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Senate

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by the former national chaplain of the Veterans of Foreign Wars, Rev. Lyle N. Kell. He was invited by Senator PATTY MURRAY.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Rev. Lyle N. Kell, offered the following prayer:

Heavenly Father, Almighty God, Creator and Sovereign Ruler of all Creation, I pray that Your mighty controlling and sovereign power will be felt here today in this great Hall of our U.S. Senate so that the laws enacted will cause peace and justice in our great Nation and throughout the world. Help us to understand that You are a loving and compassionate God and Your power can be felt as we understand Your great love for people.

I pray You will keep us from the sin of forgetting that You are the one who sets up kingdoms and puts down kingdoms, and You cause that to happen through the minds and prayers of men and women. You have challenged us through Your Word that we who are ruled should pray for those who rule and those who rule should always seek God's will in their decisions. For those who rule in America watch over the souls of all Americans, knowing that they must give account to You, O God, and let them govern with joy and not grief, for that is unprofitable.

By Christ, therefore, let us offer the sacrifice of praise to God continually; that is the fruit of our lips giving thanks to His name. But to do good and to communicate, forget not, for with such sacrifices God is well pleased. And even now, Heavenly Father, help these men and women to learn the art of extending grace and understanding to those of a contrary mind, a different mindset than one's own, even as You have extended Your sovereign grace and compassion to each of us. I pray in the name of our wonderful and holy God. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is now recognized.

Mr. BROWNBACK. Thank you very much, Mr. President. I would like to yield the floor for a minute. The guest Chaplain is the guest of the Senator from Washington. I would like to yield the floor to the Senator from Washington for an introduction.

The PRESIDENT pro tempore. The able Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

CHAPLAIN LYLE KELL

Mrs. MURRAY. I want to take this opportunity to thank Chaplain Kell for his inspired prayer. And I also want to thank our Senate Chaplain for working to ensure Chaplain Kell, a resident of our State of Washington, the opportunity to provide spiritual inspiration today to the Senate.

From the shores of Europe to the community of Arlington, WA, Chaplain Kell's record of service to our Nation is impressive. He served in the U.S. Navy during World War II from June 1943 to November 1946 as a gunner with the armed guard, the unit that protected merchant marine ships from enemy attack. He received many service decorations, including medals for the European African Middle Eastern campaign and the Asiatic Pacific campaign.

Chaplain Kell was ordained as a minister in 1965 and served as the national chaplain to the Veterans of Foreign Wars of the United States from 1995 to 1996. Born and raised in Skagit Valley, WA, Chaplain Kell is now a resident of Arlington and has been a member of VFW Post 1561 since 1985. Prior to becoming VFW national chaplain, he served as the VFW post, district, department, and western conference chaplain.

As a member of the Senate Veterans Affairs Committee, I am proud that Chaplain Kell has been able to continue his dedicated service to our Nation today as the Senate guest Chaplain. I wish to honor Chaplain Kell's wife, Dorothy, and his daughter, Brenda, who have accompanied him here to Washington, DC. And I would also like to extend my most heartfelt good wishes to them and to you, Chaplain Kell, as you celebrate your birthday today.

Thank you, Lyle Kell, for all of your dedicated service to American veterans and to our Nation. Your work to promote our country's freedoms has benefited countless individuals across this Nation and around the world.

Thank you, Mr. President.

Mr. BROWNBACK. Mr. President, I appreciate very much the comments of the Senator from Washington. It certainly is appropriate we open with a prayer in the Senate.

SCHEDULE

Mr. BROWNBACK. Mr. President, on behalf of the majority leader, I announce that today, 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 that a motion to table the Warner amendment occur at approximately 10:30. Therefore, Senators should be prepared to vote on the Warner amendment at 10:30.

Following disposition of the Warner amendment, it is the expectation of the leader that the Senate continue to debate the Byrd amendment. Subsequently, Senators should anticipate additional votes throughout today's session. It is the intention of the majority

leader to complete action on this important legislation as early as possible today.

I certainly thank my colleagues for their attention.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business with Senators permitted to speak therein.

Mr. FEINGOLD addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair.

CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. I rise today, with my friend and colleague, Senator WELLSTONE, and others to start up the conversation again about the need to clean up our election system and pass meaningful, bipartisan campaign finance reform. I am pleased to announce that as of yesterday the so-called McCain-Feingold legislation now has reached a milestone of having 30 cosponsors in the Senate, with the addition of the distinguished senior Senator from West Virginia, Senator ROBERT BYRD, as a cosponsor.

The senior Senator from Minnesota, of course, was a leader on this issue long before I got here and continues to be, not only in our legislation but on other aspects and ideas about how we can clean up this system.

One of the things that really highlights the importance of this issue is the type of work that was recently done by Public Citizen in releasing a report that lays out the fact that the McCain-Feingold bill, and I am sure other alternatives as well, really would make a difference, that had we done the job last July the elections of 1996 would have looked very different.

They have analyzed three components of the legislation. One is the voluntary limits on overall spending that candidates would agree to in order to get the benefits of the bill. They analyzed the fact that the McCain-Feingold bill would ban soft money completely, as any good reform proposal must do. And Public Citizen analyzed the requirement in the bill that if you want the benefits of the bill, you cannot get more than 20 percent of your total campaign contributions from political action committees.

Very briefly, since I want to obviously hear from the Senator from Minnesota, I just want to report what the figures were. Over the last three election cycles, had these provisions been in the law and had all candidates for the U.S. Senate in 1992 and 1994 and 1996 abided by the limits, $700 million less would have been spent on these campaigns—$700 million. That is just for Senate races in three cycles; in other words, just one whole series of Senate races for 100 seats—$700 million of less spending. It would have been $259 million in less spending overall by candidates because they would have agreed to an overall limit for their State; $50 million less in political action committee receipts and $450 million less in soft money.

I wish to indicate, since some get in the Chamber and say this is a proincumbent bill, the Public Citizen report shows it is just the opposite, absolutely the opposite of a proincumbent bill. This is a prochallenger bill. Ninety percent of the Senate incumbents over the last three election cycles exceeded the limits for the McCain-Feingold bill—90 percent of the incumbents. Only 24 percent of the challengers exceeded these limits. So the challengers in most cases would have been the ones who would have been more likely to get the benefits of the bill; 81 percent of the incumbents exceeded the 20 percent PAC limit and only 13 percent of the challengers exceeded the 20 percent PAC limit.

So there are many arguments that are posed against the bill, most of which do not hold water, including the notion that the bill is unconstitutional. We will address that on another occasion, but today I thought I would just use a few minutes of this time to indicate that this notion that this bill is protection for incumbents is false and just the opposite is the case as is indicated by Public Citizen.

At this point I would like to——

Mr. WELLSTONE. Mr. President, I wonder whether the Senator will yield for a question.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Minnesota.

Mr. WELLSTONE. I was listening to my colleague from Wisconsin, and I thank him for leading this reform effort, in fact I thank Senator MCCAIN and other Senators as well. I know the Presiding Officer has done a lot of work and has spoken out about trying to really reduce the role of big money in politics.

The question I ask my colleague has to do with this whole issue of incumbents and challengers. It has been said sometimes that the debate about campaign finance reform is really less a debate between Democrats and Republicans and all too often is more a debate between ins and outs; that, if anything, part of the inertia here and the slowness to embrace reform and the fierce opposition has to do with the fact that right now the system is really wild for those people who are in office.

My question for my colleague is does he feel some sense of urgency and will he consider coming to the floor every week now with other colleagues—the two of us are sort of getting started. There are a number of Senators who feel very strongly that this is a core issue, the influence of money in politics, and the most important thing we could ever do would be to pass a significant reform measure. Is my colleague from Wisconsin beginning to feel as though it is really going to be important that every week from now on for Democrats and Republicans who are serious about reform to be out on the floor and beginning to frame the issues, especially focusing on what are going to be the solutions?

Mr. FEINGOLD. I do really thank the Senator from Minnesota. In fact, I would very much like to join with him in coming out here each week, assuming we are permitted the time. This is the time to start this effort in the Chamber. We had great help from the President of the United States in endorsing the legislation and getting us off to the right start at the beginning of the year when there was a great deal of attention paid to this issue.

Obviously, there are other priorities; the whole issue of balancing the budget has taken much of center stage for the last few weeks and obviously is now on a track, whether one likes it or not, that is moving in a direction that will be resolved one way or another.

That is why I think this is the time, as the Senator from Minnesota is suggesting, to have an awful lot of the conversation here on the floor between now and the day we pass campaign finance reform be about this issue. We have to talk to the American people this way and in every other way about what the real facts are about this issue because it has been often distorted.

For example, the point of the Senator from Minnesota about whether or not this is really a Republican-Democrat issue. It is not. The Public Citizen report, for example, points out there is not a lot of difference between the parties in terms of this issue: 54 percent of the Democrats who ran for the Senate in the last three election cycles exceeded the limits; 59 percent of the Republicans exceeded it. It is not a vast kind of difference, and the Members here really know that. The problem is somehow encouraging Members, incumbents here to realize that their lives and their jobs would be better and the opportunities for others who want to run for office would be better if we do this. But I think we do need to be out here talking about this, if not on a daily basis at least on a weekly basis, to let people know this is a serious effort and that we do intend to succeed.

Mr. WELLSTONE. Mr. President, I wonder if my colleague will allow me to share a concern with him and get his response. Let me tell you what my worry is. I do not have any doubt that people in the country know that too much money is spent, that they know there is too much special interest access, that they know all of us spend too much time raising money. I have no doubt that people understand that. As a matter of fact, I think one of the things that is making it more and more difficult for people to get involved at the grassroots level is when they see these huge amounts of money contributed by some folks and some interests and then they get a letter: We would like you to make a $10 contribution and be involved in our grassroots effort.

They are a little cynical, and they figure: Come on, give us a break; we know the people who are most involved in this process. It is not us and our family.

This is the core issue for a representative democracy. But my concern is that the Rules Committee starts next week, and there will be an effort, as I have at least looked at a preliminary list of witnesses—not to talk about any particular witness—there is going to be a pretty strong effort on the part of the Rules Committee, which I have called in the Chamber of the Senate, a merry-go-round for reform, to basically frame this issue and the issue will be not enough money is spent; all we need is disclosure so that we can make people realize how bad it is, without doing anything to make it better. As I look at the ways in which the Rules Committee moves forward starting next week, I see the beginning of the debate. I see the beginning of the debate.

So I say to my colleague, will he agree with me that it is going to be important for those of us who are committed to reform, Democrats and Republicans—and there is a pretty significant group—to start coming out on the floor? We will figure out the vehicles, and it is not necessarily amendments, but there are always ways of speaking. Should we not now every week be out here framing this issue and over and over again saying what are going to be the solutions to these problems and are we or are we not going to take action in this Congress?

Mr. FEINGOLD. Mr. President, I think we have to do this on the floor, in part because of the witness list. We went through this last year, where the committee hearings were used for a great deal of time and you did not get the feeling that the goal was to find a solution or to pass a bill. The goal was to sort of talk it to death. The floor is a superb place to do this.

In fact, I would say to my friend from Minnesota, I think one of the best editorials that has been written on this subject, that I think we can sort of elaborate on on the floor in the coming weeks, is something from the Washington Post of April 21, 1997, entitled, ''Skirting the Real Scandal.''

Mr. President, I ask unanimous consent 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 Washington Post, Apr. 21, 1997]

SKIRTING THE REAL SCANDAL

The subject that has been most discussed by the politicians thus far this year has been not the budget, nor the state of the economy, nor the various aspects of health care nor peace in the Middle East. It has been campaign finance—and the discussion has been almost entirely fraudulent. It is widely agreed, and rightly so, that we are in the middle of a campaign finance ''scandal,'' and both parties are forced by convention to express their indignation at that. But they are huffing and puffing about a problem that neither is willing to describe accurately—for the good reason that both are complicit in it and have a vested interest in perpetuating precisely what they must denounce. It is like one of those plays in which the characters can't or don't communicate and instead spend their time talking past one another and the truth. The point keeps getting missed—on purpose.

The basic problem is that the cost of conducting a campaign for federal office has been bid up to a point that is destructive of the very democratic process it is said to represent. The cost at both the congressional and presidential levels is obscene. One reason may be that so many of the candidates, lately including those for president, have had so little to say. It's not just TV that's expensive. Blur is expensive. In any case, the candidates and parties increasingly have responded to the cost by overriding or circumventing even the relatively modest set of rules put in place in the 1970s in response to the last great fund-raising scandal, that of the Nixon administration.

The rules imposed then were meant to limit the extent to which offices and officeholders can be bought, but in last year's presidential race, both parties tossed them almost completely out the window. Both pretended to abide by the law while raising money in amounts and from sources that the law forbids, and the amounts were huge. It is hard to decide which was worse, the pretense or the excess. The law is written in such a way that the violators could be fairly confident that they would suffer no penalty; this beat has no real cops.

That is the fundamental scandal that neither party will confront. The president, safely past his last campaign, claims now to want to strengthen a set of rules whose weaknesses he led the way in exploiting. The claim is unconvincing. He converts his own excesses into an agenda. Most of the congressional Democrats don't want to talk about the excess in the system either. In part, they seek to protect the president, in part to protect themselves: What could be so wrong, after all, with a system that elected them? The Republicans have the hardest time of all, because they are the stoutest defenders of the system that they attack the president for having used to such advantage.

Because no one can quite afford to talk about Topic A, they all talk about topics B, C and D: What are the ground rules going to be for the various congressional investigations of the subject? Should or shouldn't the attorney general seek appointment of an independent counsel? The Justice Department says one reason it hasn't gone to such lengths is that so much of the fund-raising at the center of the dispute involved so-called soft money rather than hard, meaning money that went to the Democratic National Committee rather than to the president's campaign organization. The law, the department's career prosecutors say, doesn't apply to soft money, so technically they have no violations to prosecute. And technically that may be so, but of course the point is that in the last campaign the distinction between hard and soft money disappeared. Both parties raised much more hard money than the law allows and merely called it soft to avoid regulation. The Republicans could make that point; it would strengthen their argument for an independent counsel. But they are the last to want soft money regulated. They want a counsel, but not a counsel who might insist on strict enforcement of the campaign finance laws.

The whole question of an independent counsel, and of turning what happened last year into a criminal as distinct from a broader civic offense, is to some extent a red herring. We don't mean to suggest that there ought not be a criminal inquiry, and in fact several are going on. An independent counsel continues to look into the sprawl of issues called Whitewater, including whether an effort was made to buy the silence of possible witness and former associate attorney general Webster Hubbell. A Justice Department task force and congressional committees are looking into the fund-raising squalor. If people committed crimes in the course of that fund-raising, they ought to pay the price, whoever they are. And the truth—the full truth—ought to be extracted from them, whether criminal or not.

But the churning about the lurid particulars of how that money was raised last year ought not be allowed to take the public eye off the broader questions: What do you do about the solicitation system generally? How do you keep electoral outcomes, and the policy outcomes to which they lead, from being bought? The politicians—both parties—are conducting a kind of mock debate about the lesser issues as a diversion and an alternative to dealing with the central one. That's the ultimate scandal, and they should not be allowed to get away with it.

Mr. FEINGOLD. Mr. President, let me just read the last paragraph of this. The editorial basically talks about the way in which Members of Congress are very skilled about talking around the edges of this thing: Foreign contributions are the problem, or the problem is what the White House did, or what we need is an investigation, or what we need is an independent counsel, or we need investigations—all so you can talk about everything but the need to actually pass reform. This is what they identified, and I thought the last paragraph was effective. As it says:

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Mr. President, I think that is exactly what the Senator from Minnesota is referring to, talking around the edges, using the committee process to avoid talking about what is really going on, the need to change this big money system, and to talk about it on the floor.

Mr. WELLSTONE. Mr. President, if my colleague will just yield for one other question, another concern, and then I will leave the floor and let him conclude. I wonder whether the Senator from Wisconsin would agree with me that—I mean, in, oh, so many ways—what we see happening in the country is every election year we see cited the figures: People spend more and more money in the campaigns and fewer and fewer people participate. People are really losing heart.

I have said before that I do not see it as corruption as in the wrongdoing of individual officeholders. But I see systemic corruption, where these campaigns have become TV-intensive, relying on huge amounts of money and, therefore, you have this huge imbalance of influence and power where too

few people give way too much of the money that is given, and are given access and influence, and too many people are left out of the loop. This becomes a real problem for a representative democracy because it is not true any longer that each person counts as one and only one.

So I ask my colleague whether he would agree that it is going to be important, not just for us to speak 20 minutes a day, but now for us to begin to get together? I ask him whether, as a leader in this effort—and he has been a leader of this effort —whether we might really be reaching out to other colleagues who feel very strongly about this, who really want people in our country to believe in the political process—all of us should want to change this—and get some people together and come out on the floor of the Senate? We are going to keep framing this issue and we are going to keep calling for reform and we are going to make it crystal clear that we are not going to let the Senate, or the Congress, become a politics of diversion on this.

It is fine to identify problems. If some people want to say we do not have disclosure, fine. If some people want to say it is influence of foreign money, fine. If some people want to say it is just the rules that have been broken and no more than that, fine. But the people in the country know too much money is spent, there is too much special access, there is too much time spent raising money, and we have to build the McCain-Feingold bill that is out there. We want to move that forward and we want to eventually have an up-or-down vote.

Does my colleague agree that we need to start turning up the heat?

Mr. FEINGOLD. Not only do I agree, but I ask the Senator and I make sure we reach out to Members of both parties in this body who are cosponsors, and others who I think are very interested in reform and have not yet chosen to cosponsor it, to do just that.

There are myths about the legislation and about the effort that have been perpetuated in an effort to make the public ignore the issue, thinking it cannot be resolved. But the facts speak differently. There have been newspaper articles indicating that we have fewer cosponsors than last year. That is just false. We have 30 Members of the U.S. Senate as cosponsors of this bill. I guess if we do not come out here on the floor and start to indicate these facts, it is very hard for the average citizen to relate to it.

One of the reasons it is hard for them to relate to it is, when they start hearing about $100,000, $200,000 contributions, it is pretty hard for them to feel invited into the process. It is pretty hard for them to believe that anything will ever change. They are so used to believing that this system and this town is dominated by interests and powers that they cannot control, that the people of the country, when they are asked in a poll, may not say that campaign finance reform is the No. 1 issue. I think, if you ask them whether they think we ought to do the job and whether it is important, of course they would say yes. Many would support almost every aspect of the legislation we are proposing.

But, for the average citizen, if you asked them what is their No. 1 concern, what are they going to say? They are going to say, ''We are concerned about our kids' education, we are concerned about crime in our neighborhood.'' Those are the things that people should identify, should feel free to identify, and they should not have to worry about a system that has gone out of control so far away in Washington. That is not the stuff of the daily lives of people in this country. That is not what it takes to make ends meet.

But the fact is, until we clean up this system here, the ability of this Government to assist those families in getting through and making ends meet will be seriously compromised. When we reach the point that Members of this body get on the floor and say that what the problem is is that we do not have enough money in politics, and then we do not pass a piece of legislation, and then we have an election—we find out the result. More money was spent in these last elections than in any other election and we had the lowest voter turnout in 72 years. That is not just a fluke. It is because more and more people are feeling that they are no longer part of a system that is supposedly premised on the notion of one person one vote.

So, today begins the effort to speak here on the floor on a regular basis—not just about the McCain-Feingold bill, but about the fact that we are not going to allow this year to pass without an effort to bring this issue back to the floor. Again, my lead author on this bill, the Senator from Arizona, Senator MCCAIN—I always have to apologize for his being right and my being wrong last year when he said it would probably take a scandal to get this passed. I said, please, don't say that. I want to get it passed this year. But he was right. It took something like the abuses of the 1996 election to get people in this body, to get people across the country, to realize that this just is not a quantitative change in what has been happening in elections since 1974. What happened was a qualitative change, a major change in the way in which elections are conducted.

Basically, the current election system is falling apart through the use of loopholes and abuses and how much money people are willing to raise through soft money and their own campaigns.

So our goal here is to make sure everyone knows this issue is not ''not there.'' It will become one of the dominant issues, not just in the media and the newspapers, as it has been, but it will become one of the dominant issues here in the floor in the not too distant future.

How much time do I have remaining?

The PRESIDING OFFICER (Mr. COATS). The Senator has 2 minutes 28 seconds remaining.

Mr. FEINGOLD. I yield the remainder of my time and I yield the floor.

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. DOMENICI. 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. DOMENICI. Mr. President, what is the order? How much time does each Senator have?

The PRESIDING OFFICER. Under a previous order, the Senator from New Mexico, or his designee, is recognized to speak up to 15 minutes, but at 10 o'clock, the order also requires that the bill be laid down.

Mr. DOMENICI. Also required to do what?

The PRESIDING OFFICER. That the pending bill will be laid down. Technically, the Senator from New Mexico has approximately 11 minutes.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI and Mr. WYDEN pertaining to the introduction of S. 718 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DOMENICI. I yield the floor.

TRIBUTE TO MOE BILLER

Mr. DASCHLE. Mr. President, today I want to recognize one of America's great labor leaders—Moe Biller, president of the American Postal Workers Union, AFL–CIO—on the occasion of the 60th anniversary of his hiring by the Postal Service.

On May 8, 1937, Moe Biller was hired as a postal clerk in New York City by what was then called the U.S. Post Office Department, beginning a long career of service to the American public. At the same time, Moe became a postal union member and activist—a journey that led him to the presidency of his New York City local in 1959 and then to the presidency of the national APWU in 1980.

Moe's six decades of service included 2 years during World War II in the Army's Adjutant General Corps from 1943 to 1945, where most of his service was in Northern Ireland. We thank him for this service as well.

Moe's steadfast and determined struggle on behalf of all postal workers led to enactment of the Postal Reform Act of 1970. By virtue of that legislation, postal workers were given the right to bargain for wages, benefits, and working conditions under the National Labor Relations Act. These events also led to the merger of five separate craft unions into the APWU in 1971, an historic event in postal labor history in which Moe played a leading role.

At 81 years young and still going strong, Moe has rightfully been called the ''dean'' of the American labor movement and is held in high regard within the highest councils of the AFL–CIO and its affiliated unions. As we wish Moe congratulations on this, his 60th postal anniversary, we look forward to many more years of visionary leadership on his part.

Congratulations, Moe Biller.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

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

The assistant 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.

Byrd amendment No. 59, to strike those provisions providing for continuing appropriations in the absence of regular appropriations for fiscal year 1998.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia [Mr. WARNER] is now recognized.

AMENDMENT NO. 66

(Purpose: To modify the requirements for the additional obligation authority for Federal-aid highways)

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment filed at the desk, No. 66, be the pending business.

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

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. GRAHAM, Mr. ABRAHAM, Mr. NICKLES, and Mr. ROBB, proposes an amendment numbered 66.

Mr. WARNER. 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:

At the appropriate place add the following:

Notwithstanding any other provision of this act, the language on page 39, line 12 through 18 is deemed to read, ''had the Highway Trust Fund fiscal year 1994 income statements not been understated prior to the revision on December 24, 1996: *Provided further,* That the additional authority shall be distributed to ensure that States shall receive an additional amount of authority in fiscal year 1997 and that the authority be distributed in the manner provided in section 310 of Public Law 104–205 (110 Stat. 2969):''.

Mr. WARNER. Mr. President, I ask the indulgence of the Senate. I have a little hoarseness this morning, but I will do my very best.

Mr. President, this is an amendment offered by the Senator from Virginia, together with the Senator from Florida [Mr. GRAHAM]. And we entitle it simply a ''fairness amendment.''

