall submit to Congress a proposal that defers to State law and incorporates the rules, regulations, and policies applicable to the Bureau of Land Management regarding rights of way established pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such rules, regulations, and policies were in effect prior to October 1, 1993, and the recommendations of affected State and local government officials''.

GREGG AMENDMENT NO. 229

(Ordered to lie on the table.)

Mr. GREGG submitted an amendment intended to be proposed by him to the bill, S. 672, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 326. SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1)(A) the officers of the Federal Government and the members of the European Union have had lengthy negotiations with regard to the establishment of a mutual recognition agreement with respect to good manufacturing practice (GMP) inspections of medical devices and pharmaceuticals and the processes of approving medical devices;

(B) in December 1996, the President urged the officers of the Federal Government and the members of the European Union to resolve the issues with respect to the negotiations, and enter into and implement the mutual recognition agreement;

(C) the officers of the Federal Government and the European Union Commission are meeting to resolve the issues.

(D) the mutual recognition agreement would enhance the trade relationships between the United States and the European Union and generate regulatory savings with respect to medical devices and pharmaceuticals; and

(2) the harmonization of international standards could facilitate commerce between the United States and foreign countries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1)(A) the United States should continue to press its negotiating objectives in order to maintain both the high United States health and safety standards and to facilitate trade between the United States and the European Union.

(B) assuming the European Union Commission demonstrates the necessary flexibility, the officers of the Federal Government and the European Union Commission should on, an expedited basis, conclude negotiations, enter into, and implement a mutual recognition agreement with respect to—

(i) good manufacturing practice inspections for medical devices and pharmaceuticals; and

(ii) the processes of approving medical devices; and

(C) the Secretary of Health and Human Services, in coordination with the USTR and other appropriate agencies, should facilitate the conclusion of negotiations between the European Union Commission and the officers of the Federal Government with respect to the mutual recognition agreement;

(2) the Secretary of Health and Human Services should separately participate in meeting with foreign governments to discuss and reach agreement on methods and approaches to harmonize key regulatory requirements and to utilize international standards and

(3) the Office of International Relations of the Department of Health and Human Services (as established under section 803 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 383)), in coordination with USTR, should have the responsibility of ensuring that the process established by the Secretary of Health and Human Services and foreign countries, to harmonize international standards, is continuous and productive.

(4) This section shall become effective one day after the date of enactment.

FEINSTEIN AMENDMENT NO. 230

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to amendment No. 171 submitted by Mr. REID to the bill, S. 672, supra; as follows:

On line 3, strike all that follows and insert the following:

''(5) FLOOD CONTROL LEVEES.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing or reconstructing a federal or non-federal flood control levee for any area subject to flooding.''.

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

''(3) FLOOD CONTROL LEVEES.—For purposes of this subsection, an activity of a federal or non-federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a federal or non-federal flood control levee for any area subject to flooding.''.

HOLLINGS (AND OTHERS) AMENDMENT NO. 231

Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. GREGG, and Mr. GLENN) proposed an amendment to the bill, S. 672, supra; as follows:

On page 47 strike lines 14 through 18 and insert the following:

SEC. 303. None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to make irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

CONRAD AMENDMENTS NOS. 232–234

Mr. STEVENS (for Mr. CONRAD) proposed three amendments to the bill, S. 672, supra; as follows:

AMENDMENT NO. 232

On page 9, line 21, strike ''emergency insured'' and insert in lieu thereof ''direct and guaranteed''.

On page 9, line 25, strike ''$18,000,000, to remain available until expended'' and insert in lieu thereof ''$28,000,000, to remain available until expended, of which $18,000,000 shall be available for emergency insured loans and $10,000,000 shall be available for subsidized guaranteed operating loans''.

On page 10 line 3, strike ''$18,000,000'' and insert in lieu thereof ''$28,000,000''.

AMENDMENT NO. 233

On page 74, between lines 4 and 5, insert:

''FOOD AND CONSUMER SERVICE

THE EMERGENCY FOOD ASSISTANCE PROGRAM

Notwithstanding section 27(a) of the Food Stamp Act, the amount specified for allocation under such section for fiscal year 1997 shall be $80,000,000.''