I hesitate to take on the wisdom of the distinguished chairman and the distinguished ranking member of the Appropriations Committee, but I do so out of a sense of fairness toward all 50 States.

Mr. President, the amendment relates to the bill's provision affecting the distribution of $933 million in additional—I point out, additional—obligation authority in the Federal Highway Program to the 50 States. A small part of this funding is fully justified. It provides to correct the mistake made by the Department of Treasury in 1994 in underestimating gas tax receipts into the highway trust fund.

As a result of this mistake, 10 States did not receive their correct apportionment of Federal highway dollars in 1996. And I fully agree and commend the Appropriations Committee in its efforts to make whole these few States, 10 in number, who received less than they should have in 1996 dollars.

The amendment offered by Senator GRAHAM and I, however, ensures that these 10 States are compensated as was intended by the Appropriations Committee and as they are legally entitled to be compensated, and in the amount of funds that they should have received in that fiscal year.

The Appropriations Committee, however, then provides an additional $793 million for this fiscal year and directs how these funds should be distributed among the several States. The distribution of these additional funds—$793 million—is in direct conflict, Mr. President, direct conflict, with the distribution formulas contained in the current law that is ISTEA passed in 1991, the Intermodal Surface Transportation Efficiency Act of 1991, and amounts to nothing more than changing the rules right in the middle of a very—and I emphasize, a very—conscientious, bipartisan effort by the U.S. Senate to rework a future piece of legislation to succeed the 1991 ISTEA Act.

The amendment Senator GRAHAM and I offer is very simple, Mr. President. Our amendment states that the $793 million in obligational authority provided by the Appropriations Committee will be distributed according to current law, ISTEA 1991. I just wish to repeat that. We have a law carefully crafted in 1991. And all that we ask in this amendment is that this $793 million be allocated to the States in accordance with existing law.

Mr. President, as the chairman of the Transportation Subcommittee of the Environment and Public Works Committee, I am leading a bipartisan effort—Senator MAX BAUCUS is the distinguished ranking member of that committee—working together with all of the members on the committee to achieve a successor piece of legislation to ISTEA 1991.

We have held 10 hearings this year on various issues relating to ISTEA. Four major bills—I repeat, four major bills—have been introduced regarding the successor piece of legislation to ISTEA 1991, including one that Senator GRAHAM and I are cosponsoring. Certainly establishing fair distribution formulas that recognize the differing regional goals of the country will be a matter of extensive discussion. It will not be an easy task to provide adequate funding to address the many legitimate transportation needs that exist today.

I stipulate, Mr. President, there are many, an overwhelming number of needs in transportation today. And it is very difficult for Senators to reach their determination as to how to vote on this knowing that in every Senator's State there are crying needs for money today. But what Senator GRAHAM and I are doing is asking that the Senate stick with its process, respect the authority given to the authorizing committees to work through legislative matters in a conscientious, bipartisan way, which we are doing, to try and reach and craft a bill to succeed ISTEA 1991.

A part of that consideration will be whether or not we do change the very formula that I am recommending to the Senate in this amendment, the very formula in ISTEA 1991. I happen to be on the side that thinks changes should be made. But there is honest difference of opinion among the 50 States. But let us leave it to the process that is underway—with 10 hearings—in an effort to resolve those disputes.

Mr. President, I have been one who has been critical of ISTEA 1991's formula. I believe they fail to reflect the current use or demands of our current transportation system. There are many archaic base points on which that formula rests. And we hope to change that. It is my hope that during the reauthorization of ISTEA, the subcommittee will devise a more fair distribution of Federal highway dollars based on needs and use of our transportation system.

At this time however, when our States are in the last year of the 1991 ISTEA, it is not in the best interests of the U.S. Senate to set a new distribution formula. And that is precisely what the inclusion in the bill does by the Appropriations Committee.

I know that my colleagues on the Appropriations Committee will try to persuade Senators that the bill's provision only attempts to ensure that each State's 1997 funding level is equivalent to what each State received in 1996.

They claim that somehow the distribution of funds in 1997 is a mistake that must be corrected in this bill.

Mr. President, the distribution of highway funds for this fiscal year is no mistake. For the first time, the allocation of funds in 1997 comes closer to providing States with a true 90-percent return on every dollar sent to the highway trust fund, a commitment made to every donor State when ISTEA was passed in 1991.

Mr. President, this is 1997. Why should funding in this bill be distributed based on 1996 factors? It does not make good common sense. The provision in the bill will produce a major change in the way ISTEA 1991 distributed funds at the beginning of this fiscal year.

Our States already have received funds for this fiscal year based on the current law, ISTEA 1991. I see no reason why we need to set new formulas to distribute this additional funding to our States, to change the rules in the middle of the game.

Mr. President, I urge our colleagues to adopt the Warner-Graham amendment. Our amendment is simply fair play. It compensates those States who lost funds due to a clerical error, and more importantly distributes the balance of $793 million according to the current law, ISTEA 1991.

Let us save the formula debate for where it belongs, and that is in the careful consideration being given in the course of deliberations of the authorizing committee. And eventually our bill will come to the floor.

I yield the floor.

Mr. STEVENS addressed the Chair.

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

Mr. STEVENS. Mr. President, I am going to make a rather technical statement here now about this amendment, and I hope Senators will listen to it. I will put a chart in the RECORD and put that chart on everyone's desk.

Last night I served notice that we are not going to permit this amendment to take the whole time today. We are going to finish this bill today. And as soon as a reasonable amount of debate has taken place, I intend to move to table this amendment. If we are going to finish here tonight in the time that both leaders have urged us to do—it is a matter of courtesy.

If the Senate will remember, last week at this time we finished a bill in time for our colleagues on the other side of the aisle to attend an annual meeting together. Ours starts tonight—early tomorrow morning really. But we are going to finish this bill tonight.

This is one of the amendments that could be debated all day. We took over a day when we debated this matter last year. So let me just state this. And I know the Senator from New Mexico wants to add to what I have to say. And I shall urge him to interrupt me at any time he wants to do so, but without my losing my right to the floor.

I understand the interest of the Senator from the State of Virginia in offering the amendment today to the supplemental. It is a nonemergency transportation title to the supplemental appropriations bill before us. I want to make sure that he and the Senator from Florida and the Senate know how this additional funding became part of the supplemental appropriations bill.

The matter arises out of a Treasury Department error made in 1994 which was finally corrected last year in recording the gas tax receipts from the States for the fiscal year 1994. The Treasury initially misallocated $1.6 billion to 1995, which should have been credited to 1994. In turn, that created a distribution of obligation limitations to the States for 1997 that was in error. We did not make that error. The Treasury Department made that error.

When that error was discovered, to the credit of the Senator from New Mexico—the administration originally indicated that they lacked the statutory authority to correct the distribution. Eventually, the administration was persuaded that it did have in fact the authority to make the change but only after the Senate had a very divisive vote on this issue, as the Senate will recall.

Accordingly, the fiscal year 1998 budget request from the President requests $318 million for 24 States to fulfill the erroneous expectations that were generated by publishing the 1997 obligation limitation allocation to the States. Again, let me say the President wants to fulfill the erroneous expectations based on the Treasury Department error.

What we did in Appropriations was provide the $318 million requested by the administration. Then we provided the $139 million that the Senator's amendment from the State of Virginia references. This is the additional obligational authority that results from a correction in the 1994 account stemming from the same Treasury error. The additional $139 million in funds go to only 10 States.

Finally, we provided an additional $475 million to make whole the 29 States whose 1997 apportionment of obligation limitation was below the 1996 apportionment bringing them back up to their 1996 level.

The chart I placed on every Member's desk from the Highway Administration shows that the only winners from 1996 to 1997, were in fact the so-called donor States.

What the Senator from Virginia's amendment would do is to further increase the obligation limitation for the donor States, and push the 27 States back below their 1996 apportionment level. What the Senator's amendment will do, in part, is validate the error made by the Treasury Department.

From 1997 to 1998 there is a $1.358 billion increase in the obligation limitation for highway funds. And every single penny of that increase goes to the donor States. Every nondonor State is effectively frozen at their 1996 level by the supplemental approach and would be pushed below that level by the Senator's amendment.

Some would argue that in a growing program no State should be expected to receive less than it received in the prior year. What the amendment before us now argues, that the $1.358 billion increase for a minority of States is not enough, that other States' programs should shrink so these so-called donor State programs can grow at even faster rates based upon an error that is now admitted by the Treasury Department.

That is hard for this Senator to understand. And it is impossible for this Senator individually or as chairman of the Appropriations Committee to support.

In short, we have provided an almost $1 billion increase in the obligation limitation. It is roughly split between donor and nondonor States. It is, in my opinion, a fair and equitable approach based upon the calculations by the Federal Highway Administration, and it is something that I support personally as well as support by virtue of being the chairman of the committee bringing this report before the Senate.

By comparison, the amendment before us of the Senator from Virginia would have the $139 million for the 10 States paid out, and then the balance of the $933 million go through the formula, an approach which would leave 27 States below their 1996 obligation levels. Now, to bring the 50 States up to their 1996 obligation levels through the formula, it takes a $2.4 billion increase in obligation limitations.

Now, I have to say, as a Senator that represents the largest State of the Union, my heart is heavy right now about the arguments we had yesterday, and I intend to say more about that today. But my State is the largest State in the Union, and if every State is supposed to get back the specific percentage of taxes, user fees and royalties paid into the highway fund, my State would like to get back all of the Federal taxes and royalties paid by producers of oil from our State.

This donor-donee-State business leaves us cold. Just think where we would be if every decision made by our Founding Fathers had been held to the test of whether their individual States received the precise percentage of revenue from every source that it paid into the Treasury. There would have been no expansion of the United States. The debate over donor-donee diverts the Congress from the real issue of the highway program. The Eisenhower vision was a national network of highways and then a network of superhighways. People ought to read Eisenhower's book. As a young colonel he tried to take a brigade across the country, as I am sure the occupant of the chair knows, and found he could not get there from here. He had to keep going up and down rivers to find places to go across, and the highways were

not connected. Eisenhower's commitment, really, in running for President was to link this country together with a highway system, and he succeeded.

Now, this vision could never have been achieved on a donor-donee concept. The Federal highway system would not exist if such a concept had been controlling in President Eisenhower's time. People would not be driving through Texas or Virginia unless there were, in fact, highways paid for by revenue collected from other States.

We need to get back to the idea that the highway system is to tie the country together and to provide the infrastructure that makes America more competitive in international markets. It reduces congestion, it makes trips on our highways more safe, and it provides the necessary investment for transportation infrastructure to foster economic growth in this country.

Mr. President, in short, the donor-donee theory has the potential to destroy the promise of the national highway system. Further, the philosophy that drive the donor-donee debate will lead many of us to come back and tell Congress, what about the money we paid into the Treasury from which we received no benefit, none at all, those of us who come from the States that produce the oil that provided the feedstocks to make the gasoline that fuels our automobiles?

Now, we produce 25 percent of that in one State. Twenty-five percent of all the domestic production comes from Alaska. We have never said give us back every dime we paid, that the oil industry pays, into the Treasury on that oil.

I say to my friend from Virginia I could not be more insistent. Again, I ask the Senators to look at the chart I have provided. The donor-donee theory leads to winners and losers. Our bill leads to equity. It corrects the error of the Treasury Department and it restores the 1996 levels to all States. It does so fairly, while at the same time giving the donor States what the President has requested, and more, to both fulfill the erroneous decision of the Treasury Department and to correct the accounting error.

I want to ask my friend from New Mexico, Mr. President, if he has any corrections to make to the statement I just made.

Mr. DOMENICI. Mr. President and fellow Senators, let me ask if you will let others speak, and I will return in about 15 minutes with the documentation as to how all this happened so that we can present the best possible case. I will do that very, very shortly.

Mr. STEVENS. I say to the Senator, we made a commitment last night that we would move to table this amendment sometime around 9:30. We were not specific. If we are to get to the other portions of this bill, including the Senators from Texas, from Arizona, the Senator from Nevada, if we are going to get through those long amendments that pertain to items in the bill concerning money and legislation, we are going to have to get some time limit on amendments. I am serving notice as chairman that when I believe we have reached the point of having equitable distribution of comments on this subject, I am going to move to table it, and I am going to do the same thing with other amendments today until we get to the point where some of them will have to have up-or-down votes.

As far as I am concerned, this is an amendment that seeks unfairness, and I shall seek to table it at the appropriate time. I yield the floor.

Mr. CHAFEE. Mr. President, I rise today in opposition to the amendment offered by Senators WARNER and GRAHAM.

I want to emphasize that the situation before us today is not a new one. It started in 1994, when the Department of Treasury made a clerical error in determining the amount of money going out to the States from the highway trust fund. This accounting error changed the distribution of highway funds in 1996 and 1997.

In late July of last year, during consideration of the Department of Transportation Appropriations bill, Senator BAUCUS and I tried to fix this error. Our amendment would have required that the funds be distributed as if the accounting error had never happened. We thought this was an honest and fair way to deal with this problem.

Unfortunately, this amendment was strongly opposed by some of our colleagues even though it was a fair and even-handed solution to a technical accounting error. As most of my colleagues are aware, votes on highway funds are often determined according to how each Senator thinks his or her individual State fares, and the vote last year was no different.

Since last July, the Departments of Treasury and Transportation have corrected the error. That should have been the end of the story, but, for some reason, the President has requested an additional $318 million to compensate the 24 States that would have received additional funds had the error been left in place. I think it is unfortunate that the administration, which made the accounting error in the first place, has reopened this issue, by seeking a supplemental appropriation. This issue has been needlessly divisive and, in seeking to have it both ways, the administration's decision has reopened old wounds.

The Appropriations Committee has included not only the administration's request, but also $139 million to fully compensate States that did not receive their share of 1996 funds because the error was not corrected until 1997. In addition, the Committee has included $475 million for 31 States to bring their 1997 limitation up to 1996 levels. While I disagree with the decision to include the $318 million requested in the first place, I believe that the committee's inclusion of additional funds reflects the fairest compromise available to make all States whole.

The proponents of the amendment before us argue that the additional funds included by the Appropriations Committee contradict ISTEA formulas, giving an unfair advantage to 29 States. When the shoe was on the other foot and we argued that it was unfair for some States to receive a benefit from a bureaucratic error, our argument fell on deaf ears. Mr. President, this claim of unfairness today rings hollow.

The additional funds provided by the Appropriations Committee hardly gives an unfair advantage to 29 States. In fact, the only States that actually receive additional funds in 1997, when compared to 1996, are the so-called donor States that are offering the amendment before us today.

Mr. President, this is an issue that, in my opinion, was resolved after the administration initially fixed its error last December. Unfortunately, the administration has reopened this complicated issue. The Appropriations Committee has developed a fair solution to a difficult problem and they should be congratulated. I urge my colleagues to oppose this amendment and support the chairman of the Appropriations Committee.

While we are focused on the distribution of funds to the States I would like to say a few words about the formulas in the context of ISTEA reauthorization. I realize that some Members of this body believe that the current formulas that distribute highway funds are neither fair nor appropriate. Many Members argue that various factors, such as interstate highway mileage, State population, highway trust fund contributions, and the number of deficient bridges should be given greater weight or importance in the distribution formula. I think we can all agree that we have a long and difficult task before us in determining the appropriate formula for the next ISTEA. I therefore urge my colleagues to make every effort to work with, rather than against, one another in crafting a fair distribution formula that benefits the States and the national system alike. Thank you.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the Warner-Graham amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I want to assure the distinguished manager of the bill, it is not the intention of this Senator nor the cosponsors of my amendment to unduly delay the very important work that remains to be done on this supplemental appropriation, but to enable Senators to focus in on the narrowness of this issue. I wonder if I might ask a question or two of

my distinguished colleague from Alaska, and then I would hope my cosponsor, the distinguished Senator from Florida, could have the opportunity to address the Senator. I will be brief in my questions.

First, Mr. President, I ask the distinguished manager of the bill, what was the dollar figure, in your estimate, of the needed amount of money to correct an error by the U.S. Treasury? We all acknowledge this existed. It is the estimate of the Senator from Virginia that it was $139 million.

Mr. STEVENS. Mr. President, we provided $318 million as requested by the administration. The $139 million that the Senator from Virginia references was to correct the basic error. The additional $475 million was to make whole the States in 1997 whose obligation limitation was under the 1996 level to bring it to what it was in 1996.

So there are two functions to the error. As far as the 1997 levels, the $475 million, it is not involved. That is to bring up their apportionment, bring them back up to the 1996 level. The $475 million makes the 29 States whose obligation limit was below their 1996 appropriation—it brings them up to the 1996 level in 1997.

Mr. WARNER. Mr. President, we have an honest difference of opinion. It was clear it was a $139 million error that needed adjustment. I commend the Appropriations Committee for seeking that adjustment.

I then asked my distinguished colleague, was there any request from the administration for dollars over and above the $139 million, and was not the addition of $700-odd million simply a discretionary decision made by the Appropriations Committee?

Mr. STEVENS. That is not so. The $475 million is tied to the $318 million. If we grant the administration's requested $318 million, we must put in the $475 million. The $139 million is to correct totally for the original error. The $318 million asked for by the administration effectively perpetuates the error unless we put in the $475 million to equate the $318 million. It is 2 years. We are correcting the 1996 allocation on the $139 million. We are correcting the 1997 allocation based on $318 million requested by the administration and by the $475 million to provide that no State receive less in 1997 than they did in 1996. The $475 million goes with the $318 million.

Mr. WARNER. I respectfully ask my distinguished chairman, can you show us any documentation where the administration, in writing, came up with a request over and above $139 million?

Mr. STEVENS. The administration only requested $318 million. It did not request $139 million or $475 million. It requested $318 million. But if we grant the $318 million, we must put in the $475 million, and as long as we do it we must correct the basic error, the $139 million that came from the original error of the Treasury Department, but we will perpetuate the error of the Treasury Department by providing the $318 million unless we provide the $475 million.

Mr. WARNER. There was a clear error of $139 million that had to be corrected. The Appropriations Committee did it. Then they went on their own initiative to add a very substantial sum of money and devised an entirely new formula—an entirely new formula—which brings further inequity between the donor-donee States.

I wish to conclude that I do not suggest that this debate engulf the latitude of all the arguments on donor-donee. We ought to sit down and precisely focus on two points, in my judgment. There was a $139 million error. It was corrected by the Appropriations Committee. All the added dollars were put in, presumably at the request of the chairman and ranking member or others on the committee, and then they came up with a new formula as to how to allocate the funds, and in doing that not only create a new formula, but they further exacerbated the friction that exists between donor and donee States. I suggest that debate between donor-donee be reserved for the authorizing process which is going on now in a very conscientious, bipartisan way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STEVENS. The Senator asked me a question and I want to answer that. The Senator from Florida is recognized. Do you permit me to answer?

Mr. GRAHAM. I yield.

Mr. STEVENS. As the chairman of the Public Works Committee, Senator CHAFEE, points out in his statement, in July of last year they tried to correct this error from the Treasury Department.

The Senator from Virginia, if he looks at the chart before the Senate, will see that if we make the changes solely requested by the Senator from Virginia, all donor states would end up with all zero growth from 1996 to 1997. All those zeros in the first column show the inequity of not doing the $475 million. Because the inequity, if we provide $318 million to one part of this package without the $475 million, would create a total inequity as far as all those States that have no growth in their allocation over 1996. I am referring to all those States that have zeros in the first column. If the Senator would look at it, he will see why we felt compelled, if we grant the President's request of $318 million, to provide the $475 million. No one argues about the $139 million even though it was not requested by the administration. I do not think there is an argument about the $139 million. It was a result of the Treasury error. To perpetuate the error is to grant the $318 million the President requested without adding the $475 million.

Mr. WARNER. Would the distinguished Senator from Florida yield for a unanimous-consent request?

Mr. GRAHAM. I yield.

Mr. WARNER. Mr. President, I ask unanimous consent that a statement by the Federal Highway Administration explaining the Warner-Graham amendment and the allocation showing that no States lose money under our formula be printed in the RECORD.

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

States	Appropriations Committee	$139M supplemental and current law ISTEA
Alabama	20,931,160	27,292,041
Alaska	16,374,848	9,068,976
Arizona	12,007,562	14,358,753
Arkansas	6,506,921	9,605,618
California	50,711,555	70,850,325
Colorado	13,192,342	8,999,536
Connecticut	23,056,356	16,072,332
Delaware	5,020,775	3,512,696
Dist. of Col.	3,216,819	3,665,346
Florida	51,668,920	59,854,580
Georgia	56,862,527	61,842,097
Hawaii	7,713,831	5,514,843
Idaho	4,176,763	4,911,625
Illinois	43,905,951	29,939,952
Indiana	11,674,082	18,528,503
Iowa	13,151,501	8,933,482
Kansas	13,420,087	9,287,767
Kentucky	29,879,840	34,997,622
Louisiana	7,240,399	12,263,724
Maine	6,215,750	4,134,434
Maryland	17,046,628	12,066,857
Massachusetts	55,007,226	30,790,454
Michigan	14,747,139	24,046,968
Minnesota	25,850,795	10,945,036
Mississippi	5,314,543	9,493,034
Missouri	9,678,737	18,475,358
Montana	17,336,799	6,649,719
Nebraska	9,062,950	6,287,862
Nevada	6,986,045	4,722,196
New Hampshire	5,593,764	3,870,801
New Jersey	31,951,953	21,707,256
New Mexico	14,156,168	7,490,446
New York	68,567,888	47,466,766
North Carolina	15,054,880	20,928,680
North Dakota	6,767,361	4,611,365
Ohio	7,201,580	30,813,304
Oklahoma	7,096,552	12,186,183
Oregon	6,897,405	9,562,721
Pennsylvania	16,916,047	32,012,823
Rhode Island	10,961,636	3,626,100
South Carolina	18,202,593	21,535,023
South Dakota	7,365,019	5,032,297
Tennessee	9,427,283	17,712,897
Texas	64,694,961	81,339,014
Utah	8,225,843	5,681,774
Vermont	5,121,469	3,653,502
Virginia	13,986,103	18,263,736
Washington	24,012,512	14,519,372
West Virginia	10,738,625	7,159,768
Wisconsin	10,167,297	18,529,708
Wyoming	7,299,340	5,030,652
Puerto Rico	4,917,614	3,439,923
Total	933,172,744	933,172,744

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, this has been an illuminating discussion to an admittedly complex question. So, without being redundant, I will step back to see if we can sort out what are the issues in agreement and what are the issues upon which we disagree.

One area in which there is agreement, agreement both in the underlying supplemental appropriations bill and in the amendment that is offered by my colleague from Virginia, myself, and others, is that the $139 million, which was an admitted error of arithmetic basis in the Department of the Treasury, should be corrected. There are States which received less funds than they should have received because of that admitted error. I think there is virtual unanimous agreement that we should correct that error. We will do so. Whichever position we take on this amendment, $139 million will flow to those States which were the object of that inadvertent omission.

The second question upon which there is agreement is that the total funds for surface transportation should be increased in this supplemental appropriations bill beyond the $139 million, and there is basic agreement that the amount of that increase should be approximately $800 million. Both the underlying bill and the amendment provide for the allocation of an additional $800 million beyond the $139 million necessary to correct the error.

The issue becomes how that $800 million should be structured and what is the rationale for the $800 million. A portion of that $800 million, roughly $318 million, represents those States which had been given an expectation of what they would have received—a false expectation, based on that arithmetic error and acted upon that expectation. They thought they were going to get an additional $4 or $5 million because of the arithmetic error, and they calculated that into their State highway fund.

Question: Should the Federal Government, even though it was in error, it was a false expectation, but it was a communicated expectation and it was an expectation upon which the States took action, be responsible for those funds? I think that is a debatable issue.

The third portion of this debate has to do with the remaining $475 million. Let me say at this point—and I mean no disrespect to any comments made thus far—this has absolutely nothing to do with the issue of the arithmetic error. I repeat that it has nothing to do with the issue of the arithmetic error. I cite as my authority for that, first, the supplemental appropriations bill itself, on page 39, lines 12 through 18, which clearly outline that the purpose of these funds is, notwithstanding any other provisions of law, such additional authority shall be distributed to assure that no State shall receive an amount in fiscal year 1997 that is less than the amount they received in 1996.

That doesn't have anything to do with an arithmetic error. That has to do with providing a hold-harmless provision in this supplemental appropriations bill, which was not provided in the ISTEA Act of 1991.

Mr. President, if we could briefly go back to that legislation, that legislation contained the allocation of some $120 billion of Federal funds to the States and territories for surface transportation. It was a very contentious bill, as all of these bills tend to be. It contained a provision for those States that had traditionally received back substantially less than they had contributed to the highway funds, that in the last year of the 6 years of ISTEA authorization, which is fiscal year 1997, there would be inserted a 90-percent floor—that is, that no State, in the last year of the 6 years of ISTEA, would get back less than 90 percent of what it contributed to the highway fund. That 90 percent standard had been the holy grail of those States that had, in the past, gotten back substantially less than 90 percent.

We had attempted, frankly, to get that standard applied in every year of the 1991 ISTEA bill. But politically unable to do that, the compromise was that, in the last year, that objective would be achieved. Since we are dealing with a zero-sum amount of money—that is, there is a fixed amount of money to be distributed in 1997, obviously some States had to get less in 1997 than they got in 1996 in order for other States to be brought up to this 90-percent floor. That was understood, that was part of the negotiation, that was part of the common understanding of the Congress and President Bush when he signed this legislation in 1991.

That is the issue that the $475 million goes to. It has nothing to do with the arithmetic error made in the Department of the Treasury. What this $475 million essentially says is that we are going to pour $475 million of additional Federal money, beyond that which had been contemplated in 1991, into the ISTEA program and specifically into a policy that will assure that, regardless of what the law said that we passed in 1991, we are going to guarantee that we are not playing with a zero-sum game, because no State will get less in 1997 than the State received in 1996.

Now, that is the issue that this amendment raises. What this amendment says is that if we are going to provide these additional funds beyond that which is required to correct the arithmetic error, we should be faithful to the law that we passed in 1991 and we should distribute that money under the provisions of the law that is already the law of the land and will govern the distribution of highway funds in 1991.

Mr. President, I believe that is an extremely important and clarion call for fundamental fairness. We had this debate in 1991. We decided on the compromise, which is the essence of the congressional process, that a 90-percent floor concept would be available, but only in the last year. Now, in the last hours of the life of ISTEA, we are about to vitiate that understanding. It is fair because those States which have traditionally been substantially donor States—that is, they sent more money to Washington than they got back—this represents an opportunity—we are not going to say that all States are going to get 100 percent of their money; we are going to say that no State will get less than 90-percent of its money.

Now, frankly, Mr. President, I do not support the principle that all States should get 100 percent, because I recognize exactly what the Senator from Alaska is saying. We are dealing with a national surface transportation system, and there are rational reasons why some States, such as the very large geographic areas, get a certain amount. The small-population State of Alaska should get back more than other States in order to be able to maintain an equivalent level of their contribution to a National Highway System. But that was the essence of the debate that we had in 1991, and we came to this resolution that we should establish, in the last year of the 6-year authorization, this principle of a 90-percent floor. That principle is about to be violated by pouring $475 million into this program in its final weeks of existence in order to assure that no State will get less than it got in 1996.

So, Mr. President, for fundamental fairness to the Nation, to the fundamental credibility of this very important program of Federal-State partnership for the mobility needs of America, I urge that we adopt the amendment that has been offered by the Senator from Virginia, that we focus on the issue that this amendment raises, which is not an issue of arithmetic perfection, it is an issue of fairness protection. We arrived at how these funds should be allocated. We should stick with the agreement that we have. We should not, in a supplemental appropriations bill, on May 8, attempt to change it. So, Mr. President, I urge adoption of the amendment offered, and I commend my colleague from Virginia for the leadership provided.

Mr. NICKLES. Mr. President, I wish to join with my friend and colleagues from Florida and Virginia, in stating my strong support for this amendment.

Mr. President, let me state, at the outset, I wish we had an amendment that would strike the $793 million that was added on in the Appropriations Committee. In my opinion, it does not belong in this so-called urgent supplemental. I have been wondering, how does this bill grow from about $4.6 billion to almost $8 billion, about $793 million are in roads and highways. You think, if they are going to put in more for roads and highways—I am not contesting the $139 million; I don't guess anybody is. But the additional $793 million, I am contesting. Again, I think the proper motion would be to strike it, and somebody says, why aren't you doing that, because we have cloture? I understand from the Parliamentarian that that motion to strike is not in order. Maybe I should have gotten that amendment in at an earlier time, and I regret that.

At least the amendment of the Senator from Virginia says, if we are going to have the additional $793 million, let's allocate it according to existing law. We have spent days on this floor fighting allocation formulas. A lot of us are not satisfied with those. We end up sending a lot more to Washington, DC, in roads and highway taxes than we get back. And then we look at the amendment that comes out of the Appropriations Committee and say, well, this makes it worse. We don't really find that acceptable.

So I just make the comment that, really, the $793 million should be allocated according to the formulas we have agreed to. It should not be changed to the disadvantage of many States. We are going to fight the allocation of the formula fight again this

year, in this Congress, on the ISTEA bill. We will have plenty of time to debate it and time for the committees. The chairman of the Transportation Subcommittee, Senator WARNER, and his committee will mark up that bill. We will have it on the floor. Every Senator will have a chance to have their input on that. That is the way we should fight for the allocation process. We should not be changing it on a supplemental—''urgent supplemental''—appropriations bill. It doesn't belong here. I urge the conferees, since the motion to strike is not in order, to drop everything in conference except for the $139 million. This urgent supplemental, in my opinion, is getting loaded with a lot of things we can't afford, and maybe we are not legislating in the proper way. We should not be doing this on an appropriations bill. We should be doing it on the authorization bills.

So I urge my colleagues, at the minimum, if we are going to put in additional money, let's allocate it according to existing law, as Senator WARNER provided in his amendment.

Mr. DOMENICI. Mr. President, it isn't too often in the Senate that a chairman of a committee gets a chance to play Solomon and be fair. But Senator STEVENS got a chance to do that, and that is what he did in this bill. He decided—and we should all listen carefully—to be fair. Let me tell you the history of half of this problem. The reason I happen to know about it is because I caught the error. The U.S. Treasury Department does calculations upon which the formula is based. In 1994, they made a mistake, just literally made an error in their calculations. Guess what happened? A whole series of States, including the States of the Senator from California and the Senator from Texas, and some other States, were euphoric because they got a huge windfall announced in their formula—a huge windfall. Well, when a batch of States get a windfall, a batch of States get less and I happen to be one of those. I don't get very much anyway, but I looked and said, how could this be? What happened? We had a formula and the money was distributed differently for some reason. Now, for a little while, nobody from the administration wanted to talk about it. But that didn't last very long because Senator D'AMATO and Senator BINGAMAN from New Mexico joined with me and asked none other than the Treasurer of the United States to come to the office and bring his legal counsel.

We asked the transportation leader—the head man from the executive—''Come and bring your solicitor.'' And, before they left the room, they said, ''We will get back to you.'' And, before the day passed, they called and said, ''We made a mistake. It has nothing to do with what people were entitled to. We made a mistake.'' But they said, ''Isn't it tough? This is an election year. And Texas just thought they were going to get 100 and some million dollars more than last year. What would you like us to do?'' We said, ''Fix it.''

Now we have another batch of lawyers. ''Can you fix it?'' Imagine. ''You unfixed it, but can you fix it?'' They concluded that it could be fixed. But it didn't get fixed until after the election. And fix it they did.

Senator STEVENS in this bill properly has $318 million that goes to those States that thought they were going to get the higher allocation but didn't because of the error, and we are giving it to them anyway. Speaking of fairness, there is $318 million going to States who shouldn't have gotten it because this is acknowledging that we are going to pay them under an erroneous formula. We gave them back the money under an erroneous formula and said, ''Let's be fair.'' That is half of this issue.

Mr. WARNER. Mr. President, will the Senator yield for a question at some point?

Mr. DOMENICI. Sure, any time.

Mr. WARNER. How about now?

Mr. DOMENICI. Sure.

Mr. WARNER. Mr. President, I say most respectfully that we are operating a debate to try to confuse people. Let me see if I can put forward a simple fact to seek clarity.

There was an error. We all acknowledge it. But, Mr. President, the error was not in the law. It was in the bean counts. The Senator from New Mexico is the chief bean counter, as chairman of the Budget Committee. It was the person running the green eyeshades, the calculators, the computers, adding, subtracting, and interpreting the law. They interpreted the law wrong. The law was not in error. It was the people running the calculators.

Mr. DOMENICI. But those States would have gotten less money had the law been applied properly. So the law was not applied properly.

So, which is wrong, the law, or the lack of proficiencies in its application?

Mr. WARNER. I would say the law is correct. It was passed by the Congress, and once we caught the error in the calculating and counting the beans, we corrected it. It is only $139 million.

Mr. DOMENICI. Mr. President, the rest of this bill has to do with another thing. That is why I said—and the distinguished chairman is playing solidly—there is a portion of the highway bill under ISTEA, a provision called 90 Percent of Payments. Everybody that had anything to do with this bill, dig it up, go look at what everyone thought would happen to that. Nobody thought there would be very much money under this program. In fact, there are some throw sheets showing it was a very small amount of money in there. But guess what happened? We transferred the 2½-cent gasoline tax that we never expected to, and that fund, never expecting that money, is now bloated, and as a result it is giving States additional money.

So our friend from Texas said, let's be fair. Let's be fair, and make sure that States like New Mexico—and, incidentally, 27 others—there are 27 winners. If you want to pay winners and losers, there are 27 winners under STEVENS. I hope you don't vote for it just because it is a winner. But that happens around here every now and then, and 27 is more than one-half of 50.

So I would assume, if you want to vote what is best for your State, vote for 1997. In addition, the committee has included $475 million for 31 States to bring their 1997 limitation to 1996 levels. While I disagree with the decision to include the $318 million requested in the first place, I believe the committee's inclusion of additional funds reflects the fairest compromise available to make to the States as a whole.

Mr. SHELBY. Mr. President, as chairman of the Transportation Appropriations Subcommittee, I want to briefly state my views on the Warner amendment.

Let me first make it clear that I represent a donor State. From 1992 to 1995, Alabama only received about 78 cents back for every dollar it sent to Washington in gasoline taxes. Other States, like Massachusetts for example, received about $2½ back for every dollar paid in gas taxes. The formula for distributing highway funds is not equitable in my opinion. I think it would be very difficult for any Member to argue that wealthier States should receive more than double in Federal highway funds than they paid in, while poorer States only receive a fraction of their contributions. I want to work to help correct that formula, but that is something that will be addressed later this year when the Federal highway program is reauthorized.

My goal in the supplemental appropriations bill was not to try to tackle the donor versus donee issue. As I said before, that will be done in the authorizing committee later this year. Rather, my goal was to simply increase Federal funding for highways to address current and pressing needs and to ensure that all States would come out a winner. We did that. Under this legislation, donor States received an increase in their highway funds compared to fiscal year 1996 levels. Nondonor States, on the other hand, were given additional funds to ensure that they would not be cut below their 1996 levels. Again, nondonor States received their 1996 level of highway funding and donor States received an increase from their 1996 level. All in all, this bill provides States with an additional $933 million in new Federal highway money, and it does so in a way in which every State comes out a winner. In my view, that is a major victory for transportation in America, and it sets the stage for the authorizing committees to resolve the contentious allocation issue later this year.

I support more money for donor States, but the Senate, the Appropriations Committee, and the Transportation Subcommittee are made up of more than donor States. I am not sure

of what the outcome will be today, but even if the Warner amendment fails, there is no question that the additional funds in the committee bill represent a major victory for donor States, and I will strongly support its passage.

Mr. LEVIN. Mr. President, in determining the distribution to the States of fiscal year 1996 highway trust fund money, a miscalculation resulted in some States getting obligation authority that was subsequently taken away or adjusted by the Treasury pursuant to ISTEA. The miscalculation also prevented another category of States from getting their full share according to ISTEA. These 10 States' shares could not be adjusted administratively.

In the fiscal year 1996 supplemental appropriations bill before us, there are funds for both those categories of States. The former is provided $318 million and the latter $139 million.

However, the committee has also added an additional category, $475 million for States that feel they need to be made whole or have their fiscal year 1997 obligation authority kept at the same level as it was in fiscal year 1996. The reason that these States' fiscal year 1997 obligation authority level changed from fiscal year 1997 was the 90 percent of payments equity adjustment that is part of ISTEA. This equity adjustment reduced the amount available to donee States and increased the amount available to donor States in fiscal year 1997.

The hard fought agreement that resulted in ISTEA in 1991 was an incremental improvement for the donor States. The 90 percent of payments equity adjustment was an important component of that guaranteed increase in our return. Now, some States want to rewrite ISTEA through this appropriations bill, so they can be made whole, and perpetuate the unfairness that has existed for decades. The donor States are the ones that should be made whole, rather than continuing to transfer over $1 billion annually to the donee States. We should reject this effort to overturn the last year of ISTEA.

The fair way to settle this matter is to support the Warner amendment. Provide the $139 million to the States that actually lost obligation authority as a result of the Treasury miscalculation, and distribute the remaining funds according to the existing rules for fiscal year 1997. Though the ISTEA formula for distributing those dollars is still unfair to the donor States, it is marginally better than what is provided under this bill.

Mr. HOLLINGS. Mr. President, let me clarify what is happening in highway funds in this appropriations bill.

This bill includes $139 million to correct an honest error at the Treasury Department. That error in 1994 rippled through the highway formula and cost South Carolina $9.2 million last year. Making whole all the states which lost funds requires $139 million, and I commend the Appropriations Committee for including these funds.

The bill also includes another $794 million. The administration requested $318 million of these funds, and the rest were added by the Appropriations Committee. The administration requested the $318 million in what was really an erroneous attempt to correct the Treasury Department error I have mentioned.

The rest of the funds—$475 million—have no relationship by any stretch of the imagination to the error we are supposedly correcting. They are simply added for some States that disagree with what current law provided them this year, and these States happen to be a majority in the Senate. In other words, today we are watching ''might make right'' in the allocation of highway funds.

Senators WARNER and GRAHAM have made a proposal that is sensible, right, and in compliance with the highway law we are living under until a new reauthorization passes. They propose fixing the $139 million error, and then allocating the rest of the funds under current law. Mr. President, that is the right thing to do.

The underlying issue here is a promise made in ISTEA to guarantee any State 90 percent of the funds it paid into the highway fund. This year—for the first time in the 6 years of ISTEA—keeping that promise requires us to trim the historical surplus that some States have long received in order to help a smaller number of States lose a little less. So the winner States are breaking the promise. They are a majority, and they do not want to guarantee 90 percent.

Mr. President, we should debate the highway formula when reauthorization comes before the Senate. Until then, we should keep the promises made in 1991. We should also correct the error that everyone agrees occurred. I know where the votes are on this, but I want to set the record straight.

Mr. DEWINE. Mr. President, I rise in support of the amendment offered by Senator WARNER. First let me say that I believe that the appropriators have done an excellent job of providing much-needed relief for those States who have been devestated by floods and bad weather, including Ohio. I plan to support this emergency supplemental appropriations bill. However, I do have concerns about the way the supplemental Federal aid highway funds are appropriated.

I appreciate the fact that the Appropriations Committee has provided highway obligational authority to States that had their fiscal year 1996 or 1997 limitations reduced as a result of an error by the Treasury Department in recording highway trust fund receipts in fiscal years 1994 and 1995. Ohio was affected by this, and I appreciate the fact that Ohio will be made whole by this emergency supplemental appropriations bill. I believe that the Committee has done the fair thing in this regard.

I also am not opposed to the $475 million in additional authority that the committee has added in emergency transportation funds for this year. In Ohio, transportation funding seems to be an emergency need every single year. My concern is the fact that the Appropriations Committee has rewritten funding formulas contained in ISTEA in distributing this authority.

When ISTEA was debated and passed, it was decided that in fiscal year 1997, States would receive a 90-percent return on the amount of Federal gas taxes paid by the State in the prior year. At the time, everyone knew that this would require so-called 'donee' states to receive less Federal aid highway authority in fiscal year 1997 than they received in fiscal year 1996. ISTEA was approved this way for a reason. The appropriations process is not the time to change laws that don't suit our particular needs. If it were, donor States would have attempted to do this for the past 5 years.

This year, Congress will once again debate Federal highway funding. The old formulas, hopefully, will be revised to treat States more fairly. As we debate that reauthorization bill in the Senate, we will all have a chance to make changes to current law that we feel are unfair. We should let that debate take its course. For the time being, the Senate should not circumvent current law.

The Warner amendment provides the best way to distribute the additional authority included in this emergency supplemental—by formulas included under current law. It allows all States, not just donee States, to receive their proper share of the additional authority. It is the right thing to do, and that is why I support this amendment.

Mr. STEVENS. Mr. President, I intend to move to table the amendment, but I want to be fair. So, I would like to play gatekeeper and ask those who want time to tell me how much time they would like on this amendment before I make a motion to table.

Senator THURMOND, 4 minutes; Senator HUTCHINSON, 5 minutes; Senator WARNER, 3 minutes; 5 minutes to the Senator from Florida; 5 minutes to Senator LAUTENBERG; and Senator BINGAMAN wants 4 minutes. I would like 1 minute to close.

Do we have those written down? I will repeat it. Five minutes to Senator HUTCHINSON; 4 minutes to Senator THURMOND; 3 minutes to Senator WARNER; 1 minute to Senator DOMENICI; 5 minutes to Senator LAUTENBERG; 4 minutes to Senator BINGAMAN; 5 minutes to Senator GRAHAM; and 1 minute to me as we close:

I ask unanimous consent that I recover the floor at the expiration of the time other than my last 1 minute.

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

The Chair will observe to the Senator from Alaska that the total amount of minutes will be 28 minutes.

Mr. STEVENS. I have 24 minutes. I understand you have 28 minutes. It is 27 minutes not including my last 1

minute. So that would mean that we would vote at approximately 25 minutes after 11; somewhere around there.

The PRESIDING OFFICER. As the gatekeeper, the Senator is correct.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President.

I want to commend Senator STEVENS for his fair role as gatekeeper.

I want to particularly commend the Senator from Virginia, Senator WARNER, and Senator GRAHAM of Florida, for taking their leadership on a very important issue, a true issue of equity and fairness.

I think it is unfortunate that, in the middle of a very delicate process of reauthorizing the ISTEA legislation, we have to be debating an amendment that only seeks to implement current law. That is all the Warner-Graham amendment does. It implements current law. We are not seeking anything that is unfair to any other State. We are merely looking to ensure a fair allocation of these funds.

To me it is very frustrating that the Appropriations Committee felt that it had to change current law implemented in 1991 under the ISTEA bill so that we could have this funding arrangement.

The donor-donee debate will go on. I only want to say that while I recognize all of the arguments, when we talk about fairness, just remember the State of Arkansas where we, like so many other States, have tremendous transportation needs. We are 16th in the Nation in public roads and street length. We are 42d in the Nation in disbursements for these highways.

While we need a national highway system, that kind of inequity I don't believe can be justified, and it shouldn't be exacerbated by changing this law to hold harmless the donee States. Arkansas has one of the lowest per capita incomes in the Nation. It is coming up, but it is very low. And we right now are paying more into the highway trust fund to benefit those States, most of whom have much higher per capita incomes and no more transportation needs than we have in the State of Arkansas.

So I believe the effort to change current law in order to hold harmless and in effect create an entirely new funding formula is unfair.

When ISTEA was passed in 1991, the formula was specifically adjusted for fiscal year 1999 so that States like Arkansas and many other States could have a more equitable funding formula. That 1997 adjustment finally went into the account to correct the inequality that had existed for donor States for many, many years. Even then, it was not perfectly equitable. But it was closer than it had been.

So, when the Appropriations Committee added extra funds to the supplemental appropriations bill, it seemed logical and it seemed reasonable that they would use the fiscal year 1997 formula to distribute the funds. But logic, unfortunately, has not prevailed. They decided they would use the fiscal year 1996 formula so that, in their words, ''no State shall receive an amount in fiscal year 1997 that is less than the amount they received in fiscal year 1996.''

Basically the committee said that, although ISTEA was specifically structured to benefit donor States, those who pay in more than they receive back, the Appropriations Committee rejected that provision and added extra money so that the donee States would be happy.

I think that is wrong. I think that is unfair. The law is the law. And, had that language not been added, the $475 million would have been credited by the current 1997 ISTEA structure. Instead, many States, including Arkansas, would not be receiving any of that $475 million.

So let me just say that in the interest of fairness, yes, there are always winners and losers. But we need not exacerbate the winner-loser scenario by passing this supplemental appropriations in its current form.

I ask my colleagues to support the Warner-Graham amendment in the name of fairness, in the name of equity for those States that have for so long gotten the short end of that economic stick.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. THURMOND addressed the Chair.

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

Mr. THURMOND. Mr. President, I rise in strong support of the amendment offered by my able friend from Virginia, Mr. WARNER.

As the Senator has stated, the Department of the Treasury made an accounting error in 1994 by under reporting $1.59 billion in gas tax receipts for that fiscal year. When the error was discovered in December, fiscal year 1995, the money was credited to the highway trust fund. However, crediting the 1995 trust fund with 1994 money only compounded the mistake because parts of the distribution formulas of our Federal-aid-to-highways program are based on the receipts of the 2 previous years. Consequently, the 1996 and 1997 distributions were severely impacted.

Following the adjournment of the 104th Congress, the Secretary of the Treasury moved the income from 1995 back to 1994. Subsequently, the Department of Transportation, which has the duty of distributing the money, adjusted its calculation of the contract authority and obligation authority to be distributed to the States under the program for fiscal 1997. No corresponding correction was made for 1996. As a result, 10 States have yet to receive the obligation authority totaling $140 million for fiscal year 1996.

The Secretary of Transportation proposed legislation purportedly to correct this problem. However, this legislation would not restore the money owed to the 10 States, but rather requests an appropriation of $318 million to make up the difference between what States expected to receive for fiscal year 1997 and what they actually received.

In the bill before us, there are provisions to restore the $140 million to the 10 States, $318 million to satisfy the expectations for 1997, and an additional $475 million so that donee States would benefit as well. Further, the formula for distributing this last amount of money is not the formula that would apply under the existing authorization, but an entirely new formula contained in the bill itself. This new formula conveniently strips away the one equity adjustment in the ISTEA law that effectively protects donor States—that is the 90 percent of payments adjustment. This provision of ISTEA was enacted to ensure that no matter how badly a State fares in any year under the underlying formula, it could count on the fact that the distribution it receives would not be radically below the amount it puts in.

The Warner amendment simply recognizes that this is supplementary appropriations for fiscal year 1997 and the money should go out under the ISTEA formula in the regular way.