AMENDMENT NO. 234

On page 13, line 1, strike ''$161,000,000'' and insert ''$171,000,000''.

On page 13, line 15, strike ''$10,000,000'' and insert ''$20,000,000''.

KERREY (AND DORGAN) AMENDMENT NO. 235

Mr. STEVENS (for Mr. KERREY, for himself and Mr. DORGAN) proposed an amendment to the bill, S. 672, supra; as follows:

At the appropriate place in the bill insert the following new language:

SEC. . Section 45301(b)(1)(A) of title 49, United States Code, is amended by inserting before the semicolon ''and at least $50,000,000 in FY 1998 and every year thereafter''.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, May 14, 1997, at 9:30 a.m. to receive testimony on the Campaign Finance System for Presidential Elections: The Growth of Soft Money and Other Effects on Political Parties and Candidates.

For further information concerning this hearing, please contact Stewart Verdery of the committee staff on 224–2204.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled ''Oversight of SBA's Finance Programs—Part II.'' The hearing will be held on May 15, 1997, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 7, 1997, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent on behalf of the

Governmental Affairs Committee to meet on Wednesday, May 7, at 10 a.m. for a hearing on government secrecy.

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

COMMITTEE ON THE JUDICIARY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 7, 1997 at 10 a.m. to hold a hearing on S. 507, the Omnibus Patent Act of 1997.

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

COMMITTEE ON THE JUDICIARY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session on the Senate on Wednesday, May 7, 1997 at 2 p.m. to hold a judicial nominations hearing.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, May 7, 1997, at 9:30 a.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for an oversight hearing on SBA's finance programs on Wednesday, May 7, 1997, which will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 7, 1997, at 2 p.m. to hold a closed hearing on the nomination of George J. Tenet to be Director of Central Intelligence.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Senate Committee on Commerce, Science and Technology be authorized to meet on May 7, 1995, at 2 p.m. on the National Science Foundation and Technology Administration fiscal year 1998 budgets.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Wednesday, May 7, 9:30 a.m., on the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA] and safety issues and programs.

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

ADDITIONAL STATEMENTS

WENATCHEE NATIONAL FOREST

● Mr. GORTON. Mr. President, it is my pleasure today to express my deep gratitude and pride in recognizing the Wenatchee National Forest as a recipient of the Salvage Sale Showcase Award under the U.S. Forest Service's Fiscal Year 1995 Timber Salvage and Recovery Program.

The Wenatchee National Forest encompasses 2.2 million acres of Washington's finest forest lands—lands providing for an abundance of recreational activities and employment and resource opportunities for Washington State residents. In July 1994, however, a lightning storm followed by a severe fire, threatened to suddenly demolish this majestic landscape within days.

When the last flame had been extinguished, the damage was daunting. Three fires of unprecedented intensity had consumed 186,000 acres of Wenatchee National Forest lands, destroying 37 homes and 76 outbuildings and threatening the lives of human beings who had dared to cross its massive path. Firefighters from various parts of the country, 8,000 in all, fought valiantly to save the precious resources endangered by runaway wildfires. It is to their credit that so many homes, communities, and human lives are intact today.

Determined and resolute, the employees of the Wenatchee National Forest went to work. Less than 2 months after the first spark ignited, the largest emergency rehabilitation effort ever undertaken by the Forest Service was launched with the cooperation of other Federal, State, county, and local agencies. The rehabilitation effort addressed and executed projects which included erosion control, road rehabilitation, wildlife habitat, helicopter seeding, and collaborative learning. The effort was successfully completed by mid-November 1994, for $18 million—$2 million under budget.

With the worst behind them, Forest managers looked ahead toward long-term forest health and sustainability. Interdisciplinary teams consisting of personnel from all six ranger districts combined their knowledge and know-how to develop the necessary environmental documents. Within 11 months, these teams assembled an astounding 10 environmental analyses and 1 environmental impact statement. Science-based decisionmaking rendered a total of 22 timber sales, resulting in landscape level fuel treatment on over 30,000 acres. Nearly 138 million board feet of fire killed or damaged timber was offered for sale.

Salvage was the key to this vision. Removing dead and dying trees provided the much needed opportunity to reduce stress and preserve larger, healthier trees. In addition, salvage logging in the Wenatchee has enhanced wildlife habitat and supported the perpetuation of ancient forest conditions. Mr. President, it is for this very reason that I sponsored timber salvage legislation in the spring of 1995. Not only was the forest able to begin healing and promoting catastrophic fire prevention through salvage operations, it was also able to provide a significant amount of timber for the public benefit.

In conclusion, I want to congratulate and commend the efforts of all of those who contributed to the successful and innovative restoration of the Wenatchee National Forest. Their accomplishments over the past 3 years are proof positive that we can effectively balance environmental and economic concerns in our national forests if we give local forest managers the flexibility they need to do their jobs. The employees of this forest are outstanding examples of the teamwork desperately needed throughout our national forest system. Because of their professionalism, tenacity, and courage, the Wenatchee National Forest is on its way back to health and sustainability. My congratulations to them on a job well done. Keep up the good work.

WEST VIRGINIA MOTHER OF THE YEAR, KELLY L. GEORGE

● Mr. ROCKEFELLER. Mr. President, it is my great honor today to rise to congratulate Kelly L. George of Cabell County in West Virginia. Kelly has been selected by American Mothers, Inc., as the West Virginia Mother of the Year, and I commend them for their choice.

As a father of four children, I know how important it is to have a strong mother figure in the family, and Kelly is exactly that for her family. She continues to instill the value of high academic achievement to her children Vincent, Victor, Valerie, Von, and Vanessa. She works very hard to provide a spiritual foundation for her children, and she also takes on the enormously important task of teaching strong family values.

But this is not all that Kelly George does. Like my wife Sharon, Kelly balances her tasks as a mother with her duties in an active career. Kelly has an impressive list of accomplishments outside the household. She is on the Thomas Hospital Board of Trustees, is a Kanawha County Parks and Recreation Commissioner, and chair of the West Virginia Board of Risk and Insurance Management. She is also a life member of General Federation of Women's Clubs and the National Committee of State Garden Clubs, as well as international chair for the Pilot International World Association. On top of all this, she is a legislative analyst, a historian, and the author of ''Rhythms, Remembrances and Recipes.''

Imagine combining all of these activities with her educational background in the West Virginia public schools, Marshall College, Cambridge School of Radio and Television, and Drake School of Drama and with the tremendous job of being a mother. Most of us would find difficulty in staying active just in these tasks outside the home, but Kelly is able to balance those with her role as a mother.

I know Kelly personally and know that she is a phenomenal person who is enormously talented. I am proud to say that Kelly George is the West Virginia Mother of the Year for 1997–98. And I congratulate her on this tremendous achievement.●

HONORING ARMAND D'AMATO, SR.

● Mr. D'AMATO. Mr. President, I rise to pay tribute to my father, Mr. Armand D'Amato, Sr. of Island Park, NY. He is being honored on May 8, 1997 for his role as the founder of the Island Park Chamber of Commerce, which celebrates its 50th anniversary this month. I would like to take this opportunity to commend my father for his lifelong commitment to making his community a richer, more prosperous and safer place to live.

One of Armand D'Amato's most important and lasting contributions to his community was the founding of the Island Park Chamber of Commerce in 1947. The chamber was, and remains today, a vital tool in developing the economic potential of Island Park. As a small businessman and the first president of the chamber of commerce, serving in that position for 9 years, dad recognized that economic prosperity should not be taken for granted and that only through vigilance and hard work is a community's economic well-being safeguarded.

Armand D'Amato was born in Newark, NJ, the second of nine children born to Italian immigrants who traveled to America from Avalino, Italy while still teenagers. As a child, he rarely heard English spoken in his home. It was not until he attended elementary school at the age of 5 that he began to learn English. At a time when Italian immigrants in America were subjected to unfair discrimination, the obstacles dad encountered as a child taught him valuable lessons about the realities and hardships of life, and instilled in him a determination to succeed.

After earning his bachelor's degree from Montclair State Teachers College and his master's from New York University, Dad served his country overseas during World War II. He and my mother, Antoinette, settled in Island Park in 1945. Since that time, he has been energetically involved in the public life of Island Park.