This is the proper way to proceed. I commend my friend from Virginia for offering this amendment, and I urge my colleagues to support it.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. LAUTENBERG addressed the Chair.

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

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I rise in strong opposition to the Warner amendment. While I have great respect for the author of the amendment, frankly, I find this amendment to be a rather stunning proposition. If this amendment passes, a majority of the States—yes, a majority of the States—will find that their highway formula funds have been cut below the 1996 levels, even though we have added $1.4 billion to the program over the 1996 level.

Mr. President, as the senior Democrat on the Senate Budget Committee and on the Transportation Appropriations Subcommittee, I have heard lots of my colleagues call for increased infrastructure funding—increased funding for their States' highway needs to replace deficient bridges or to ease the choking congestion that plagues their cities. And I think when the Members ask that they know this Senator will support increases in infrastructure funding as he always has.

So I was pleased to work with Senators STEVENS and SHELBY to provide more than $993 million in increased highway funding in this bill. These

funds are sorely needed in every State of the Union. So I think it would be a terrible way to proceed for us to amend this bill in a way to require a majority of States to endure cuts below the 1996 level.

Let me emphasize one basic fact. Under the underlying bill as approved by the Appropriations Committee, 27 States will see the exact same amount of Federal funds for highways this year that they received in 1996. The entire $1.4 billion increase provided between the regular Transportation Appropriations bill and this supplemental bill will go to 23 States. If we adopt the Warner amendment, these 27 States will endure cuts below the 1996 level while the other 23 States get even larger increases above the 1996 level.

I want to talk about the basic premise that underlies these recommendations by our friend from Virginia.

Mr. GRAHAM. Mr. President, will the Senator from New Jersey yield?

The PRESIDING OFFICER. Does the Senator from New Jersey yield?

Mr. LAUTENBERG. Yes.

Mr. GRAHAM. The Senator says there are 27 States that have zero addition to the transportation funds under the Warner-Graham amendment.

Mr. LAUTENBERG. No, there are 27 States that will endure funding cuts below the 1996 level if the Warner-Graham amendment is adopted.

Mr. GRAHAM. Will the Senator name one of those?

Mr. LAUTENBERG. I would be happy to give the Senator a list when I am finished speaking.

I would appreciate it if the Senator—I will provide the Senator with a list the moment I am finished speaking.

This debate is very illustrative of what will be at stake later this year. Senators should be aware that when we guarantee a certain percentage return of gas tax receipts in the law, the need to honor these guarantees will come from other States. If there is one pot and it goes to a group of States, it means the others are left out.

Mr. President, this formula for distribution of highway funds in this supplemental appropriations bill was not developed willy-nilly. Frankly, this is, I think, the preamble to what we are going to be talking about later in the session. And I would say this, that my State, which sends down so much money that we are 49th on the list of return of the Federal dollar, will not stand by idly while we debate those things that advantage some and disadvantage others. This formula for the supplemental was constructed as an attempt to honor the obligations that these States incur as a result of the incredible traffic that goes through them.

No State has more highway mileage consumed—more highway congestion—than the State of New Jersey, not because all of us have cars and lots of room to drive—we do not—but we are a corridor State and the highways that take people north and south go through our State, and a lot of the highways that go east and west go through our State because they terminate in the New York or Northeast region.

Mr. President, we get 63 cents back on the Federal tax dollar now, so while I understand the posture of donor States, I am not sympathetic. It would be as if I demanded that New Jersey get 90 percent of all agricultural funds disbursed or defense contractor funds disbursed or food stamps disbursed regardless of need. That is not what a national government is about. We are a nation, not a collection of States.

I would like to take a minute to explain the three components of the make up the $933 million contained in this bill. First, the bill includes $318 million in funding requested by the President that will go solely to the donor States. This funding is not called for under ISTEA. This funding would be granted to only those States that lost funding last year when the DOT corrected an error in the calculation of gas tax receipts. Second, there is $139 million included in the bill that was championed by Senator SHELBY. This funding will go only to 10 donor States. It is intended to grant these States the amount of funding they would have received in 1996 had the tax receipt error been corrected in that year. Finally, there is $475 million included in the bill—hold harmless money—for the purpose of ensuring that no State receives less highway funding in fiscal year 1997 than it received in fiscal year 1996.

Mr. President, the Warner amendment strips the hold harmless funding in the bill and distributes it in a manner that will result in a majority of States actually experiencing a cut in their highway funding below the current year's levels. In combination with earlier appropriations, Senator WARNER would provide a $1.8 billion increase to donor States in 1997. He would cut $400 million in funds from 29 States—almost three/fifths of the Nation—to do it.

Now, Mr. President, I was dissatisfied with the distribution of funding in the committee bill, but at least there was an element of fairness to it. In developing this bill, it was important to me that highway funding increases were structured in a balanced way. But, I want to make sure all Senators from the 27 donee States understand that while the funds in this bill and regular appropriations add a total of $1.4 billion to the highway program this year, this entire increase goes to 23 States, while the 27 donee States are held harmless, so to speak. We are level funded. We do not see a penny in 1997 above what we got in 1996.

Mr. President, I ask unanimous consent to have printed in the RECORD a table that displays how the $1.4 billion increase in the highway program would be distributed under the committee bill currently before the Senate and how that increase would be distributed under the Warner amendment.

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

CHANGES IN OBLIGATION AUTHORITY, 1997 DOT APPROPRIATIONS PLUS SUPPLEMENTAL VS 1996 OBLIGATION AUTHORITY

States	Changes from FY 1996 under S. 672	Changes under Warner amendment	Delta
Alabama	71,946,273	78,307,154	6,360,881
Alaska	0	(7,305,872)	(7,305,872)
Arizona	47,684,313	50,033,504	2,349,191
Arkansas	29,755,746	32,854,443	3,098,697
California	106,732,124	126,870,894	20,138,770
Colorado	0	(4,192,807)	(4,192,807)
Connecticut	0	(6,984,024)	(6,984,024)
Delaware	0	(1,508,079)	(1,508,079)
Dist. of Col.	0	448,527	448,527
Florida	158,629,653	166,825,313	8,195,660
Georgia	157,056,019	162,035,589	4,979,570
Hawaii	0	(2,198,988)	(2,198,988)
Idaho	0	734,862	734,862
Illinois	0	(13,965,999)	(13,965,999)
Indiana	52,149,594	59,104,015	6,954,421
Iowa	0	(4,218,019)	(4,218,019)
Kansas	0	(4,132,320)	(4,132,320)
Kentucky	82,719,544	87,837,326	5,117,782
Louisiana	25,305,225	30,328,550	5,023,325
Maine	0	(2,081,316)	(2,081,316)
Maryland	0	(4,990,771)	(4,990,771)
Massachusetts	0	(24,216,772)	(24,216,772)
Michigan	43,219,727	52,519,456	9,299,729
Minnesota	0	(14,905,759)	(14,905,759)
Mississippi	18,240,833	22,419,324	4,178,491
Missouri	35,097,528	43,894,149	8,796,621
Montana	0	(10,687,080)	(10,687,080)
Nebraska	0	(2,775,088)	(2,775,088)
Nevada	0	(2,263,847)	(2,263,847)
New Hampshire	0	(1,722,963)	(1,722,963)
New Jersey	0	(10,244,698)	(10,244,698)
New Mexico	0	(6,665,722)	(6,665,722)
New York	0	(21,101,122)	(21,101,122)
North Carolina	48,483,111	54,356,911	5,873,800
North Dakota	0	(2,155,996)	(2,155,996)
Ohio	7,258,279	30,870,003	23,611,724
Oklahoma	30,822,615	35,912,246	5,089,631
Oregon	0	2,665,316	2,665,316
Pennsylvania	15,759,784	30,856,560	15,096,776
Rhode Island	0	(7,335,536)	(7,335,536)
South Carolina	62,170,686	65,503,116	3,332,430
South Dakota	0	(2,332,722)	(2,332,722)
Tennessee	50,013,288	58,298,902	8,285,614
Texas	219,849,004	236,493,057	16,644,053
Utah	0	(2,544,069)	(2,544,069)
Vermont	0	(1,567,967)	(1,567,967)
Virginia	49,501,328	53,778,961	4,277,633
Washington	0	(9,493,140)	(9,493,140)
West Virginia	0	(3,578,857)	(3,578,857)
Wisconsin	45,182,240	53,544,651	8,362,411
Wyoming	0	(2,268,688)	(2,268,688)
Puerto Rico	0	(1,477,691)	(1,477,691)
Total	1,357,576,914	1,357,576.914	0

Mr. LAUTENBERG. Now Senator WARNER comes along and argues that is not enough. He not only wants the donor States to get the $457 million provided to them in this bill. He wants them to get an additional $400 million beyond that—taken away from the donee States. He wants to cut highway funds for 27 States below last year's level.

Members might appropriately ask ''how is it that the highway program is growing, but my State is getting cut?'' The answer lies in a provision of the Highway bill that was established 6 years ago. That bill included many different formula calculations, but one of them—the so-called 90 percent of payments calculation—requires that donor states receive back at least 90 percent of the gas tax receipts they contribute to the highway trust fund.

Mr. President, that kind of entitlement to donor States inevitably will mean a decrease to other States when gas tax receipts are increasing at a rapid rate. That is true because they will rise at a rate faster than highway spending. So, if donor States are guaranteed a 90 percent return on the gas tax dollar, they will be taking that

money from the rest of us. It's a zero sum game.

This is exactly what has happened this year. As a result, when the Appropriations Committee increased the highway program roughly half a billion dollars last year, the so-called donor States, not only absorbed every penny of that $500 million increase, they also took a billion dollars away from the other States in order to pay for it. In this fiscal year, that provision had the effect of siphoning off $1.5 billion in funding from 27 States and transferring it to 23 donee States.

I hope Senators and their staff are listening to this debate, because I doubt very much that a majority of my colleagues—54 Senators from 27 States—are fully aware of the fact that funding for the Federal highway program is growing but that funding for their State are being cut. And I can tell all my colleagues, as a Senator who has carefully monitored the highway program for more than 14 years, it is unprecedented for us to have a situation where States, much less a majority of States, endure substantial cuts while overall highway spending is increasing.

I can also tell my colleagues, as a very active conferee on the original ISTEA legislation, that no one envisioned a situation where States would take significant cuts in a given year, even while the appropriation increased.

Mr. President, it is ridiculous to suggest that ISTEA envisioned a scenario whereby 23 States would absorb every additional penny added to this program in 1997. But it's even more outrageous to suggest, as the Warner amendment does, that a majority of States should have their transportation funding cut to increase spending for a minority of the States.

Therefore, Mr. President, I strongly support Senator STEVENS' forthcoming motion to table the Warner amendment and ask my colleagues to join us in defeating the amendment of the Senator from Virgina.

This debate is very illustrative of what will be at stake later this year. Senators should be aware that when we guarantee a certain percentage return of gas tax receipts in the law, the funding needed to honor those guarantees will come from the rest of the States. Mr. President, in a way, the Warner amendment is a wakeup call for the majority of Senators. We should not adopt a highway bill that incorporates such guarantees in the law.

No other Federal program works that way. My State of New Jersey receives the second lowest return on the Federal dollar of every other State but Connecticut. We get 63 cents back on the Federal tax dollar. So, while I understand the posture of donee States, I am not particularly sympathetic. It would be as if I demanded that New Jersey get 90 percent of all agricultural funds disbursed, or defense contractor funds disbursed or food stamps disbursed, regardless of need.

Mr. President, that is not what a national government is about. We are a nation, not a collection of States. National programs are designed to meet national goals. That's how benefits go out under Medicaid, housing programs, for agricultural subsidies, and the like. As the second most affluent State in the country, which sends a huge surplus of tax dollars to Washington, New Jersey would be blessed indeed if we were guaranteed a 90 percent return on the Federal dollar. So, Mr. President, I can't agree with donor State Senators unless they are willing to step back and look at the picture across the board.

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I hope Members will think about what it means when it is proposed we guarantee each State a percentage of what it contributes to a national program. I have never come to the Senate Chamber and offered amendments to guarantee my State taxpayers 90 percent of what they contribute toward the Department of Defense. While the Department of Defense serves to protect us all, the Department of Defense has not chosen to have a very large presence in the State of New Jersey.

I have not come to the floor and asked that my taxpayers in New Jersey be guaranteed 90 percent return on their contributions to agricultural price supports, or 90 percent return on what they contribute toward the maintenance of freshwater fisheries, or 90 percent return on what they contribute toward the maintenance of our national parks, or 90 percent return of what they contribute toward massive water projects in the West.

All of these programs reflect national needs. They cannot be subjected to a formula based on tax contributions.

As a member of the Environment and Public Works Committee, I look forward to participating actively in the development of ISTEA 2, including its highway component. I know that my friend from Virginia, the sponsor of this amendment, and the chairman of the Surface Transportation Subcommittee, will be active in developing it as well. I want to work with Senator WARNER to develop a bill that will meet our Nation's transportation needs and be equitable to all States. But, I must say to the Senator from Virginia that I will not be able to endorse an approach that dictates that a majority of States—including my own—will lose highway funding, even as appropriations increase, in order to increase funding for a minority of States, regardless of their needs.

I believe that will be the position of the majority of Senators, whom I hope have been listening to this debate and will look closely at the table I have here at the podium before they cast their vote. I urge them to take a look at that table and then vote to table the Warner amendment.

Mr. President, I will conclude by saying that if we are going to start examining formulas, we are going to revise all of the formulas that disburse money or send money back to States.

I thank the Chair very much.

Mr. WARNER. Mr. President, parliamentary inquiry. Would the Chair advise the Senate, under the time agreement the distinguished Senator from Alaska reached, what Senators remain to be recognized.

The PRESIDING OFFICER (Mr. INHOFE). Under the previous agreement, Senator WARNER from Virginia has 3 minutes; Senator DOMENICI, 1 minute; Senator BINGAMAN, 4 minutes; Senator GRAHAM, 5 minutes; and concluding, Senator STEVENS with 1 minute.

Mr. WARNER. Mr. President, it is the intention of the Senator from Virginia, since I am a proponent of the amendment, to seek recognition again. I ask unanimous consent that my time be increased from 3 to 6 minutes.

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

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 4 minutes.

Mr. BINGAMAN. Mr. President, let me point out the general framework of this discussion as I understand it.

The administration, in the supplemental request that they sent to Congress, suggested that we needed to add $318 million in order to essentially continue a windfall that had been in the previous law to various States under the highway funding formula. There was 24 States. And this was what I would refer to as the 1997 fix. For fiscal year 1997, we were saying, essentially the administration was saying, look, these States expected to get more than they really should have been getting, but we will give them this $318 million to divide among these 24 States.

Then, in the supplemental, we first saw a proposal to add some additional money for 10 other States, and that was added by the subcommittee chairman in the Appropriations Committee, not for fiscal year 1997 but for fiscal year 1996, and he was saying, OK, you have made good to these States for this windfall that was represented to them for 1997; what about for 1996? They ought to get the money they expected in 1996 as well, and he added money for that.

Now, the Appropriations Committee has come along and said, what we are going to do, if all this windfall money is going out to these 24 States—and, clearly, that is what is happening here, and I am not opposed to that, but they are saying if all that money is going out to these windfall States, let us at least hold harmless the rest of the States. Let us make sure they do not see an absolute cut in the level of funding for highways in this current year over 1996. So it is essentially a save harmless provision. It says that although we are going to give this money to these 24 States that expected to get the money, we are not going to have it adversely affect any of the other States, and that is the provision which Senator STEVENS and Senator BYRD have reported to the full Senate here.

The Warner amendment, of course, comes along and says, no, we do not want to save harmless these other States. We, in fact, want to go ahead and cut some of those States' funding from what they did receive in 1996, and, clearly, that to me is not a fair arrangement.

If this group of States is going to get the windfall, which the administration requested and which the appropriations subcommittee has added, then all other States should be held harmless, and that is what the bill does at this time. The Warner amendment would eliminate that hold-harmless provision and would result in States like mine getting less money than we otherwise would.

So I think, clearly, the Warner amendment should be defeated. The committee proposal here is by far the fairest of the proposals, and I hope my colleagues will join me in defeating the Warner amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, again let us sort out what we are considering here.

First, we have what is an admitted arithmetical error by the Department of Treasury. We are attempting to correct that error. There is no dispute between those who advocate the Warner-Graham amendment and those who are proposing the language in the underlying bill that we should correct that error. What is happening now is that because of that error, that mistake, we are now trying to change the fundamental law that relates to the allocation of surface transportation funds among the States.

It would be as if a person had been involved in an automobile accident and had suffered significant injuries and received an insurance payment to make that person whole again, to repay them, reimburse them for the injuries, the medical bills, the lost wages and the other damages that they had suffered, and then their neighbor would turn and say, well, we ought to get the same bill so that we can maintain parity with our neighbor who has gotten this cash settlement from his or her insurance company.

The States that were the losers, that were adversely affected by this arithmetic error are not getting any windfall. They are just like that person involved in the accident. They are being made whole. They are not getting a dime more than they were entitled to get or that they would have gotten under the ISTEA legislation had it been properly administered at every stage.

They are being made whole, for an error that was made and was beyond the capacity of the States to control. That is just fundamental fairness. They are not getting anything that is a benefit beyond what they were entitled to. That is the first $139 million.

Now we are looking at the second $800 million that is being distributed under this proposal, which relates to how everybody else, the States that were not adversely affected, are going to be treated under this law. Senator WARNER and I recommend a simple standard. If we are going to decide that additional highway money should be provided beyond that which is required to rectify this error, it ought to be distributed pursuant to the law. We passed a law in 1991 that set up a method of allocating funds among the 50 States and territories. That law ought to be abided by.

There was reference made by some of the previous speakers that by applying the Warner-Graham standard, some States were going to get zero. No State will get zero. Every State will participate in the $800 million, exactly as the law that we passed in 1991 provides they should. Every State will get a significant amount of additional highway funds beyond what they are presently contemplating. Every State will be a winner.

The question is, are they going to be a winner under the rules that we adopted through the process of this Senate—an authorization committee holding extensive hearings, reporting out a bill, that bill being debated for days and days on the Senate floor, finally going to a conference committee and a product that the President of the United States signed into law? Are we going to respect that process and use that as the means of distributing this additional $800 million? Or, are we, at the last gasp of the 1991 legislation, to say, ''No, we don't want to do that; we want to use a different formula, and that formula is going to say that we are going to hold a set of States harmless by pouring additional money into those States,'' in effect undoing the underlying law that was passed through the congressional process of this Senate and House of Representatives with the concurrence of the President?

There is an issue of fundamental fairness here. A number of States for many years have been contributing substantially more to the National Highway System than they were receiving back. As I said earlier, there are rationales for that that I can accept, recognizing that all States do not have the same capacity, they do not have the same geography, the same population, in order to support a National Highway System. The States that are the donor States are not asking to get back 100 percent, but they are saying, in the last year, in the 6th year of a 6-year highway bill, we ought to at least get back 90 percent.

That is what we agreed to. That is the deal that was made. That is what I think should be honored. That is what fundamental fairness calls for. That is what we achieve by the adoption of the Warner-Graham amendment.

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

Mr. WARNER. Mr. President, I wish to try to summarize this for the Senate. It is a difficult issue. I was, and I continue to be, stunned hearing some of the representations that have been made by my distinguished colleagues and friends in opposition to this amendment, particularly the statement made by my distinguished chairman here, the senior Senator from Alaska, when he said we needed to change the law because the law was wrong.

Mr. President, I am sorry. I have the statement the Senator made. Mr. President, this is not a question of changing the law. The Senator from Alaska put in the statement by the distinguished chairman of the full committee on which I served, Senator CHAFEE. And he, Senator CHAFEE, acknowledged that this is a clerical error committed by the Department of Treasury.

Senator CHAFEE: ''I want to emphasize the situation before us today is not a new one. It started in '94 when the Department of Treasury made a clerical error.''

Going on, he says, ''Since last July, the Departments of Treasury and Transportation have corrected the error.''

I also ask unanimous consent to have printed in the RECORD, following my statement, the Treasury Department, Comptroller General of the United States decision, dated December 5, 1996.

First sentence, ''Because of a clerical error, the Financial Management Service, Department of Treasury, failed to credit. . . .''

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

(See exhibit 1.)

Mr. WARNER. This is a clerical error that had to be corrected. The Appropriations Committee corrected it as related to the $139 billion. But the distinguished Senator from Alaska said, we had to take and change the law so that the balance of the money—money not requested by the administration or anyone else—could be distributed accurately and fairly.

So we really have law No. 1, which is the 1991 law, and which we have been acting under for these several years, 5 years, under the ISTEA, 1991. We now have a proposed new law by the Appropriations Committee, a law arrived at without any participation in the normal process of drawing up an important statute like this—no hearings on it, simply cobbled together by the appropriators, hastily, not in consultation with the authorizers. And then we have a third law which, not in existence, is to be devised by this body after careful deliberation on a bill that will be forthcoming from the full Committee on the Environment and Public Works. That debate, which you have seen parts of today, will be extensive, as it should be. It will be thorough. And all Senators will have the opportunity equally to shape the third law, which will control the distribution for the next 5 years.

Mr. President, my amendment simply says to the U.S. Senate: Let us follow the existing law in 1991, not accept a hastily put together law by the Appropriations Committee without participation by the full Senate. That is a compounding of the inequities of this whole issue on donor/donee.

So, as Senators go to their desks, please, first, do not accept the fact that some States get zero. I do not know where that sheet came from. I have put on the desk the Department of the Treasury allocation under the Warner formula, which is simply—the Warner formula is nothing more than the existing law. So I plead with the Senate not to hastily rewrite the existing law in a debate which, although thorough, had been but an hour and a half, and not all Senators have had the opportunity to participate. Please, I urge the Senate, do not change the law. Let the 1991 bill finish its intended purpose to 1997, and let that law distribute the additional funds brought forth under this supplemental by the Appropriations Committee.

I yield the floor.

EXHIBIT 1

COMPTROLLER GENERAL OF THE UNITED STATES—DECISION

Matter of: Corrections to the Federal Highway Trust Fund.

Date: December 5, 1996.

DIGEST

Because of a clerical error, the Financial Management Service, Department of the Treasury, failed to credit actual excise tax receipts to the Highway Trust Fund for the quarters ending June 30, September 30, and December 31, 1993, as required by law. 26 U.S.C. §§9601, 9503. The Secretary of the Treasury has the authority to correct the clerical accounting and reporting errors by restating the fiscal year 1994 and 1995 income statements for the Highway Trust Fund provided to the Department of Transportation. The Secretary of Transportation has no authority to administratively adjust, modify, or correct Highway Trust Fund income data provided by the Department of the Treasury and is bound to make apportionments to the States based on the data reported by the Treasury.

DECISION

The Department of the Treasury (Treasury) and the Department of Transportation (Transportation) ask whether they are authorized to correct certain clerical accounting and reporting errors relating to appropriations in the Highway Trust Fund (HT Fund). Treasury believes that it has the authority to, and should, correct errors made in recording collections and resulting appropriations attributable to the HT Fund by restating the fiscal years (FY) 1994 and 1995 income statements for the HT Fund provided Transportation. Transportation believes that it must apportion HT funds to the states based on the income statements provided by the Treasury. For the reasons explained below, we agree that Treasury may adjust the FY 1994 and 1995 HT Fund income statements and that Transportation must base its apportionment on the corrected income statements.