Armand D'Amato's dedication to his community did not stop with the founding of the Island Park Chamber of Commerce. He was also instrumental in founding the American Alliance to Combat Crime and Violence, an organization sponsored by the Island Park Chamber of Commerce dedicated to making Island Park a safer place to live and raise a family. He also founded the Island Park Taxpayer Association in 1953, the Tri-Community Council of Island Park in 1954 and served as district governor of the Nassau County Lion's Club in 1963.

During the 1970's and 1980's, dad served as director of business research at the nassau County Department of Commerce and Industry and organized the Business Resource Center at Nassau Community College.

My father's vigorous commitment to public service and the values he has instilled in his family are reflected by the career paths chosen by his two sons. My brother, Armand D'Amato, Jr., served in the New York State Assembly for fourteen years. And my own career in public service was certainly inspired by his active involvement in the community.

Armand D'Amato has worked his entire life to make Island Park a better place to live. His dedication and commitment to the concept of community service has had an immeasurable impact on the lives of the citizens of Island Park. My father personifies the spirit of community leadership to which others should aspire, and I am proud to join in honoring him.

NATIONAL ARSON AWARENESS WEEK

● Mr. CLELAND. Mr. President, I rise today to highlight National Arson Awareness Week, a massive community based arson prevention program sponsored by the Federal Emergency Management Agency [FEMA], which began Sunday, May 4, and continues through Saturday, May 10.

This program is of particular importance to me because a city in my own State—Macon, GA—has been chosen as one of the three pilot cities. The program will focus on a week of special events aimed at educating high-risk neighborhoods on how to prevent arson and on the importance of getting community members involved. The success of this program is vital not only in Macon but in the other two pilot cities, Charlotte, NC, and Utica, NY, because they will serve as models for future American cities.

National Arson Awareness Week was inspired by the national arson prevention initiative, which was announced by President Clinton on June 19, 1996, in response to the rash of church burnings, most of which occurred in the South. The President asked James Lee Witt, Director of FEMA, to coordinate, in partnership with the Department of Justice, the Department of the Treasury, and the Department of Housing and Urban Development, available Federal, State, local, and private resources for arson prevention.

Arson is a growing national problem. One out of every four fires in this country is intentionally set. Over 500,000 arson fires occur each year, causing an estimated 750 fatalities and over $2 billion in property damage.

These acts of violence can destroy the very base of a community, but they can be prevented. Mr. President, I ask that you and all of my colleagues recognize this week and the three cities for taking firm hold of this problem and proudly pulling their communities together to prevent future arson fires.●

C.W. ''MAC'' McCLELLAN

● Mr. ABRAHAM. Mr. President, I rise today to pay my respects to a longtime dear friend, C.W. ''Mac'' McClellan. Mac passed away on Sunday, May 4th, at his home in Harbor Springs, MI, following a long and valiant fight with cancer.

My wife Jane and I came to know Mac during his countless years of volunteer service to the Michigan Republican Party. While I have met many exceptional people during my time in politics, I have yet to encounter anyone more dedicated to the causes they believed in as was Mac, nor do I anticipate I will anytime soon.

To his wife Ruth and son David, my deepest sympathies. Please know you and your loved ones are in my thoughts and prayers.

Any one of a litany of titles could aptly describe Mac: Army Air Corps pilot, Air Force Reserves lieutenant colonel, General Motors executive, civic activist, father, and husband, to name just a few. For me, Mac will always be warmly remembered as my friend.

Mac McClellan never asked any more of others than he was willing to give of himself. He was blessed with a tireless devotion and a boundless spirit, and those who knew Mac are indebted to him for leaving our lives richer than he entered them. He will be greatly missed, but not soon forgotten.●

KOSRAE AND THE FEDERATED STATES OF MICRONESIA: OUR FRIENDS IN THE SOUTHWEST PACIFIC

● Mr. AKAKA. Mr. President, for the last two weeks, I have had the great pleasure of sponsoring two Congressional fellows from the island of Kosrae. Mr. Lyndon Jackson and Mr. Charleton Timothy, legislative aides for the Government of Kosrae, have been working in my office since April 22 and will be leaving on May 9. They have been sent to Washington at the request of the speaker of the Kosrae State Legislature, the Honorable Hiteo S. Shrew, to learn more about our Nation's legislative and governmental processes.