Background

Federal Aid Highway Program

The Federal Aid Highway Program distributes billions of dollars of federal funding annually to the 50 states, the District of Columbia, and Puerto Rico for highway construction, repair, and related activities. To finance the highway program, Congress established the HT Fund as a trust fund account in the Treasury of the United States, 26 U.S.C. §9503(a) (1994), designating the Secretary of the Treasury as trustee, 26 U.S.C. §9602(a). Congress has provided the HT Fund with a permanent indefinite appropriation of amounts received in the Treasury from certain gasoline, diesel fuel, and other excise taxes paid by highway users. 26 U.S.C. §9503(b).

Statutory responsibilities of Secretary of the Treasury

The Secretary of the Treasury (Secretary), as trustee of the HT Fund, must fulfill certain accounting and administrative functions.[1] Specifically, the Secretary is required to transfer at least monthly from the general fund of the Treasury amounts appropriated to the HT Fund based on Treasury estimates of the specified excise taxes for the month. 26 U.S.C. §9601. The Secretary is further directed to make ''proper adjustments . . . in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.'' Id.

Footnotes at end of article.

To discharge its duties as trustee, Treasury uses estimates provided by the Treasury's Office of Tax Analysis (OTA). Each month OTA submits to the Treasury's Financial Management Service (FMS) an estimate of the specified excise taxes that will be covered into the general fund for the upcoming month. Upon receipt of the monthly OTA estimate, FMS records the amount of the estimate and on the 8th business day of the month transfers from the general fund 50 percent of the estimated amount to the HT Fund and the remaining 50 percent of the estimated amount to the Fund on the 18th business day of the month.

The statutory scheme recognizes that the actual amount of highway taxes covered into the general fund may be greater or less than the amounts previously estimated and transferred to the Fund. Pursuant to 26 U.S.C. §9601, the Secretary is directed to adjust any differences between the transferred estimated amounts and the actual amounts collected. FMS makes these adjustments based on an Internal Revenue Service (IRS) quarterly certification of the actual amounts of taxes collected (IRS actuals). FMS receives the IRS actuals approximately 6 to 9 months after the end of each quarter and records the necessary upward or downward adjustment to the HT Fund income statement in the fiscal year in which it receives the IRS actuals. The Federal Highway Administration (FHWA) uses the HT Fund income statements as the base figures for apportioning federal aid-highway ''contract authority'' to each state.[2]

FMS clerical accounting and reporting errors

The HT Fund consists of a Highway Account and a Mass Transit Account. 26 U.S.C. §9503(a) and (e). According to Treasury, prior to the receipt of the IRS actuals for the quarter ended June 30, 1993, the form which IRS used to report actuals to FMS combined in a single column the accounts attributable to both the Highway Account and the Mass Transit Account. Starting with the IRS actuals for the quarter ended June 30, 1993, IRS separated the amounts attributable to the Highway and Mass Transit Accounts into separate columns. IRS apparently did not notify FMS of the change in format nor did FMS notice the change. Consequently, when calculating its adjustments to the OTA estimates, FMS used the amounts listed in the Highway Account column, instead of using the sum of the Highway Account and the Mass Transit columns. Because of FMS failure to properly transcribe the IRS actuals in FY 1994 when the data was received,[3] the FMS adjustments made in FY 1994 for the quarters ended June 30 ($529,683,300), September 30 ($547,256,400), and December 31, 1993 ($513,533,200), understated the HT Fund income in the aggregate by approximately $1.59 billion.

In November 1994, when the FMS forwarded to the FHWA the year-end FY 1994 HT Fund income statement, the FHWA discovered the FMS error. On November 30, 1994, the FHWA advised FMS of the error. The FHWA asked FMS to reflect the correction in the HT Fund income statement for FY 1994. Instead, on December 21, 1994, FMS adjusted upward the HT Fund account by $1.59 billion, reporting the adjustment as income in FY 1995, the fiscal year in which FHWA advised FMS of the mistake. In contrast to Treasury's standard procedure, this had the effect of understating the FY 1994 HT Fund income by $1.59 billion and overstating the FY 1995 HT Fund income by the same amount.

As previously noted, FMS has implemented the statutory scheme by crediting the HT Fund in the fiscal year in which they received the IRS actuals. The FMS' failure to follow their standard practice in this instance significantly affects the FHWA's allocations of HT Fund contract authority.[4] Treasury and Transportation have informed us that due to the interactions between the 90 percent payment apportionments[5] and the obligational limitation imposed by Congress for FY 1997,[6] the FMS reporting error will result in approximately 24 states receiving lower distributions of obligational authority in FY 1997, with some of the adjustments ranging up to $50 million.[7]

The Treasury has concluded that it should adjust the fiscal year 1994 income statements by crediting the HT Fund with the $1.59 billion in the year in which IRS reported the actuals to FMS. If Treasury corrects the error by adjusting the FY 1994 and FY 1995 Fund income statements to credit the IRS actuals to the fiscal year in which they were originally reported to FMS, Transportation would ask the Office of Management and Budget for a reapportionment of FY 1996 contract authority. This would mean, according to FHWA, a redistribution of approximately $300 million in contract authority among the States for FY 1996.

Transportation has concluded that it cannot administratively correct or modify HT Fund Treasury income statement by substituting data other than that reported by Treasury on the HT Fund income statement. Memorandum from Chief Counsel, FHWA, to General Counsel, Transportation, October 4, 1996. Transportation determined that in furtherance of its duty to administer the Federal Aid Highway Program, it must apportion funds authorized to be apportioned to the states under 23 U.S.C. §104 and section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (23 U.S.C. §104, note) on the basis of the data reported by Treasury. Based on its legal analysis of the Secretary's statutory responsibilities, Treasury has concluded, and Transportation agrees, that it has the authority to make the correction in FY 1994. We agree.

Analysis

Authority of Treasury to correct errors

Consistent with the statutory scheme and his duties as trustee of the HT Fund, the Secretary of the Treasury credits on a monthly basis estimated amounts of specified excise taxes to the HT Fund and subsequently adjusts the estimated amounts to reflect the amount of the specified excise taxes actually collected. For three quarters in calendar year 1993, FMS misread the IRS form

reporting the actual amount of excise taxes collected. As a result, FMS credited the HT Fund with $1.59 billion less in income in FY 1994 than it otherwise would have had they properly read the IRS form. When notified of the mistake, FMS ''corrected'' the error by recording the $1.59 billion as income to the HT Fund in FY 1995, apparently based on the view that they should make the correction effective when they learned of the error, as opposed to when they were initially advised of the amount of taxes collected. The issue is whether Treasury may credit the $1.59 billion to FY 1994, the fiscal year that would have been credited had FMS not misread the IRS form. We think that the answer is clearly yes.

Our decisions in this area over the years stand for the proposition that an act of Congress is not required to correct clerical or administrative errors. 41 Comp. Gen. 16, 19 (1961). In B–251287, September 29, 1993, we concluded that when Treasury is presented with convincing evidence that a reporting error affecting the balance of an appropriation account has occurred as a result of an obvious clerical error, it may adjust the account balance to correct the mistake. In that particular case, had Treasury not been able to adjust the appropriation account balance to correct the mistake, the erroneously reported amount would have been treated as canceled in accordance with the applicable account closing procedures contained in the National Defense Authorization Act of 1990, Pub. L. No. 101–510, 104 Stat. 1674 (1990). *Id.* Similarly, Treasury may adjust its accounting records to credit an appropriation account with the amount improperly credited to the general fund of the Treasury. 45 Comp. Gen. 724, 730 (1966); *see also* B–126738, April 11, 1956. Where the evidence of the error is unreliable or inconclusive, B–236940, October 17, 1989, we have objected to an administrative adjustment. In this case this limitation does not apply.

As explained above, had FMS officials properly understood the IRS form reporting the actual amount of excise taxes collected for the three quarters in question, they would have recorded the appropriate amounts in the FY 1994 HT Fund income statements. The fact that FMS officials recorded the amount, the $1.59 billion, in the FY 1995 HT Fund income statement when FHWA advised them of their oversight is as much a deviation from their established practice of recording amounts collected in the fiscal year current when IRS reports the actual amounts collected as was the failure to properly read the IRS form in the first place. To now adjust the FY 1994 and FY 1995 income statements to reflect what FMS officials should have done had they followed their established procedures, consistently and regularly applied, does no more than restore the accounts to where they should have been. Apart from whatever responsibilities the Secretary may have to accurately state the accounts of the United States, the Secretary in his capacity as trustee of the HT Fund has the duty to accurately account for the amounts in the Fund consistent with the terms of the appropriation made thereto and the applicable administrative procedures adopted to effectuate his statutory responsibilities.[8]

The statutory scheme for apportioning contract authority among the states for the Federal Aid Highway Program makes it essential that the Secretary maintain an accounting of the HT Fund in the most accurate manner possible. The interplay between the HT Fund and the statutes providing federal aid to the states for highways reflects a complex congressional plan to equitably distribute the HT Fund proceeds for the various highway programs among the states. This entire statutory scheme is dependent upon the Treasury accurately performing the ministerial duty of collecting, accounting for and reporting the revenues. For example, the 90 percent payment adjustment provided by section 1015(b) of ISTEA directs Transportation to base its computation on ''the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund * * * in the latest fiscal year in which data is available.'' The failure to properly account for funds in the correct year can dramatically affect the amount of funds each state is entitled to receive from the HT Fund.

Thus, Treasury's accounting for the funds in the correct year is critical. Although section 9601 does not contain a specific time limit in which the Secretary must make the proper adjustments to reflect the actual amounts of the applicable excise taxes received in the Treasury. Treasury has implemented section 9601 by making the adjustment to the HT Fund income statement for the fiscal year current at the time of receipt of the IRS report on the actual amount collected. We understand that, with the exception of the adjustments at issue here, this has been the consistent practice of Treasury. Although this may not be the only way to implement this statutory scheme, it is entitled to deference unless clearly wrong. *Chevron U.S.A. Inc.* v. *Natural Resources Defense Counsel Inc.*, 467 U.S. 837, 844 (1984). As noted above, Treasury has advised us that it received all IRS actuals in fiscal year 1994. Accordingly, we have no objection to Treasury adjusting the FY 1994 and FY 1995 HT Fund income statements to conform to their established practice of accounting for these amounts.

Authority of transportation to adjust HT fund income data

As mentioned above, Transportation has concluded that it cannot administratively correct erroneous HT Fund Treasury income statements.[9] We agree. Transportation is statutorily charged with administering the Federal Aid Highway program and it may only apportion funds authorized to be appropriated to the states under 23 U.S.C. §§101, *et seq.* As discussed above, as trustee of the HT Fund, Treasury is solely responsible for making transfers and adjustments to the HT Fund under 26 U.S.C. §§9601 and 9602. Transportation has no role in administratively adjusting, modifying, or correcting Highway Trust Fund income statements provided by the Department of the Treasury. Thus, Transportation is bound to make apportionments to the States based on the data reported by Treasury.[10]

Conclusion

Treasury may adjust the FY 1994 and 1995 HT Fund income statements to credit the HT Fund with the excise taxes originally not included in the HT Fund income statements' just as if Treasury had credited such amounts upon receipt of the reports from the IRS. Transportation has advised us that upon the adjustment of the FY 1994 and FY 1995 HT Fund income statements to reflect the actual receipt of revenue consistent with their standard practice, Transportation will seek a reapportionment of contract authority from the Office of Management and Budget for FY 1996. Once Treasury has issued its HT Fund income statement, Transportation's duty is to effectuate the statutory apportionment formula, including the 90 percent payment apportionment, based on the data provided by Treasury.

FOOTNOTES

[1]The Secretary is responsible for maintaining an effective and coordinated system of accounting and financial reporting, 31 U.S.C. §3513, managing the trust funds, and reporting to Congress on their financial conditions and operations. 26 U.S.C. §§9601 and 9602.

[2]The Federal Aid Highway Program is essentially a ''reimbursable'' program, that is, the federal government reimburses states for costs actually incurred in building or repairing its highways. Congress, primarily in the highway authorization acts, authorizes Transportation through the FHWA and its other agencies, to incur obligations (using contract authority) on behalf of the federal government. The FHWA apportions authorized amounts of contract authority to the states, in effect establishing lines of credit upon which the states may draw for a particular project. See Financing Federal Aid Highways. FHWA Publication No. FHWA–92–016 (1992).

[3]Treasury has advised that FMS received the IRS actuals as follows: for the quarter ended June 30, 1993, the FMS received the IRS actuals on May 26, 1994; for the quarter ended September 30, 1993, the FMS received the IRS actuals on July 5, 1994; for the quarter ended December 31, 1993, the FMS received the IRS actuals on September 16, 1994.

[4]Treasury officials have informally advised us that they could not recall any cases in which a clerical error was made that required corrective action.

[5]The 90 percent payments apportionment is one of a number of provisions Congress has built into the Federal Aid Highway Program to: (1) insure funding equity among the states, (2) address the concerns of states that contribute more highway user taxes than they would receive in federal aid highway funds, and (3) provide each state with the same relative share of overall funding that it had received in the past. Specifically, the 90 percent payments apportionment ensures that each qualifying state will receive an allocation in an amount that ensures its apportionments for the fiscal year and allocations for the previous fiscal year will be at least 90 percent of its contributions to the Highway Account of the HT Fund. Financing Federal Aid Highways, FHWA Publication No. FHWA–92–016 (1992).

[6]The obligation limitation for FY 1997 is $18 billion. Pub. L. No. 104–205, 110 Stat. 2958 (1996).

[7]The law requires that Transportation base the 90 percent payment apportionments on the latest fiscal year in which data is available. Pub. L. No. 102–240, §1015(b), 105 Stat. 1944 (1991). Generally, the latest fiscal year for which data is available lags by two years. For example, for fiscal year 1996, Transportation based the 90 percent payment apportionments of contract authority on data from the fiscal year 1994 HT Fund income statements. Similarly, Transportation will base the 90 percent payment apportionments of contract authority for FY 1997 on data from the FY 1995 HT Fund income statements. Thus, Treasury's correction of the FYs 1994 and 1995 HT Fund income statements will affect the allocations for FYs 1996 and 1997.

[8]Certainly, section 9601 contemplates that the Secretary will faithfully carry out his responsibilities as trustee of the HT Fund to credit the Fund with the amounts collected as reported by the IRS. Literally read, section 9601 only authorizes the Secretary to make ''proper adjustments'' necessary to reflect any differences between the estimated amounts provided by the OTA each month, and the amounts reported by the IRS several months later as actually collected. In our opinion, the Secretary's authority to correct the FMS clerical accounting and reporting errors in this case is not dependent on the authority in section 9601 to make ''proper adjustments.''

[9]Earlier this year, Senator Baucus introduced an amendment to the Transportation appropriation for FY 1997 requiring Transportation to make appropriate adjustments to federal aid highway apportionments to correct Treasury's error. 142 Cong. Rec. S9266–9275 (daily ed. July 31, 1996). The amendment was agreed to by the Senate. 142 Cong. Rec. S9278 (daily ed. July 31, 1996). The Conference Committee on the differing House and Senate versions of the FY 1997 Transportation appropriation eliminated the Baucus amendment from the Conference bill. 142 Cong. Rec. S10778 (daily ed. September 18, 1996).

[10]See generally, 41 Comp. Gen. 16 (1961), holding that when an apportionment under the federal highway program results in some states receiving funds in excess of the amount they were entitled to receive and others receiving less than their entitlement, the failure to apportion properly must be regarded as an act in excess of statutory authority and the incorrect apportionments need to be appropriately adjusted.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 1 minute remaining.

Mr. STEVENS. Does any further Senator have any time?

The PRESIDING OFFICER. Yes, the Senator from Virginia has 1½ minutes remaining. The Senator from New Mexico [Mr. DOMENICI] has 1 minute remaining.

Mr. STEVENS. Well, Mr. President, I intend to close, so I will wait.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have made my case. I yield back the time of the Senator from Virginia.

Mr. STEVENS. Mr. President, Senator DOMENICI, I am informed, does not wish this time. I yield it back for him.

I close by saying we make no change in the basic law. The allocations under this bill are under the 1996 formula. Without unfairness, as is pointed out in the statement from the chairman of the Public Works Committee, and I read this because it is very strange that this—it does not normally happen.

Mr. WARNER. If the Senator will yield for a question, I simply say if he states he is making no changes in the ISTEA 1991 law, then I withdraw the amendment.

Mr. STEVENS. Our formula is the 1996 formula. The 1996 formula is the one that has been used by Senator WARNER, and we are using the same formula. We are not changing the 1996 formula. We are looking for a statement the Senator made.

Mr. WARNER. Mr. President, we are dealing with 1997——

Mr. GRAHAM. Will the Senator from Alaska yield for a question?

Mr. STEVENS. Regular order. The Senators had their time.

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

Mr. STEVENS. Let me read from Senator CHAFEE's statement.

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

Mr. STEVENS. ''The additional funds provided by the Appropriations Committee hardly give an unfair advantage to 29 States.''

Mr. BYRD. Mr. President, I ask unanimous consent the Senator have an additional 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I do not wish to object, but I would like to have an equal amount of time.

Mr. STEVENS. I thank both Senators. I want to finish. I just want to read this one statement. Am I out of time?

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I just want to finish this one thing I am trying to find and that is all.

The PRESIDING OFFICER. The Senator from Virginia asked unanimous consent he be extended 3 additional minutes, the same as the Senator from Alaska. Is there objection?

Mr. STEVENS. There is no objection.

Mr. WARNER. I make the proffer here, I judge my distinguished colleague from Florida will join me, if the Senator from Alaska will state that it is the intention of this bill not to change the 1991 ISTEA law, as it applies to fiscal year 1997, I will withdraw the amendment.

Mr. STEVENS. Mr. President, the Senator from Virginia wanted to change the law. The President wanted to change the law with the $318 million. If the Senator wants to delete the $318 million, the $475 million would come out. But the $139 million that the President did not request is the one that is to correct the error. The moneys we have added to what the President requests is to make it fair and to correct the impact of the underlying Treasury error.

I say again, we have used the 1996 formula. The President's request would be an $318 million addition for a few States based primarily on one category of the 1996 formula. We equalize that with what we have done. I do not say we have changed the thrust of the law. We have changed in terms of the formula.

Mr. WARNER. I claim my time. The Senator is on his time with the reply.

The PRESIDING OFFICER. The Senator from Virginia has his time.

Mr. STEVENS. Do I have any time left?

The PRESIDING OFFICER. Yes, the Senator from Alaska has 3 minutes remaining.

Mr. WARNER. I think, in fairness to the Senate, we might consider a quorum call, during which time I am perfectly willing to say to the distinguished chairman of the Appropriations Committee, if he will let the 1991 ISTEA law control the distribution of 1997 funds, which are the funds in this appropriation, I am perfectly willing to withdraw the amendment, because it is clear to me that this bill, as written, rewrites the 1991 law. And that is not the intention, in my judgment, of the U.S. Senate, to do that hastily in a debate of 1 hour and a half.

Mr. GRAHAM. Will the Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. GRAHAM. Am I correct the amendment that he has offered would, in fact, provide that the $318 million, plus the $475 million, all be distributed pursuant to the 1991 ISTEA act?

Mr. WARNER. Mr. President, the Senator is absolutely correct.

Mr. GRAHAM. So we——

Mr. WARNER. The Senator from Virginia simply says that all moneys above the $139 million—that is a clerical error, not a law error—be treated under the ISTEA 1991 law, which is the law of the land today. We should not, as the U.S. Senate, endeavor in this brief period to rewrite that ISTEA 1991 distribution formula. That should await the next piece of legislation which is coming through in the orderly, bipartisan process, through the authorization committee.

I make the proffer right now to withdraw the amendment if the Senator will revise the bill before the Senate, such that it reflects that in 1991, the ISTEA law governs the distribution of those funds over and above $139 million in this bill.

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

Mr. STEVENS. Mr. President, I reject that suggestion. As the Senator knows, the change is required for the $139 million that he is proposing. We are working from a 1996 base, and that is what we are equalizing.

This is a growing program. Why should some States be less than they were in 1996, while other States grow at such a rate they are far in excess of 1996?

Again, I have been trying to read what the Senator from Rhode Island, the chairman of the Public Works Committee, said in the statements before the Senate.

> The additional funds provided by the Appropriations Committee hardly give an unfair advantage to 29 States. In fact, the only States that actually receive additional funds in 1997, when compared to 1996, are the so-called donor States that are offering the amendment that is before us today. Mr. President, this is an issue that, in my opinion was resolved after the administration initially fixed its error last December. Unfortunately, the administration has reopened this complicated issue. The Appropriations Committee has developed a fair solution to a difficult problem, and they should be congratulated. I urge my colleagues to oppose this amendment and support the chairman of the Appropriations Committee.

I yield the remainder of my time. I yield the remainder my time. I move to table the amendment.

I ask for the yeas and nays.

Mr. WARNER. It is a simple question.

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 to lay on the table amendment No. 66 to S. 672. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—54

Akaka	D'Amato	Inouye
Allard	Daschle	Jeffords
Baucus	Dodd	Johnson
Bennett	Domenici	Kennedy
Biden	Dorgan	Kerrey
Bingaman	Durbin	Kerry
Brownback	Enzi	Lautenberg
Bryan	Gorton	Leahy
Burns	Grams	Lieberman
Byrd	Grassley	Mikulski
Campbell	Gregg	Moseley-Braun
Chafee	Hagel	Moynihan
Collins	Harkin	Murkowski
Conrad	Hatch	Murray

Reed	Roth	Stevens
Reid	Sarbanes	Thomas
Roberts	Smith (NH)	Torricelli
Rockefeller	Snowe	Wellstone

NAYS—46

Abraham	Frist	Mack
Ashcroft	Glenn	McCain
Bond	Graham	McConnell
Boxer	Gramm	Nickles
Breaux	Helms	Robb
Bumpers	Hollings	Santorum
Cleland	Hutchinson	Sessions
Coats	Hutchison	Shelby
Cochran	Inhofe	Smith (OR)
Coverdell	Kempthorne	Specter
Craig	Kohl	Thompson
DeWine	Kyl	Thurmond
Faircloth	Landrieu	Warner
Feingold	Levin	Wyden
Feinstein	Lott	
Ford	Lugar	

The motion to lay on the table the amendment (No. 66) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. If we could have order, I would like to tell Senators what will happen now.

Let me make a parliamentary inquiry.

How much time is left under cloture, Mr. President?

The PRESIDING OFFICER. We will have to compute that.

Mr. STEVENS. I thought I had an answer. The answer I received is not correct?

The PRESIDING OFFICER. No. We are computing it right now. It will have to be recomputed.

Mr. STEVENS. I urge the Parliamentarian to compute it before I finish here because I think Senators ought to know.

We, I hope, will finish this bill under the original cloture period.

Senator BYRD, from West Virginia, will be recognized under the agreement we entered into last evening to complete the statements on his amendment to delete the CR provision in the bill.

After that, Senator REID's amendment is the pending business. It is our intention to go to Senator REID's amendment. There is an agreement on that.

Following that amendment, Senator GRAMM, who has a series of amendments, has asked to bring up one of his amendments. And it is my hope that the Chair will recognize him after that.

I urge Senators to come forward now and tell us what they are going to bring up. If I am correct, the time under cloture expires before 6 p.m. tonight. It is my feeling we should finish in that original period. That will mean that we will have to shorten the time on every amendment that comes up and seek an opportunity to vote, if there is going to be a vote, within a reasonable period of time.

So, Mr. President, I want to announce, as chairman, once an amendment is called up and a statement is made in support of it, I will seek the floor to table that amendment. But I hope to seek from each Member a reasonable period of time for any Member who wants to speak on the pending amendment. I urge Senators to limit their time so we can finish by 6 o'clock.