For their benefit, I thought I might take this opportunity to make some observations about Kosrae. As some of my colleagues know, Kosrae is one of the most beautiful islands in the Pacific, located just 5 degrees north of the

equator, about 2,500 miles southwest of Hawaii. While only 42 square miles in size, it is well known throughout the region for its lush topography, beautiful beaches, clear blue waters, and rich coral reefs.

I should tell my colleagues that the splendor of Kosrae is not exaggerated. My one and only visit to Kosrae took place fifty years ago this year, shortly after the end of World War II, when I had the good fortune to help crew the *Morning Star,* a schooner sent by the churches of Boston, MA, as part of a Christian mission to islands in Micronesia. The island was remarkably beautiful at that time, and I have been told that this continues to be the case.

Although experiencing significant cultural changes over the past several decades, Kosrae's 8,000 inhabitants enjoy a casual, family oriented lifestyle. Fishing is a significant recreational and commercial activity. Kosrae is a major exporter of tuna to Guam and other Pacific islands. The island also has an abundance of citrus products and is particularly known for its sweet tangerines. And Kosrae handicrafts, such as their unique coconut baskets and trays, are renowned throughout the region.

Kosrae is a single-island state that is part of the Federated States of Micronesia [FSM], formerly known as the United Nations Trust Territory of the Pacific Islands. As trustee of the territory in the years following World War II, the United States was responsible for preparing the islands for eventual self-government, by helping develop their political, economic, and social institutions.

In 1978, the four territorial districts of Yap, Chuuk, Pohnpei, and Kosrae organized to form the Federated States of Micronesia, an action which became effective 1979 after the adoption of the Federation's draft constitution. The Federated States comprise 607 small islands, totaling only 270 square miles of land, spread across more than 1 million square miles of the Pacific.

In 1986, after years of negotiations with our government, the FSM entered into the Compact of Free Association. The trusteeship was terminated at that time. The United States exercised no further administrative responsibility, and the island nation became fully self-governing. The terms of the compact generally provided for a framework of United States assistance, in return for which the FSM delegated security responsibility to the United States. This agreement has been in effect since November of 1986 with renegotiation of its financial provisions to start in November of 1999.

Mr. President, in the period since the signing of the Compact, the close relationship between the United States and FSM has in some respects become stronger. The FSM has established constitutional governments at the national, state, and municipal levels that are patterned after our own. And in appreciation for our investment in Micronesia's quest for self-sufficiency, the FSM has reciprocated by maintaining strong political, economic, educational, and cultural ties.

The FSM has also been a strong supporter in the United Nations on key issues of concern to the United States For instance, the FSM has consistently voted with the United States on such major issues as the situation in Bosnia, the Middle East peace process, and human rights in Iran and Iraq.

Mr. President, I expect the strong relationship between the peoples of Micronesia and the United States to grow stronger and richer in the years ahead, as the FSM's experiment in American-style democracy continues. As the November 1999 date for renegotiating the compact of Free Association draws closer, I hope that my colleagues who have not yet had an opportunity to do so will take the opportunity to visit this unique and lovely place, and to acquaint themselves with the needs of Micronesia's people as well as the unique opportunities that the region offers our nation.●

FAMILY-FRIENDLY TELEVISION

● Mr. BOND. Mr. President, today I wish to talk about yet another sign of the decline of American culture.

What ever happened to the family hour? This is the complaint I have heard from many moms and dads in Missouri.

It wasn't so long ago that parents could sit down with their school age and even preschool children to watch television from 7–8 p.m. and not be worried about the content of the programs.

For many years, the major television networks voluntarily ran programs during the first hour of prime time that were considered family friendly, that is, without profanity, violence, or adult themes.

Shows like ''Happy Days,'' ''MASH,'' ''The Waltons,'' ''Little House on the Prairie,'' and ''The Cosby Show'' gave us wonderful family entertainment in the evening, not to mention the fact that they were great revenue producers for the networks.