Has the Parliamentarian come close to an estimate?

The PRESIDING OFFICER. We are still computing.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Could I say to the distinguished chairman, the manager of the bill, on the Reid amendment we have an agreement, and we can move rather quickly on that, if you want to get one more thing taken care of.

Mr. STEVENS. Mr. President, that is precisely what we have agreed to do. As soon as Senator BYRD, who has the amendment that is pending, because of an agreement that was entered into before—the Reid amendment was set aside—we shall finish Senator BYRD's amendment, and once that is finished we will go back to regular business, which is the Reid amendment, as soon as the Byrd amendment is voted upon. Then we would proceed, by agreement, I hope, to raise every amendment that a Senator wishes to raise within the time limit that is left under the cloture period.

Mr. CHAFEE. Is there any suggestion how long the Byrd amendment might take?

Mr. STEVENS. Mr. President, it is our hope that after the Senator has completed his statement that he did not make last night that we will be able to reach an agreement as to time in very short order. But he has not completed his statement yet, so I cannot answer that question yet.

Again, this is a consistent pattern. I hope the Senate will realize the person who offers an amendment will be allowed to make the statement that he or she wishes to make, and after that time we will seek to limit the time for any further comment on the amendment before I make a motion to table.

Mr. REID. Mr. President, if I could ask the manager of the bill, we understand there is no specific time, but I wonder, for those of us involved in the next amendment, can you give us a ballpark? Would it be like 2:30, something like that?

Mr. STEVENS. It is my hope the Senator will agree—and I have discussed with the Senator from West Virginia—that sometime around the 2 o'clock time we can vote on the amendment because we do have some people who have already notified us that they are going to leave, and I think that they are on the Senator's side. So we would like to accommodate people who will leave. But we have not any agreement.

The question was asked to you, I say to the Senator. You may want to respond now. If you do not, we will wait.

Mr. BYRD. I am in no position to respond at this moment. But I do have at least 9 or 10 speakers on this side other than myself, and they will want somewhere from 5 to 10 minutes each probably.

Mr. STEVENS. Again, when the Senator is finished with his statement, I intend to seek a limitation—before I make a motion to table his amendment—on any of those who wish to speak. So I do hope that we will be able to get that. When the Senator is finished with his statement, we will get to this and decide what the time will be.

I yield to Senator BYRD.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, at what time did cloture occur?

The PRESIDING OFFICER. Cloture was invoked yesterday at 10:28 a.m.

Mr. BYRD. What time?

The PRESIDING OFFICER. At 10:28 a.m.

Mr. BYRD. At 10:28 a.m. So the 30 hours for debate could well not occur today, not take place today.

Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 59

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished senior Senator from Massachusetts for not to exceed 10 minutes without losing my right to the floor. He has to go to another appointment.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from West Virginia for yielding the time. Once again I commend him for bringing his amendment to the floor of the Senate. And for the reasons that I will outline, I hope that his position will be overwhelmingly accepted.

Mr. President, this automatic budget proposal is a Trojan Horse, and the Senate should reject it. It would freeze the level of last year's spending on any appropriations bill where Congress and the President failed to agree. By creating the certainty of a particular result in the event of a deadlock, it creates the certainty of a deadlock. There will always be those who favor a freeze. They obstruct the process. This provision guarantees that they will get their way.

Mr. President, by creating the certainty of a particular result in the event of a deadlock, it creates the certainty of a deadlock. There will always be those who desire a freeze. If they obstruct the process, this provision guarantees they will get their way. They will have many opportunities to obstruct.

Already, continuing resolutions are a regular part of the congressional procedure. A forthcoming article by Professor Meyers of the University of Maryland calculates that since 1974, when the Congressional Budget Act set the October 1 deadline for enacting appropriations, more than two-thirds of appropriation bills have been enacted

after that date. With this automatic budget provision tilting the outcome, it will be a rare case, indeed, when it is not used by our Republican friends to achieve their ideological goals.

Our Republican friends seek to sell this Trojan horse as a way to prevent shutting down the Government. We all know the real target. This proposal would simply guarantee cutting back on funds for education, for health, safety, and the environment.

This year, a freeze at last year's level would be $27 billion below President Clinton's request for total discretionary spending for 1998. It would yield a devastating cut in education, in health, and safety. We all remember the long and difficult struggle and battle that was held here on the floor of the U.S. Senate in making sure that those priorities, which are the priorities of the American people, were going to be achieved. It was only in the final days of the consideration in the Congress that we were able to do so.

It would cost $330 million from Head Start, depriving 35,000 children of the chance they would have to participate in Head Start under the President's plan.

It would slash $1.7 billion from Pell grants, denying crucial aid to 350,000 needy college students.

It would cut $300 million from the education for disadvantaged children, denying 483,000 children the extra help they need to survive in school.

It would cut $5 million from programs like Meals on Wheels, resulting in $2.8 million fewer home-delivered meals for senior citizens.

It would cut $23 million from the President's budget for occupational safety and health, resulting in thousands of fewer health and safety inspections.

It would cut $300 million from the President's budget for the National Institutes of Health, slashing the number of new research grants and contracts, dramatically jeopardizing the research on cancer, AIDS, diabetes, Parkinson's disease, and many other diseases.

These are unacceptable results. This is unacceptable budget policy. It is a GOP Government shutdown on the installment plan.

If we give the obstructionists and donothings this raw power, they will have carte blanche to do it every year. The cuts will grow like compound interest. Five years of a freeze would lead to cuts of $165 billion. The 2002 level for appropriated spending would be 9 percent below the President's budget.

If you take inflation into account, the cuts would total $287 billion below the levels needed to maintain current services. The 2002 level would be 16 percent below the level needed to maintain current services.

Appropriated spending is now its smallest share of the economy since 1938—7 percent, roughly half of its high of 13.6 percent in 1968. We are reducing spending, and we are doing it the right way, not the right-wing way.

Under the President's budget and the budget agreement, spending will already decline further in inflation-adjusted terms. From this already shrinking pie, Congress has to fund education, health research, and other needed investments to keep our economy strong and growing.

This proposal is extreme. Make no mistake about it. The Nation cannot afford a robot procedure that robs future generations and weakens the economy. Congress should not put the budget on an automatic shrinking pilot. We can work together, Republicans and Democrats, we can write a better budget than this provision will allow—and still meet any reasonable goals for restraining spending.

I urge all Senators to support the amendment offered by the Senator from West Virginia.

Mr. President, I ask unanimous consent a table showing the calculation results in the cuts I described be printed in the RECORD at this point.

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

LOSSES FROM THE AUTOMATIC BUDGET COMPARED TO THE PRESIDENT'S BUDGET [1]

[Billions of dollars in budget authority for discretionary spending]

	1998	1999	2000	2001	2002	Over 5 years
President's budget [1]	537.1	535.5	542.3	549.2	560.4	2,724.5
100 percent of prior year	511.8	511.8	511.9	511.9	511.9	2,559.3
Loss in funding	25.3	23.7	30.4	37.3	48.5	165.2

[1] As estimated by the Congressional Budget Office.

LOSSES FROM THE AUTOMATIC BUDGET COMPARED TO SPENDING NEEDED TO MAINTAIN CURRENT SERVICES [1]

[Billions of dollars in budget authority for discretionary spending]

	1998	1999	2000	2001	2002	Over 5 years
Current services [1]	532.9	550.8	569.0	587.4	606.3	2,846.4
100 percent of prior year	511.8	511.8	511.9	511.9	511.9	2,559.3
Loss in funding	21.1	39	57.1	75.5	94.4	287.1

[1] As estimated by the Congressional Budget Office.

Mr. KENNEDY. Mr. President, if you look at the cuts, for example, in the area of education, and you take the cuts plus what is happening in terms of inflation in education alone, it would be a 16-percent reduction in the real purchasing power of education programs—in all education programs. Those are the student loan programs which are such a lifeline for children, young people that are looking forward to funding their education with the help and assistance of the Pell grants. It would cut back on the title I programs that reach out to children and help to provide programs to advance math, science, and literacy in schools across the country. It would cut back on the Head Start Programs which provide the early kind of intervention in terms of developing self-confidence and character building among the children in this country. These are programs with proven results, Mr. President.

The reality is that it is generally this appropriation, the HEW or HHS appropriation, which is the last one that comes through here. It is amazing to me, Mr. President, that after we have an agreement on the President's budget, bipartisan agreement on the President's budget, that there are still those in the Senate that want to continue to support this proposal. We are supposed to have an agreement on the President's budget, but nonetheless they want to insist on this continuing proposal. So we have to look at why they might want to continue with this proposal. You have to reach the conclusion that, given their record in the areas of education, in the areas of health, in the areas of Head Start Programs, Meals on Wheels, fuel assistance program, substance abuse programs to help young people free themselves from addiction, you can reach no other conclusion than they want further cutbacks than agreed to under the President's budget, or why would they insist on it?

Are we going to see the day when, sure, we have a budget deal, a tall sign, people are prepared to deal with it, and then we come back to the appropriations process, and it just so happens that appropriations in the areas of education, training programs, or other programs affecting our senior citizens like Meals on Wheels conform to what was agreed on, but there are perhaps a handful of Senators who say, ''We will not consider that appropriations bill. We are not going to bring it up.''

All right, if we do not, we are back to running on the agreement that was in this particular supplemental bill. What is that going to mean? It will mean a

very small and tiny minority can effectively renege on what has been agreed to by Republicans. If that is not their position, then there will be an overwhelming majority that will support the Senator from West Virginia, an overwhelming majority. It is a pretty clear indication of what the real intentions of Members of this body are with regard to that particular agreement.

I think for all of these reasons, Mr. President, whether the agreement that was made last week between Republicans is really a true agreement, or whether there will be those who say, OK, we agreed on that particular day, but we will wait until the ink dries on this particular agreement, and next year, the year after or the following year, we will go ahead and put, in effect, a freeze that will mean lower kinds of support for funding, education, and health programs—programs that are a lifeline for our senior citizens, our children, those that too often have been left out and left behind. We will see those programs further threatened.

Mr. President, I commend the Senator from West Virginia. He really, I think, in many respects, has by far the most important amendment that is going to affect the quality of life of millions of our fellow citizens. We have seen dramatic reduction in what has been termed the ''domestic investment programs for the future,'' a term that has been agreed to by GAO and by CBO, and talks about education, a training infrastructure and domestic research and development. That percent, which is so essential in terms of our Nation's future, has gone down and is on the slippery, slidy slope of going down further, and we endanger it more so if we do not accept the amendment of the Senator from West Virginia.

I commend him for offering this amendment. I thank him for bringing this amendment to the attention of all the Members. This really is, I think, the heart and soul of this whole proposal.

I join with those that regret, as we are trying to deal with the problems of those fellow citizens in North and South Dakota, and other flood State victims across this country, that we are having to face this particular issue.

The PRESIDING OFFICER (Mr. ALLARD). I announce that the pending question is amendment No. 59, offered by the Senator from West Virginia.

I now recognize the Senator from West Virginia.

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

Mr. BYRD. Absolutely, gladly.

Mr. MCCAIN. I had a discussion with the Senator from West Virginia, and I wonder if he would be agreeable, after the completion of his remarks, to enter into a unanimous consent agreement that would allow an hour and a half on his side and an hour on this side before the vote. Would the Senator from West Virginia find that proposal agreeable?

Mr. BYRD. Mr. President, in response to the question, I may very well find it agreeable at that point. In the meantime, I will ask staff to attempt to identify those Senators who wish to speak in support of my amendment, at which time I will be in a better position to discuss a time limitation.

Mr. MCCAIN. I thank the Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts [Mr. KENNEDY] for his very illuminating remarks. He is the chairman of the committee in the Senate which would feel the brunt of the cuts that would ensue. He has stated them very eloquently. I hope that Senators will have been paying attention.

Mr. President, my amendment would strike Title VII from the bill. This title contains what the proponents call the ''Government Shutdown Prevention Act.'' It might better be termed the ''Congressional Responsibility Prevention Act'' because, if its provisions were in effect for all of Fiscal Year 1998 for the thirteen regular appropriation bills, funding for all discretionary spending in Fiscal Year 1998 would be on automatic pilot.

I offered this same amendment to strike Title VII of the bill in the committee markup of the bill, and it failed on a party-line vote of 13 yeas to 15 nays. As reported, Title VII would continue funding for any of the thirteen regular appropriation bills not enacted into law by October 1, 1997, at a rate of 98 percent of the 1997 levels for every program, project, and activity. That amounted to a cut in budget authority of some $35 billion below President Clinton's 1998 discretionary budget requests. Of that $35 billion cut, $10 billion resulted from the 2 percent reduction below 1997 levels. The remaining $25 billion in cuts would result from the fact the President's budget for Fiscal Year 1998 is $25 billion higher in budget authority than would be required under a freeze at the 1997 levels.

During the debate on this issue last evening, after my remarks in relation to the provisions in Title VII as reported by the committee, Senators MCCAIN and HUTCHISON urged me not to object to an amendment to which I ultimately agreed to which changed the percentage contained on page 81 of the bill from 98 percent to 100 percent. This means that Title VII as it now stands in the bill would provide an automatic CR for Fiscal Year 1998 for any of the thirteen appropriation bills not enacted into law by October 1, of this year, at a rate of 100 percent of 1997 levels. In other words, all programs, projects, and activities for the discretionary portion of the budget in Fiscal Year 1998 would be continued at a freeze level.

In explaining their purpose for making this change last evening, the Senator from Arizona and the Senator from Texas expressed their view that this would pretty much alleviate the funding problems with the previous language. But, Mr. President, this is certainly not the case.

Even at a freeze level, if put into effect for all of fiscal year 1998 for all 13 regular appropriations bills, title VII would result in cuts totaling more than $25 billion in budget authority below President Clinton's requests. So the devastation that would have occurred and about which I spoke at some length last evening, would still occur to a large extent, devastation to the programs and activities in the area of law enforcement, education, transportation and transportation safety, health and human services programs, such as WIC, LIHEAP, Head Start, and so forth. In total, cuts to these and other programs throughout the Federal Government would, as I have said, equal more than $25 billion if title VII were in effect for the full year for all 13 appropriations bills.

Now, it never ceases to amaze me that so much time and effort are put into proposals such as this, trying to find ways to get around the responsibilities of the executive and legislative branches for making certain that the power of the purse—the power of the purse—is used very carefully and thoughtfully in every respect for every dollar of spending that we provide each year. If we focused the energy that we spend on issues such as this toward redoubling our efforts in passing budget resolutions and reconciliation bills on time, thereby enabling the 13 appropriations bills to proceed on time, we would not have as much difficulty in enacting appropriations bills, and, in so doing, we would greatly lessen the possibility of a Government shutdown.

No one in this body supports Government shutdowns. But what this proposal would do is ensure that when the going gets tough and the issues involved in deciding the funding levels for every activity of the Government get too tough, Congress is likely to just yield to the mindless, automatic mechanism provided in title VII and thereby simply continue all programs, all projects, all activities—whether justified or not—at some arbitrary, fixed level. Even though its proponents call it a ''failsafe mechanism,'' it is really foolhardy.

Furthermore, it should be obvious to everyone that this is some type of political ploy, else the attempt would not be made to attach it to a bill that the President, naturally, would find very difficult to veto.

In fact, if one can believe what one reads in the press—and I don't believe everything I read 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''—not automatic CR, but automatic PR. That article states the following about this proposal:

> The automatic CR proposal, crafted by Senators Kay Bailey Hutchison and John McCain, with the blessing of GOP leaders, would fund discretionary programs at 98 percent FY 1997 levels in the event that a budget deal isn't agreed upon by September 30.

More simply stated, the McCain-Hutchison bill would force Clinton to either compromise with Hill Republicans on a fiscal year 1998 budget or stomach mandatory cuts of 2 percent.

I am still quoting from the article:

''This is 100 percent politics,'' says the Senate GOP aide close to the issue. ''It's payback to the Democrats for the public relations war'' [in 1995 and 1996 over the Government Shutdown].

Anticipating certain opposition from Clinton and Congressional Democrats, Gingrich and Lott apparently have convinced appropriators to tuck the automatic CR bill inside the popular $4 billion emergency spending package for disaster relief and the troops in Bosnia. By doing so, [the article goes on] Republicans will force Clinton and Hill Democrats to jeopardize much-needed funds for ''the troops and for poor flood victims'' to kill a ''simple measure that protects citizens from a Government shutdown,'' says the House leadership advisor.

And according to McCain [still reading from the article] the GOP will dare Daschle and Democrats to filibuster the legislation by attaching the automatic CR as a floor amendment, even though Lott is uncertain if he has 60 votes to limit debate. ''I'd love to debate them on this,'' McCain said with an insidious smile, [still reading from the article] ''We will win the PR war this time.''

So there you have it, Mr. President. According to this article, we have in this bill a proposal that is ''100 percent politics,'' according to a Senate GOP aide. ''It's payback to the Democrats for the public relations war in 1995 and 1996 over the Government shutdown.''

Why, Mr. President, have its authors chosen this particular bill to include this political payback proposal? Because, as intimated in the article I have just quoted, this is a very difficult bill to hold up. It contains billions of dollars that are desperately needed across the Nation to aid hundreds of communities and hundreds of thousands of our citizens who have been devastated by natural disasters. It contains almost $2 billion to support our men and women overseas in Bosnia and elsewhere, who are there doing their duty. They didn't ask to go. They are there doing their duty for our country.

So it becomes very difficult to try to fend off proposals such as this which sound good and which make good PR, but which are, in reality, fatally flawed, cynical exercises. This particular proposal does not deserve to be enacted into law. It calls for a mindless exercise in setting spending levels for 1998. No further action will be required on the budget resolution. There will be no need to hold any more hearings on the 1998 budget. We will not have to spend the time of the Appropriations Committees in going over the justifications for each of the thousands of programs, projects, or activities for which funds are requested for 1998.

In fact, once this measure becomes law, we will not need the Appropriations Committees at all. We can simply set each year's spending at a percentage of the 1997 rate for the entire Federal Government and let it go at that. There will be no hearings and there need be no hearings, may I say to my friend from Mississippi, who is on the Appropriations Committee. There would need to be no markups and no time spent by the Senate debating spending levels on the 13 regular appropriations bills. It could work that way. Is that where we want to go?

Never mind the fact that some programs should be eliminated. Just keep them going at last year's level anyway. And what about programs which must have increases in 1998 for reasons beyond anyone's control—such as veterans' medical care? If we fund that program on automatic pilot at the 1997 level, we will have to drop medical care to 140,000 eligible veterans in 1998. Is that what we ought to do?

I am sure the authors of the proposal will tell us that they have no desire to cut veterans' medical care. They simply want to avoid shutting down the Government if Congress reaches an impasse on the VA–HUD bill for 1998. But, Mr. President, what they will not recognize is how difficult it is to enact bills such as the VA–HUD bill, even without the disincentive to do so provided by this proposal. If this language is in place, when the going gets tough, there will be less desire to successfully negotiate very difficult issues between the Houses of Congress and with the administration. I am convinced that, notwithstanding the best efforts of all parties, negotiations are much more likely to fail because of this so-called ''failsafe'' proposal. Then, when we do, in fact, fail to enact the VA–HUD bill, the veterans' medical care cut I described earlier will happen. Furthermore, this same result will occur over and over again throughout the Federal Government.

Having said that, I do not necessarily believe that Congress will fail to enact the 1998 Department of Defense appropriations bill. That bill will make it. It is probably more likely that the DOD bill will be enacted without cuts. Perhaps one or two other bills will be enacted—possibly the legislative branch will get through so Congress itself will not have to take a 2 percent cut, and maybe the District of Columbia bill, and perhaps the military construction bill.

But I believe it would be highly likely that, if this proposal is enacted, we will never complete action on the bills where the President has asked for major increases. In other words, if we enact this proposal, we will have abdicated our responsibility to thoroughly review and justify the taxpayers' money that we are spending each fiscal year.

I say to my colleagues that this is the wrong time and the wrong place for such a device. There is no need to put a continuing resolution of this sort in place before we have even written one line of one appropriations bill and before we have even passed a budget resolution. We could consider this measure on its own at a later time. That is what we ought to do, although I would certainly oppose it then. But we could do that without so drastically encumbering an emergency disaster bill.

Are we not just making absolutely sure that this important funding will be delayed? Certainly, that will be the result of our actions here today, unless we strike this language from the bill. The President has told me personally, by telephone, that he will indeed veto this supplemental bill if it contains this automatic CR language.

Hundreds of thousands of Americans are suffering and are in need of this assistance. They do not deserve to have their needs shackled to a rather obvious attempt to rig the budget and appropriations process for fiscal year 1998 in favor of those in this body who would like to see across-the-board budget cuts to pay for very large tax breaks for the privileged few in our society.

But, Mr. President, without disparaging the good intentions of the authors of the language, this is, at best, a cynical measure and, at worst, it is playing games with the lives of real people who are in trouble and who are entitled to expeditious assistance in their hour of need.

Not only does this proposal show a callous disregard for the appropriations process and for the Appropriations Committees, but it also demonstrates an insensitive, indifferent, and unsympathetic attitude toward the suffering of the people of 33 States that stand in need of water and sewer facilities and roads and other infrastructure that have been destroyed by the raging waters of great rivers. This is playing politics on a bill that will help people who have lost their homes, their cars, their trucks, their farm machinery, their livestock, their furniture—everything that they have worked and skimped and saved for, in many instances, throughout a lifetime. It is politics at its worst and everyone knows that it is politics at its worst. The people in these 33 States need help. They need it as soon as they can get it. They need it now. They needed it yesterday. They needed it a week ago. And it is grossly unfair to them to use this instrument of disaster relief as a vehicle for political gain. It is cynical, and it is cruel.

I am not an advocate of the Presidential veto. I am certainly not an advocate of the line-item veto. I am not an advocate, in many cases, of a constitutional veto that the President has had for these 208 years. But I believe that, in this instance, the President would be derelict in his duty if he did not use that constitutional weapon. And I so said to the President when I discussed this matter with him. I said that I felt that he would be derelict in his duty if he did not strike down this bill if it reaches his desk carrying this ill-conceived, ill-begotten, and ill-advised proposal. I can well say with Macduff: ''Confusion now hath made his masterpiece.''

This is politics run amuck.

So I have an amendment that is now before the Senate which will strike

from the bill the provisions which I have discussed.

Before I yield the floor, I shall read a letter, or portions of a letter, that I received today from the Executive Office of the President, the Office of Management and Budget.

I will read it into the RECORD.

DEAR SENATOR BYRD:

As the Senate continues consideration of S. 672, a bill making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, we ask that you consider the administration's views on the pending amendment concerning the automatic continuing resolution.

Prior to markup of the bill by the Senate Appropriations Committee the President indicated that he would veto the bill if it were presented to him with the automatic continuing resolution language contained in S. 547. His reasons follow:

First and foremost, this bill contains $5.6 billion in urgently needed disaster assistance funds for hundreds of thousands of victims of recent natural disasters in 33 States, and this assistance should not be delayed while the Congress and the President consider a budget process issue.

Secondly, the McCain-Hutchinson automatic continuing resolution would not provide requested funding for essential investments in education, the environment, for research and technology, and for fighting crime. It would also reduce funding below the request for critical core Government services resulting in reduced hiring of air traffic controllers, Border Patrol agents, and Social Security disability claims processing personnel. It would also result in reductions in the numbers of women and infants served by the WIC program, the number of veterans receiving medical care services, and the number of kids in the Head Start program. The Federal Crop Insurance Program would be terminated.

Finally, such a continuing resolution is premature, and prejudices the outcome of the bipartisan budget agreement.

Our recent agreement calls for the regular order, implementing the agreement through reconciliation, tax and appropriations measures. By enacting a continuing resolution at levels significantly below the level in the agreement it would allow one House—or, in the case of the Senate, a minority in one House—to essentially veto an appropriations bill by inaction.

The amendment adopted last night to provide for an automatic continuing resolution at 100 percent of the FY '97 enactment level does nothing to respond to these concerns. Even with the amendment adopted last night, the automatic continuing resolution provides resources over $20 billion below the President's request, and significantly below the level contained in the bipartisan budget agreement.

If the bill were presented to the President containing the automatic continuing resolution now pending in the Senate, the President would veto the bill.

We urge the Senate to strike the provision from the bill, and as the bill moves through the process we urge the Congress to remove other extraneous provisions from the bill so that the President can sign the legislation making available essential relief to the victims of the recent disaster, and providing resources for our overseas peacekeeping efforts:

Franklin D. Raines, Director.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wonder if the Senator from West Virginia at this time would be ready to enter into a time agreement of an hour and a half on his side and an hour on this side.

Mr. BYRD. I beg the Senator's pardon.

Mr. MCCAIN. I wonder if the Senator from West Virginia would be prepared to consider a proposal that I mentioned to him a short time ago, that we could enter into a time agreement on this amendment of an hour and a half on his side in support of the Byrd amendment and an hour on this side in opposition to the Byrd amendment.

Mr. BYRD. Mr. President, if the Senator would allow me.

Mr. MCCAIN. Mr. President, I yield for purposes of a response.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. If the distinguished Senator would be willing to include in his request that I have 20 minutes additionally, I would be very glad to agree with the request.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I understand that would be an hour and a half for the Senator's side plus 20 minutes for Senator BYRD to speak himself.

Mr. BYRD. Yes.

Mr. MCCAIN. And an hour on this side.

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

Mr. MCCAIN. I believe the Senator from Alaska would have to be consulted. But I yield to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I would simply like to state that I think the Senator from Alaska ought to be consulted. He is due to return to the floor very soon. I hope the Senator would withhold seeking the unanimous consent request until he returns.

Mr. MCCAIN. I would be glad to. I say to the Senator from Mississippi, I had discussed my original proposal with the Senator from Alaska before he left, and that is why I made the proposal. Obviously, with the additional request for time on the part of the Senator from West Virginia, we will wait until the Senator from Alaska returns.

Mr. President, I see the Senator from California on the floor who is eager to speak. I will make my remarks relatively short.

I think it is important that we make a few facts clear on this issue. The Senator from Massachusetts, who was on the floor before, and others, will allege that there is somehow some motivation to sabotage the budget agreement. Mr. President, the Senator from Indiana and I proposed this amendment last year. I know of no one who believes that the budget was even discussed last year; not this year. It is a matter of record. We wanted a vote on it, and were dissuaded from doing so at that time.

My motivation on this issue is simple. It is clear, and I can be very concise about it; that is that I saw thousands of residents of my State whose lives were disrupted, and in many cases destroyed, because of the inability of the Congress of the United States and the President of the United States to come to an agreement on appropriations bills—not a budget. Let's get one thing clear. We have had a budget agreement. In 1990, we had a budget agreement, too, I might add, which was quickly destroyed and dismantled in a very short period of time. The appropriations process still has to be gone through.

We all know from previous years that many times there are riders on an appropriations bill, even if there is an overall spending agreement which causes the President of the United States to veto a bill.

As I say, my motivation is very simple. I saw the lives of hundreds and even thousands of people in my State, and millions all over the country, destroyed for reasons of political gain. I will freely admit to the Senator from West Virginia, who quoted me, that, yes, I intend to win this debate.

I will also admit to the Senator from West Virginia with rhetoric that was used the last time the Government was shut down that his side of the aisle won the debate. The President of the United States during the last debate said what they really want is to end the role of the Federal Government in our lives * * * which they have, after all, been very open about * * * the President said. A lot of them—referring to Republicans; these are the comments of the President of the United States back when the Government was shut down—A lot of them will be happy about this because they don't think we ought to have a Government up here anyway.

Mr. President, I found those remarks insulting. I have never said that about the President of the United States. I have never said that about the proponents of the Byrd amendment. I was offended. The rhetoric went on and on during that period.

While we are talking about rhetoric, ''Democrats contended that Mr. GINGRICH was being overrun by a minority of children and inexperienced lawmakers, and should defer to more experienced Members. It is about time that adults with adult minds and adult experiences get together as Democrats and Republicans and at least agree to a 3-day continuing resolution to get the Government working again,'' said Senator James Exon, calling the GOP freshmen ''The Magnificent 70.''

Mr. President, there was a lot of rhetoric thrown around the last time, and there will be on this floor. I know what the Senator from California and others who will speak here will say. They will allege that this amendment somehow will prevent the assistance being given to their States and to their areas that are devastated.

Nothing could be further from the truth.

We have agreed to a time agreement. We have been urging a time agreement. We have been urging quick passage of this bill.

If the President of the United States chooses to veto it, then that is his privilege and his constitutional right to do so.

It is also my obligation—and those Members of this Senate and the Congress—to make sure that what happened never happens again.

There are natural disasters which need to be addressed. By the way, as the Senator from Texas pointed out yesterday, they are being addressed. The money is flowing. There is no holdup in the money. Disaster assistance is being rendered as we speak.

But there are also manmade disasters. My State went through one, and the Nation went through a manmade disaster. And it is equally our obligation to see that a manmade disaster does not happen again. And it was a disaster.

I understand some mayors of some of the towns that are affected by this latest natural disaster are here. I could bring mayors of cities from Arizona and from all over America, also who have had the lives of their citizens disrupted and destroyed because of a manmade disaster.

Those of us on this side of the aisle who support the prevention of a Government shutdown have the deepest and most profound sympathy, and are willing to do anything within the Government's power to alleviate their incredible problems that they are suffering under.

We also should be committed to seeing that we don't inflict on American citizens what we did last time.

Later on, Mr. President, I will go through the statistics of the terrible tragedy that was inflicted when the Government was shut down. I will go through that. It has nothing to do with rhetoric. It has nothing to do with debate, nor political leverage. It has to do with harming the lives of American citizens which we did because we didn't carry out our obligations to them. When we don't carry out our obligations, it seems to me that some of us should join in an effort to see that it doesn't happen again. That is what this is all about.

There will be an allegation that this is premature, that we shouldn't do this at this time. If we wait, as we did last year, the reason we were dissuaded from passing this amendment last year was we were too far down the road in the appropriations process, and it would disrupt the process then.

So we are doing this early. We are doing it now. And we think it is important.

Let me point out one other thing, Mr. President, because I have heard a lot of very interesting rhetoric already, questioning of motives, about not caring, about insensitivity, and all of that.

I urge my colleagues to elevate it a little bit here. OK. All right. I don't question the motives of anybody on that side of the aisle. I resent it when our motives, those of us who are acting in good faith, are questioned.

The second point I want to make, finally, is, look, we have asked the White House to negotiate with us on this issue. They say, as do my colleagues on the other side of the aisle, ''We want to prevent a Government shutdown too.''

I again will quote later all of the lamentations and criticism of a Government shutdown that were uttered by the President of the United States, and all of the Cabinet, and all of those on the other side of the aisle. If we share the same goal, why can't we sit down and work out an agreement, an agreement that will prevent the shutdown of the Government from taking place? It seems that we should be able to do that.

So, I, obviously, will be discussing this issue at more length. But, again, I urge my colleagues. Let's not let this debate degenerate into name calling and questioning of motivation, which I already heard from the Senator from Massachusetts.

By the way, I have not heard that from the Senator from West Virginia.

Do not accuse us of a lack of compassion; otherwise this debate will degenerate into name calling and questioning motivation, which I do not think will be illuminating nor in the best interests of the Senate. But if necessary, if necessary, obviously, we will respond, which I do not choose to do.

Mr. President, I note the Senator from Alaska is on the floor. We have been searching for a unanimous-consent agreement on this issue, so I will yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do seek that we get some understanding about a time limit now. I understand the Senator from California wishes to speak. I do not know how many others wish to speak. May I inquire of the Senator from West Virginia if he understands how many on his side might be willing to speak?

Mr. BYRD. If the distinguished Senator will yield, I understand, Mr. President, that we have seven or eight speakers on my side other than myself.

Mr. STEVENS. We have on our side, to my knowledge.

Mr. MCCAIN. We will need not more than an hour.

Mrs. HUTCHISON. One hour on our side will be sufficient.

Mr. STEVENS. Could we have an understanding how much would be used in total on that side of the aisle, I ask the Senator?

Mr. BYRD. If the Senator will yield, I had responded earlier to the distinguished Senator from Arizona indicating that I would be in a position to agree to a request for 1½ hours on this side, plus 20 minutes under my control, as against 1 hour on the other side.

Mr. STEVENS. The Senator and I have deep respect for the Senator from West Virginia, but I understand some people are leaving at 2 o'clock, right after 2, and we would very much like to have the vote sometime soon after 2 so they might leave; otherwise we are not going to have a vote on this amendment today. I urge the Senator to find some way to get an agreement that we can limit—even if we limit each side to 45 minutes now. There has been almost 2 hours spent on it so far. I think that would be quite fair.

Is it possible we could get such an agreement to limit each side to 45 minutes and allocate the time on each side, you being in control of one side and I be in controlling on this side?

We will give the Senator an hour and take 30 minutes over here on this side, so that would be 1½ hours from now. You have an hour and we have a half-hour?

Mr. BYRD. Let me think about that.

Mr. STEVENS. You have seven speakers, I believe, plus yourself.

Mr. BYRD. Let me run that by my colleagues. I am sorry that Senators are leaving at 2 o'clock on a Thursday afternoon. We have a most important problem, a most important amendment that will be offered on this bill.

Mr. STEVENS. I think there is a problem, but they will be back tomorrow.

Mr. BYRD. I will be here tomorrow.

Mr. STEVENS. I will, too.

Mr. President, may I inquire of the Senator from California—I know she seeks the floor—would she be willing to start the process of limitation and tell us how long she will take on the bill?

Mrs. BOXER. If the Senator will yield, I would be delighted to keep my remarks to 10 minutes.

Mr. STEVENS. May I then ask unanimous consent that the Senator from California be recognized for 10 minutes and I recover the floor at that time? Would the Senator mind that?

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

Mr. STEVENS. I thank the Chair. I thank all Senators.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

Mr. President, today the Senate is considering the Emergency Supplemental Appropriations and Rescissions Act for 1997. I am a member of the Appropriations Committee, which wrote this bill, and, despite my strong reservations about several provisions, I voted to send the bill to the full Senate.

I voted to bring this measure to the floor because it will provide much needed assistance to my State of California, which suffered massive loss and damage from the terrible winter floods a few months ago, and is still paying for cleanup and repair of damage from 15 other natural disasters in the past few years.

Before I talk about the specifics of this bill, I would like to offer my deepest appreciation to the chairman of the Appropriations Committee, Senator STEVENS, and the committee's ranking member, Senator BYRD. They and their staff have been so helpful to me and my staff in making sure this bill addresses the needs of California. I am sincerely grateful for their assistance.

California suffered enormous losses from the winter floods this year. The scope of the floods is unprecedented in modern times: Over 300 square miles of land flooded; 48 of California's 58 counties declared natural disaster areas by the President; 120,000 people forced to leave their homes—the largest emergency evacuation in the State's history; 9 lives lost; estimated $1.8 billion in damages to property; and unprecedented structural damage to one of the most popular natural sites in the world, Yosemite National Park.

Californians are also still coping with losses and trying to rebuild after 15 earlier natural disasters, from the Loma Prieta earthquake in October 1989, to the severe fires in southern California last October.

This fiscal year 1997 emergency supplemental bill will help California in many important ways:

First, emergency aid to people who need help coping with the immediate impact of the floods;

Second, help for local governments and the State to repair or rebuild public works projects, including levees, dams, roads, bridges, and other infrastructure;

Third, assistance to farmers and ranchers who have sustained damage and loss of land, crops, orchards, and livestock, to help them reestablish their businesses;

Fourth, funds to repair and rebuild at Yosemite Park, in order to meet the needs of the more than 1½ million visitors it receives each year.

I ask unanimous consent to include in the CONGRESSIONAL RECORD at this point a detailed list of how California will benefit from the bill.

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

DISASTER ASSISTANCE IN S. 672 FOR CALIFORNIA

1. Emergency Conservation Program, a cost-sharing assistance program to farmers and ranchers whose land was damaged by flooding. Funds used to clean up debris, mend fences, etc. California farmers and ranchers will receive up to $12 million.

2. Tree Assistance Program, a costsharing program to help small orchard owners remove dead trees and replant. The bill will provide California orchardists with approximately $9 million.

3. Livestock indemnity program for losses of cattle, swine, and other livestock, to be authorized by the Secretary of Agriculture. California ranchers need to replace 11,500 head. Applicants would get about 28 percent of value of each animal. California ranchers could get about $1 million.

4. Private levee repairs and reconstruction. The bill provides funds for emergency grants from the Economic Development Administration, and the report allows use of some of these funds for infrastructure grants, including levee work. California could get $2.4 million.

5. Corps of Engineers repairs on dams, reservoirs, flood control facilities, and other Corps projects that are under direct federal control. California share is $29.9 million.

6. Corps of Engineers repairs of eligible federal and non-federal levees damaged by floods, and also other emergency operations related to the floods. California share is approximately $275 million.

7. Bureau of Reclamation repairs of damage to certain facilities during winter flooding. California will get approximately $7 million.

8. Construction in National Parks, including Yosemite and others in California. Yosemite National Park will get $176 million, $9 million will go to Redwoods National Park, and about a million will go to all the other parks in California, for a total for California parks of about $186 million.

9. Emergency Relief Program, which provides money to repair damage to federal aid highways from the floods. California requested $331 million. The bill will provide a minimum of $220 million plus another $80 million or so from previously unallocated funds.

10. Natural Resources Conservation Service hazard mitigation assistance to watersheds damaged by recent and prior year disasters. California will receive some funds from this program.

11. FEMA disaster assistance for family and individual emergency assistance following disasters, and for public works repairs and reconstruction following damage from disasters. California will receive from the bill about $1.6 billion and will receive from existing FEMA reserves another $1 billion.

12. Devil's Slide tunnel in San Mateo County. Language in the bill recognizes that the project is eligible for additional FY 97 federal aid highway funds included in the bill.

Mrs. BOXER. Unfortunately, Mr. President, this legislation contains several controversial provisions which I strongly oppose, including: First, substantive and significant changes to the Endangered Species Act; second, a prohibition on enforcing a new policy protecting Federal wilderness areas, parks and wildlife refuges from road construction; third, a prohibition on implementing the most effective and least costly method of taking an accurate census in 2000; and fourth, the automatic continuing resolution for fiscal year 1998.

In addition, I believe the bill as currently written fails to provide enough additional funds in fiscal year 1997 for the Women, Infants, and Children Nutrition Program. The President requested $100 million to cover shortfalls in projected caseload maintenance requirements for the balance of the fiscal year. However, the bill reported by the committee provides only $58 million.

I hope that these flaws will be corrected later in the legislative process, before the bill becomes law.

Regarding the automatic continuing resolution, which is title VII of the bill as reported, I am extremely disappointed that this provision is still in the bill. I had understood that as part of the bipartisan budget agreement, announced last week by the President and congressional leaders, the automatic continuing would be taken out of the supplemental bill and voted on separately later. I am sorry that did not happen.

I want to start off where the Senator from Arizona left off, so before he leaves the floor let me assure him and the Senator from Texas—and the Senator from Texas and I did get into quite a discussion in the Chamber. People said to me, well, do you get along with the Senator? I said I really like the Senator from Texas. We just disagree on this. I absolutely do not question anyone's motives in any way, shape or form. What I do question is what outcome we would have to live with if the Senator's amendment were to pass.

So I just wanted to assure the Senators who have offered this amendment in the committee, I do not question their motivation at all. What I question is the outcome. And as I look at the outcome, if this Government goes on automatic pilot, Californians get hurt.

What is interesting about that is here is a wonderful bill that is going to ease the pain of the victims of the flood, is going to ease the pain of victims from disasters that occurred years ago where we are still rebuilding in California, and yet there is this amendment tucked into the bill, which has nothing to do with this bill, nothing to do with natural disasters. Californians who have suffered mightily in the floods and lost their homes and their businesses. This automatic CR which is tucked into this emergency supplemental appropriations bill will cause cuts in education and a whole host of other important things. So here we have a very important bill—indeed, Mr. President, a crucial bill. I want to say to my colleagues from both sides of the aisle on the Appropriations Committee, of which I am a new member, how much I appreciate the help we received from both the Republican side and the Democratic side in putting together this bill. It really answers the call of help from North Dakota, from California, and the other 20 States that were hit by terrible natural disasters. The help we will get to Yosemite, to our farmers, to our people for our roads and our highways, that help is very much appreciated.

What disturbed me is that added to this important bill are these riders that have nothing to do with the issues at hand. You had an amendment tucked in there on the census, on the Endangered Species Act, on allowing the States to pave over very precious parts of our national parks and wilderness areas, all this is tucked into this bill, including this automatic continuing resolution.

Now, I know, because I have been around Congress for a while, that we do use these bills on occasion to add other issues, but I have never seen so many controversial issues added to a bill like this. We usually can come together on consensus issues and add them.

I want to address the issue that was raised by the Senator from Arizona, and before him the Senator from Texas, who wrote this automatic CR, that this is very appropriate to be attached to this bill, and I see my colleague is here. Her contention is that the Government shutdown was a manmade disaster, and therefore having this automatic CR, if we cannot agree on appropriations bills, is very appropriate for this bill.

Now, the last time when the Senator from Texas and I got into a little debate in the Chamber the point I was making was that never in our history until last year did we ever have an extended shutdown of the Government. We never had it under other Republican leadership and other Democratic leadership. We worked out our differences. We did our job. And I want to say very clearly for the record and for my people from California, the largest State in the Union, that I did not come here to shut down this Government. I also did not come here to put this Government on automatic pilot. And to present those two choices to the American people as the only choices that we have is presenting a false choice.

This Constitution is very clear on the responsibilities of the Congress. The rules of the Congress are very clear on how we are to do our jobs: get a budget resolution to the floor in April, and after that budget resolution is passed, allow the appropriators to do their job.

Is it an easy job? No, it is not. Does it require compromise? Yes, it does. Does it require tough debate? Yes, it does. But that is what we are here for. That is what we get paid to do.

I say to you that I am very tempted, but I did not do it, to offer an amendment that would say if we do not pass a budget—no automatic CR, no easy way out—if we do not pass our appropriations bills and we come to another stalemate—and I know; I offered this up the last time; it made me a most unpopular person—we should not get paid, just like the Federal employees did not get paid. But I did not choose to do that. I hope my colleagues would rethink this whole thing. We know what we have to do to avoid a Government shutdown—simply do the job we were sent here to do.

I said before that my people would be hurt in California if this automatic CR went into effect. Even though the Senators changed their resolution to 100 percent of fiscal year 1997 levels, we would still have a reduction of about $25 billion from the President's funding levels. Clearly, this is a great problem for us.

What it would mean to my State is very clear. College aid would be cut by approximately $1.26 billion nationwide, and about $126 million of that would be a loss for my State. My California students would suffer under this automatic CR. Nationally, about 280,000 students would lose their Pell grants. Those Pell grants are crucial so that our children can get an education. Under that scenario, approximately 28,000 California students would lose their Pell grants. Aid to approximately 1,400 school districts would be cut; about 6.5 percent of the school districts are in California.

Cleanup of approximately 630 Superfund sites would be delayed. Those Superfund sites must be cleaned up. Approximately 80 of those sites are located in California. We would not be able to clean up 80 Superfund sites that are poisoning the water because the pollutants are sinking down into the water supply. The CR would prevent the hiring of about 380 new FBI agents; around 2.5 percent of those are slated for work in California.

If you ask the average person what is the enemy that we face today now that the cold war is over, they will tell you cancer, they will tell you Alzheimer's, they will tell you heart disease. Under this automatic CR, $414 million would be cut from the National Institutes of Health, and that is an area where we want to increase funding. As a matter of fact, I am a cosponsor of Senator MACK's bill to double the amount that we spend on the NIH, and here we would have a cut in the National Institutes of Health.

The American people have already told us that they want us to invest in education, the environment, health care, and crime prevention.

So, Mr. President, I do not in any way demean the reasons why my colleagues from Texas and Arizona have placed this automatic CR into the emergency bill. If they believe in their hearts it is good for America, I respect their view. But I have to say I did agree with my chairman, Senator STEVENS, in the early part of the CR, or the emergency supplemental bill, when he said he would prefer this to be offered freestanding, and then he was convinced, no, it belonged on it. I think he was right originally. I think we should keep controversial amendments off this bill.

It is true; immediately we are not going to see a problem in the States, but I want to say to my friend from Texas and to my friend from Arizona, who have offered this, people understand that this is a delay. You can stand up there all day and tell them, not a problem, but when this bill is sent to the White House and the President looks, he will say, I am not going to hurt education; I am not going to hurt health research.

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

Mrs. BOXER. I ask for 30 seconds to complete my remarks.

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

Mrs. BOXER. The President will look at this and say, I am not going to hurt the American people. We have just signed a budget deal. It allows us to do some wonderful things. It seems to him, I am sure, that it is not in very good faith to have this automatic CR when we have just had a budget agreement.

Mr. President, I hope we can take this issue off this bill, keep it clean, move forward, and help the people in this country. Then bring it back another day and give it all the debate it deserves.

I thank my leader, Senator BYRD, for his brilliant remarks, and I certainly associate myself with his remarks as well. I yield the floor.

Mr. CRAIG. Mr. President, I rise in opposition to the Byrd amendment and in support of the shutdown prevention provision, the automatic CR in this bill.

The purpose of this provision is simple: To prevent another government shutdown, in case all 13 appropriations do not become law by October 1.

Democrat or Republican Congresses, divided or one-party government, the record has been consistent: The 13 regular appropriations bills are almost never all enacted by October 1.

The shutdown prevention CR would take millions of innocent bystanders out of the line of fire if Congress and the President take longer than expected to finish the budget details this fall.

It would protect Federal employees, small businesses supplying Government needs, patients in veterans hospitals, their families, and others.

If the President vetoes this bill over the shutdown prevention provision:

He is saying his power to shut down the government in October is more important to him than replenishing funds in emergency programs today.

He is willing to delay putting money back into FEMA and DOD and other essential projects in this bill.

He is saying he is not concerned whether disaster relief or operations in Bosnia or other functions are threatened by a shutdown this fall.

Is he already planning to threaten us with a shutdown to get his way on the budget details, as they are negotiated this summer and fall?

There is only one reason for opposing this provision: To keep alive the threat of shutting down the Government.

Some Senators oppose this provision because they are afraid it might be used to prevent spending increases in some programs. But, whether they realize it or not, implicit in that argument is the willingness to use the threat of a shutdown to get those increases.

The shutdown prevention provision does not undermine the budget agreement, it enforces it.

It gives the President fallback leverage in case the Congress tries to pass spending cuts or new policy provisions he wants to veto.

It gives the Congress fallback leverage in case the President demands unrealistic spending increases or policy changes.

Which would do more damage to the spirit of the budget agreement: Temporary, 100 percent continued funding, or a shutdown?