Now, however, if you turn on the television at that time, you are met with images so graphic, so sexual, or so violent, that you have to channel flip to keep your children from seeing them, or have them leave the room, or turn the television off.

The Media Research Center here in the Washington area will issue a report later today on the content of family hour programming.

Last year they found that vulgar language was used commonly during the first hour of prime time. They found that sex outside of marriage was portrayed during the family hour eight times more often than sex within marriage.

Mr. President, American families have enough forces working against them—struggling to make ends meet, competing priorities, not enough time together—not to be able to relax together during the evening and enjoy a television program that isn't violent, or graphic, or full of profanity.

That is why I am joining with many other Senators and Congressmen to ask Hollywood television executives to bring back the family hour. We're not mandating this. We're not passing a law to force it. We're simply putting a little polite pressure on the networks to ask them to think about American families when they set their programming.

Now, they may take the line that it is up to parents to make sure they monitor their children's TV watching. And I agree. But, what we are saying is, give parents some good choices. Give us programming that we can watch together, as a family.●

ARSON EDUCATION

● Mr. GLENN. Mr. President, arson poses a serious but preventable threat to our society. This week, the Federal Emergency Management Agency [FEMA] is launching a community-based campaign entitled, ''Target Arson.''

Developed by FEMA in conjunction with the National Arson Prevention Initiative, ''Target Arson'' will educate young people on the dangers of fire, the importance of parental control of access to matches and cigarette lighters, and the need for adults to set good examples for children. I have long been a supporter of efforts to prevent and combat arson. During my second term in the Senate, I sponsored legislation that was enacted that requires the Federal Bureau of Investigation [FBI] to include arson statistics in its Uniform Crime Reports. This legislation increased our ability to detect, prevent, and prosecute arson crimes.

One out of four fires is intentionally set. More than 500,000 fires were set deliberately last year, over one-half of which were set by juveniles. These fires killed more than 500 people and caused approximately $1 billion in property damage. Through this education campaign, ''Target Arson'' will emphasize the 100 percent preventable nature of this offense.

Mr. President, I join FEMA and its director, James Lee Witt, in supporting this important educational program. I urge my colleagues to support arson education in the schools in their States.●

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, after consultation with the Republican leader, pursuant to Public Law 104–201, appoints Charles B. Curtis, of Maryland, to the Commission on Maintaining United States Nuclear Weapons Expertise.

The Chair, on behalf of the Democratic leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the following appointments to the Senate Arms Control Observer Group: The Senator from Massachusetts [Mr. KERRY] and the Senator from Illinois [Mr. DURBIN].

ORDERS FOR THURSDAY, MAY 8, 1997

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 a.m. on Thursday, May 8.

I further ask unanimous consent that, on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and there be a period for morning business until the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each with the following exceptions:

Senator FEINGOLD will be allowed 20 minutes; Senator DOMENICI, or his designee, 15 minutes; and Senator GORTON, 10 minutes.

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

Mr. STEVENS. Mr. President, I further ask unanimous consent that following morning business, the Senate resume consideration of the pending business, S. 672, and that Senator WARNER be recognized at that time in order to call up an amendment.

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

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Senators, tomorrow, following morning business, the Senate will resume consideration of the supplemental appropriations bill.

At 10 a.m. Senator WARNER will be recognized to offer his amendment.

It is the intention of the manager—myself—that a vote to table the Warner amendment occur sometime around 10:30 a.m. Senators should be prepared to vote on the Warner amendment at 10:30 a.m.

There is not a time agreement on that. But when this Senator can get the floor, I will make a motion sometime around 10:30 to table the Warner amendment.

Following the disposition of the Warner amendment, it is our expectation to continue to debate the Byrd amendment. And additional votes will occur on Thursday. It is the intention of the leadership still to try to finish this bill. I felt we could finish it by tonight, but it will be finished by the time we close tomorrow night because there are events planned for the weekend. We will finish the bill tomorrow night.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. STEVENS. Mr. President, pursuant to the previous request, I ask that the Senate stand in adjournment.

There being no objection, the Senate, at 8:02 p.m., adjourned until Thursday, May 8, 1997, at 9:15 a.m..