The shutdown prevention CR will not become a substitute for implementing the budget agreement.

The automatic CR is not an end result, but a safety net.

There are still plenty of details, priorities, cuts and increases that all parties in the appropriations process will be motivated to work out.

There very well may be some disagreements that drag out the process of agreeing on and implementing all the details of the budget agreement.

This provision simply ensures there will be time to work out all those details, without a government shutdown looming over the negotiations—and over the American people.

There is no spending cut here. It is incredible: We keep hearing how many dollars will be slashed, how many jobs will not be filled, if we enact the automatic CR provision. How is it that continuing a function at 100 percent of current levels can be called a cut?

Why must this provision be passed now?

No matter when this provision is offered, opponents will use some kind of timing or procedural excuse to oppose it.

Now they say it's too early. This fall they would say it's too late. Now is the best time to enact this provision, because now it is still an objective, neutral safety net, and because this provision will start the appropriations process with all parties on a level playing field.

The best time to agree on the fair rules of the game is before the game starts.

There is no way to write a CR provision that would automatically comply with the spending levels in the budget agreement, as the administration suggests.

There are still thousands of details to be worked out over the coming months, in the normal legislative process, to implement that agreement.

We do not know today, for a certainty, all the programs that will go up and which will go down in spending in the end.

But this provision holds all current services and employees harmless until all those details in next year's budget are worked out.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, does the Senator seek time on this matter?

Mr. WELLSTONE. I do.

Mr. STEVENS. We are trying to sort of reduce that time so we can get to the motion to table.

Mr. WELLSTONE. I say to my colleague, I only planned on taking an hour or so—5 minutes?

Mr. STEVENS. The Senator is trying to make me smile. Very few people can do that.

Mr. President, I ask unanimous consent that Senator WELLSTONE be recognized for 5 minutes and I retain the floor after that time.

Mrs. HUTCHISON. May I make a parliamentary inquiry? Is the time now running on the time of the Senator from California and the Senator from Minnesota? The time, is it running against an agreement?

Mr. STEVENS. Mr. President, I would say to the Senator from Texas, it is only running on a chart that is up here.

The PRESIDING OFFICER. It is running against the cloture, now.

Mr. STEVENS. I am keeping track of it, I say to the Senator from Texas, but I do urge I be allowed to yield 5 minutes to the Senator.

Mrs. HUTCHISON. As long as it is counting.

Mr. STEVENS. There is nothing for it to count against. We have not got that agreement. But we will keep it in mind when we have that agreement.

Mrs. HUTCHISON. I then ask, if the Senator will yield, if the other side of the equation will be able to speak as well? If there is no time agreement, at some point we would like to answer.

Mr. STEVENS. I will be happy to yield to the Senator from Texas next, but I ask I be permitted to do this now by unanimous consent.

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

The Senator from Minnesota.

Mr. WELLSTONE. That was a unanimous-consent agreement that I have up to an hour to speak?

Mr. STEVENS. Minus 55 minutes.

Mr. WELLSTONE. Mr. President, in the 5 minutes—and I thank my colleague from Alaska.

Mr. President, I have spoken about the budget agreement on the floor of the Senate several times. I have said I very honestly and truthfully believe it is an agreement without a soul. I have compared the tax cuts over the next 10 and 20 years as we project to the future, and who is likely to benefit—those at the very top—alongside the failure to invest in rotting schools, invest in early childhood development; alongside some of the cuts in programs that affect the most vulnerable citizens. And I do not see the standard of fairness. I do not see the soul to this budget. I think we can do much better. I have challenged my colleagues to please avoid symbolic politics and, if we are going to talk about children and opportunities for children, let us make the investment.

Now, we have in this continuing resolution, which I am sure has been offered in good faith, a couple of problems. First of all, many of us—all of us from the States that have been affected by this flooding with people who have just felt the devastation—have made the plea, please do not attach extraneous amendments. If we have to deal with the problem of Government shutdown—and there is not one person in the U.S. Senate or House of Representatives who is going to let that happen. I think people learned their lesson—we can deal with that in the fall, if it ever should be a problem that is staring us in the face. I do not think that will ever happen. But why such an amendment would be put on a disaster relief bill where what we are trying to do is get the assistance to people as soon as possible so they can rebuild their lives, rebuild their homes, rebuild their businesses—I don't understand this. I think it is a profound mistake, and I do not believe this amendment should be on this bill at all.

In addition, when I look at the budget agreement—and I do not think we have done it nearly as well as we should for people —and now I see additional, I won't even go through the statistics, additional cuts from what the budget agreement calls for in Head Start, in research at the National Institutes of Health, over and over again I am faced with the painful choice, and other colleagues are as well, of meeting with people struggling with Alzheimer's or struggling with Parkinson's or struggling with breast cancer or struggling with diabetes, and we do not want one group of people who are struggling with an illness pitted against another, or struggling with mental illness —what in the world are we doing with a resolution that is going to cut funding for the National Institutes of Health?

Mr. President, Meals on Wheels, a senior nutrition program —cut? Substance abuse and mental health services—cut? The Centers for Disease Control—cut? Pell Grant Program—cut, when we know the whole question of affordable higher education is an issue that cuts across a broad section of the population?

So, in the 5 minutes I have, I make two points. One, please vote against this, I say to my colleagues, because it is extraneous to what the mission is, which is to get the assistance to people in Minnesota, the Dakotas, and across the land who have been faced with a real disaster in their lives. And, second, do not vote for this amendment because we are talking about real cuts in programs that are vitally important to families' lives in this country. And people in the country do not favor these priorities. People do not want to see reductions in Head Start, in Pell grants, in the National Institutes of Health research on disease. People are not in favor of that.

This is, in a way, a back-door approach to trying to effect cuts in programs that command widespread support in this country. So, I rise to speak against it. I hope we will have a strong vote against this amendment.

I yield the floor.

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

Mr. STEVENS. Does the Senator from Texas seek time?

Mrs. HUTCHISON. Mr. President, I am willing to wait until we have a time agreement, until the time starts running, if you would prefer. I just do not want to loose our ability. If I have free time, I am going to take it. If I do not, then I will withhold.

Mr. STEVENS. Mr. President, there is no such time agreement. Does the Senator from North Dakota seek time?

Mr. CONRAD. I would like, if I could, to speak for 5 minutes?

Mr. STEVENS. I will be happy to enter into the same agreement with the Senator from North Dakota, 5 minutes and I retain the floor.

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

Mr. CONRAD. I thank the Chair and thank my colleague from Texas.

Mr. President, I rise in support of the Byrd amendment to strike the automatic continuing resolution language in this bill. No State has been as devastated as mine by this remarkable series of weather events. I represent North Dakota. My State has had the greatest snowfall in its history—10 feet of snow. We were then hit in the first week of April with the most powerful winter storm in 50 years, including an ice storm that took down the electrical grid for 80,000 people. We were then hit by what we are now told is a 1,000-year flood. And to cap it off, we had fires rage through downtown Grand Forks, ND, and burn up most of three city blocks. A city of 50,000 people has been almost entirely evacuated and still, today, there are more than 25,000 homeless.

I do not think there has been another disaster of this type in our country's history. I do not know of another circumstance in which a city of 50,000 has been mass evacuated and 3 weeks later more than half the population has still not been able to return. We have just had the mayor of Grand Forks, ND, and the mayor of East Grant Forks, MN, here, talking to our colleagues about the needs of these communities. This is a critical moment.

On Monday night, these communities are going to have to make a decision about their future and about what parts of the community will be able to be rebuilt, and those areas that will have to be turned into a floodway so we can prevent something like this ever happening again. They need to know now what resources are going to be available and we have already been told by the White House, if this provision is included, the President will veto the bill. There is no question about that.

Frankly, he should veto the bill if this is included because it has nothing to do with natural disasters. Some of the sponsors of this legislation have indicated they are trying to deal with a manmade disaster. The manmade disaster was last year. We are addressing something that happened last year. For this year, there is a budget agreement. So, if they feel strongly about this measure—and I understand that they do—they have every right to advance their proposal. But it is not an urgent matter now. It is not an urgent matter now. The manmade disaster they are talking about happened last year. This year there has been a budget agreement negotiated between the White House and the Congress. There is no urgency to this provision now. It does not need to be on this supplemental appropriation bill that is designed to deal with natural disasters. I can tell you there is an urgency to that bill now. These people need help.

We have people who have been living on cots in shelters for 3 weeks. We have nearly 1,000 people who are still in that circumstance, in shelters, on cots, wondering what is going to happen to them.

I just ask our colleagues to not push amendments that are not necessary to this legislation. I can just say when the shoe was on the other foot and they suffered disasters, we did not offer amendments that were not related to disasters. We never did that. I tell you, I had lots of amendments that I would have liked to have had considered that were on things that mattered a lot to me, but I have always understood, and always responded to the request that disaster bills be clean.

Every single time we have had a disaster bill, I have responded to that call and I just ask our colleagues to extend the same courtesy to those of us who represent areas that have been devastated by disaster now. Our people need help. The last thing they need is to have the legislation that can help them be made some kind of political football. That is not a service to those people who are hurting and need assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Does the Senator from Texas now seek time?

Mrs. HUTCHISON. Yes, Mr. President. I would just say, unless the other Senator from North Dakota was seeking time right after his colleague, I will yield. Otherwise I will take 2 or 3 minutes.

Mr. STEVENS. Does the Senator from North Dakota seek time?

Mr. DORGAN. I will wait until the Senator is finished.

Mrs. HUTCHISON. Mr. President, I request 5 minutes.

Mr. STEVENS. I renew my request that following the Senator from Texas, I be permitted to gain the floor after 5 minutes.

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

Mrs. HUTCHISON. Mr. President, I want to thank both the distinguished leader of this effort, Senator STEVENS, and Senator BYRD, for working with us to try to get this bill through because it is very important. And that has been mentioned this morning. We want to make sure that we get the disaster relief fund replenished. But I think there are a couple of points that need to be made.

I want to respond to my colleague from California, to say we are, indeed, friends and we do work on many issues together. I think it is very important that we be able to have debates between friends and know that we disagree on principle and that is exactly what we should do, is disagree on principle without being disagreeable. I think that is very important for all of us to remember.

I want to refute a few points that have been made. First, my colleague from North Dakota talks about the people needing help, and he is absolutely right. It is very important that everyone understand that the people are getting help. They are getting all of the disaster relief to which they are entitled under the law right now. In fact, they are getting more than other disaster victims in our country have received because we have seen the terrible pictures. The President made a commitment that they would get 100 percent relief, and they are getting that right now.

You see, Mr. President, this bill is not about helping the people who are in need right now; they are being helped. This bill is to replenish the coffers for future disasters, and that is what we are talking about. So there is no money being held up at this point, or in a week. What we are talking about is replenishing the coffers for future disasters that have not yet occurred.

But when we talk about the difference between a natural disaster, which has occurred in North Dakota, and a manmade disaster, which occurred in 1995 and which we are now trying to avoid, they are both deeply moving disasters that need to be addressed, because people who cannot go to work or people who have planned for a family vacation that they can no longer take, or people who are worried about getting their veterans' benefits because the Government is shut down are in just as much distress as someone who has been a victim of a natural disaster. So I do not think it is in any way fair not to equate the impact on people's lives if they do not think they are going to be paid or if they do not think they are going to get their veterans' benefits.

Second, I think it is important when we talk about cuts—and I heard discussion this morning about cuts that we would provide in this continuing resolution. There are no cuts. There has not been a budget agreement that has gone through this Congress. We have not talked about the specific appropriations that would go for Meals on Wheels or Pell grants. This Congress has not acted at all on any appropriations for the 1998 year, so there are no cuts.

There are no cuts to Meals on Wheels; there are no cuts to Pell grants. In fact, what we are saying is that we are setting the process—and that is why it is so important that we do this now rather than later—we are setting the process for how we will appropriate. This is the first appropriations bill that has come out of the committee in the process and on to the floor. So we are trying to set the process that says how we will respond if all

of the appropriations bills are not finished by September 30, which is the end of the fiscal year.

What we are saying is that funding will go forward just as it has for all of this year. There is not one dime of a cut. It will go forward at the present spending levels. Then, as Congress decides the priorities, along with the President in an agreement, which is exactly how we do things around here, then that appropriations bill will go into effect. But if there is not an agreement between Congress and the President, then we will keep Government functioning just as it has been this year until the priorities are set by Congress and the President.

No one will have a hammer over anyone's head. The appropriators will have their full rights, Members of Congress will have their full rights, the President will have his full rights, and everyone will be able to go forward in an orderly process from which they can plan. That is why we are doing this now.

Why would we wait until an appropriations bill that might come forward in June or July? Why would we wait? Why would we not plan for the future? All of us admit that the shutting down of Government does not work; it disrupts people's lives. We are trying to prevent that now, while keeping the prerogatives of Congress and keeping the prerogatives of the President to negotiate in good faith on principle about what the priorities in spending will be.

Yes, there is a budget resolution that will come to Congress that will set the general guidelines, but even after that is set, we do not know what the priorities are yet. We do not know how much money will be spent on Pell grants. We do not know how much money will be spent for Meals on Wheels because Congress has not spoken.

So what we are trying to do is have an orderly transfer from the end of the fiscal year to the beginning of the next fiscal year without disruption, without people worrying about whether they are going to be paid or whether they are going to receive their veterans' benefits.

But make no mistake—there are two very important points —people needing help in North Dakota are getting help; the people who are on cots are there because the help is there and they are going to get the help in rebuilding their homes and businesses, just as the law allows. Make no mistake that that is the case. And if you believe Government should not shut down, then you should vote against the amendment put forward by the Senator from West Virginia.

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

Mr. STEVENS. Mr. President, I inquire of the Senator from North Dakota now if he wishes to speak.

Mr. DORGAN. Yes.

Mr. STEVENS. I will be delighted to yield to the Senator. Can we make it 5 minutes in the normal process here? Does the Senator seek more than 5 minutes?

Mr. DORGAN. Mr. President, I had sought 10 minutes, but I will try to shorten it.

Mr. STEVENS. That is fine. I will be happy to accommodate the Senator's request. I ask unanimous consent for the same procedure then, that I yield to the Senator from North Dakota 10 minutes and recover the floor when he is finished.

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

Mr. DORGAN. Mr. President, my colleague from North Dakota, Senator CONRAD, spoke a few moments ago about what is in this supplemental bill to provide appropriations for the disaster that has occurred in our region of the country.

I rise today to support the amendment offered by the Senator from West Virginia, Senator BYRD. He is trying to strike a provision in this disaster relief bill that has been included that has no relationship to the need for this bill to provide some help to folks around the country who need help. I really believe that we need to move without delay to get this bill enacted and get the help to those who need it in our country.

I am not critical of anyone else's efforts on the floor of the Senate. I only am here to urge that we not include this provision, which does not belong in this bill. It is included in this bill in a way that delays the bill and, quite likely, will provoke a Presidential veto. I implore those who feel strongly about this proposal to bring it up another time, bring it another day, bring it next week on another bill, but do not delay this piece of legislation.

I have a lot of people who have come to me, as they have, I am sure, to my colleague from North Dakota, and they said, ''Did you see the movie 'Fargo'?'' Especially around the Academy Award time, ''Did you see the movie 'Fargo'?'' A lot of people apparently saw the movie ''Fargo.'' It was a Hollywood caricature of our region of the country, set with some drama on the movie screen.

But a real-life drama has occurred in North Dakota, Minnesota, and South Dakota that is the most significant tragedy, in my judgment, that has occurred in our State. Short of massive loss of life, it is the most significant tragedy that has occurred in the history of our State. It is a drama full of tragedy, heartbreak, broken dreams and, at the same time, full of strength, courage, and hope.

What has occurred? My colleague from North Dakota described it: 3 years worth of snow dropped in 3 months on our State, the last storm bringing nearly 2 feet of snow in about 36 hours, with 50-mile-an-hour winds. When the combination of all that snowfall, 3 years worth of snow, began to melt in the Red River Valley, it flooded the valley, and the Red River exceeded its banks quickly and dramatically and was higher than at any other time in history.

The city of Grand Forks, ND, for example, was 95 percent evacuated, a city of 50,000 people that was virtually a ghost town and under water. In the city of East Grand Forks across the river, 9,000 people are out of their homes. The entire city was evacuated.

And if you could go to Grand Forks and East Grand Forks today, what you would find at Grand Forks is 25,000 people still homeless. In East Grand Forks, not one of the 9,000 people is back in town, according to the mayor. You have a city empty and a city across the river that is half empty.

Where are those 25,000 people? They woke up in a bed or cot that was not in their homes. They are displaced. Many of them have lost their homes. Hundreds of them will never go back to their homes because their homes are destroyed.

We are told, well, we want to help, and I very much appreciate the help that has been offered in the Senate. Our colleagues, Senator STEVENS, Senator BYRD and so many others have said, Let us help. I have been willing to do that on every occasion I have been in Congress, to extend a helping hand to offer hope to people who have suffered through floods, fires, tornadoes, hurricanes, earthquakes, and more. Now the rest of this country through this Congress is extending a helping hand to the folks in our region, to give them cause for hope, to allow them to believe they can rebuild their dreams.

Is it urgent we get this done soon? Yes, it is. As I said, 25,000 people in Grand Forks alone woke up this morning not in their own homes, but someplace else—a shelter, a cot, a friend's home, a different city.

Is it urgent that we finish this bill? Is it urgent that the badly needed appropriations in this bill can be used to offer hope to those folks, to help rebuild, to recover? It is urgent that this be done and be done now.

Adding controversial amendments to this bill delays the bill. Adding controversial amendments, as was done in the committee, especially with respect to the provision that is now the subject of the motion to strike, delays this bill. For the sake of those thousands of North Dakotans, Minnesotans, and South Dakotans who have suffered this terrible tragedy, and for the sake of many others in this country for whom disaster relief appropriations are in this bill to meet their needs, for their sake we should not seek to further delay this bill.

Let us support the motion to strike. Let us take this provision out of this legislation, pass the legislation, have the President sign the legislation and deliver this message of hope, and deliver these appropriations that offer real hope, to the people of a region who so desperately need it.

There are some who say, Well, we are doing the right thing. I would say to

them that they need to understand that it is not urgent that this provision be done now; it can be done later, we can add it to something else. As for the disaster relief aid in this bill, it is urgent that it be done now. Having controversial amendments in this bill, amendments that will provoke a veto, will delay this urgently needed help.

Let me end as I began. I do not come here to be critical of others. I greatly respect every Member of this body. I thank so much the chairman and the ranking member of the Appropriations Committee and all of the others with whom I have worked to address these real human needs. Now I simply ask that the Senate decide, as it has so often in the past, that on an appropriations bill that is designed to reach out and help victims of disaster, that we should not do anything to impede or delay that help.

So, for that reason, I am happy to rise today to support the motion to strike offered by Senator BYRD.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I do retain the floor, Mr. President. Does the Senator from New Jersey seek time?

Mr. LAUTENBERG. Ten minutes.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from New Jersey be given 10 minutes and that I retain the floor at that time.

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

Mr. LAUTENBERG. Mr. President, I thank the chairman of the Appropriations Committee for making sure we have a chance at a full debate on this issue.

I am strongly opposed to this so-called automatic CR, and, if I may say, barring none others from competing, when it comes to understanding the rules and understanding the process, there is no better informed Senator than the senior Senator from West Virginia, Senator BYRD, who is the ranking member of this Appropriations Committee, and his leadership tells us that we better look out, that we better know what we are talking about.

I am deeply dismayed that we are debating this provision just a few days after we reached an agreement on the outlines of a 5-year balanced budget. Mr. President, I am the senior Democrat on the Budget Committee and, as such, have been relegated a relatively awesome task of trying to find a consensus that would enable us to get the Government going, to keep us from getting into these disputes year after year, but have an honest debate and a review, a determination of the importance of the issues.

We worked very hard over the last few months to try and get the outlines of a balanced budget. We are not there yet, but I think we have all of the ingredients to finally say yes. We did agree last Friday that we have the makings of a budget resolution for the next 5 years. It would bring us to a zero deficit balance and take care of the programs, as best we could, that we care about.

The automatic CR, on the other hand, could force deep cuts in education, environment, health, research, and crime fighting and contradict the agreement that we just arrived at.

Mr. President, I consider it an abandonment of our constitutional responsibility. It is so nice to take your fingerprints off the deal that you may not like. It is so nice to back away and say, we are going to do it automatically. That is not why people sent us here, not to do it automatically but to put our reputations on the line, to put our thoughts on the line, and let us work out what we think is the proper direction for the funding in our Government.

I worked with distinguished counterparts in this budget decision—Senator DOMENICI, the chairman of the Budget Committee; Congressman KASICH, the chairman of the House Budget Committee; Congressman SPRATT, the ranking Democrat in the Budget Committee; and the administration officials at length to negotiate a budget agreement.

We had lots of policy differences. But we worked through them in good faith. And we worked through them without producing such a hostile environment that we could not talk to one another, because it was carefully thought out. It was balanced with everybody's views and concerns. But part of this agreement includes a level of discretionary spending for fiscal year 1998, and for the following 4 years.

It is not easy to reach agreement on these matters, but we did despite all of the hard work to reach a compromise on discretionary spending. This automatic CR could change these levels only days after we made the agreement. With this type of development, I am afraid we will never finish implementing this agreement, this budget agreement.

It is not surprising that the President said that he will veto this bill if the Republican leadership insists on retaining this amendment to the bill. We ought to strip out this amendment immediately and pass the supplemental appropriations bill. Just look at the critical funding that we are providing in this supplemental.

We heard the distinguished Senator from North Dakota describe the conditions that people are forced to exist under. And it touched all of our hearts when we saw the pictures, when we understood what it must be like to lose a home, to lose your roots, to lose your pictures, to lose the memorabilia, to lose all the history that a family goes through, things that are so precious. And where do you go in the next phase? People do not know.

They are saying to us, ''Help us out, America. We are an integral part. We're there when you need us. We're there to pay our bills. And we're there to fight for the country. And let us have the resource to rebuild our lives a little bit.'' We all want to do it. So why do we get entangled with this extraneous matter at this point?

We are also talking about more support for our troops in Bosnia. That is a tough job. Who here wants to walk away from that responsibility? Who here wants to say, ''Well, we have our troops there, but we're not going to give them their resources they need''? I doubt if anyone really wants to say that.

If the Republican majority insists on pushing this legislation, we ought to consider it as a stand-alone bill. Let us debate it. Let us review what is in there, and not hold this supplemental appropriations bill hostage.

Mr. President, if the automatic CR became law, the American people could pay a steep price. Compared to the President's budget, the budget ax could fall on many critical programs. Under the automatic CR, cuts are possible in the following programs:

Do we want to risk programs like Pell grants, sending kids to college who otherwise cannot afford to go?

Do we want to risk cutting NIH funding where research is so precious, so essential?

Ryan White AIDS services. We are beginning to see some diminishment of the immediate death from AIDS. We are beginning to see life extended.

Do we want to stop those programs?

Who wants to put your family on an airplane if we have to cut back on FAA safety and security programs? Who wants to run that risk?

We have EPA operations. They are able to respond to emergencies, oil spills, things of that nature. Do we want to run the risk of cutting back when we may need that kind of emergency assistance?

Mr. President, the automatic CR is also, in my view, an abandonment of our constitutional responsibility. Our constituents sent us here to make decisions about our Nation's priorities. They expect us to consider and review carefully appropriations bills, spending bills, debate them, amend them and pass them in a way that meets the full blush of sunlight and meets their health, education, and other needs. This automatic CR would take a mindless meat ax—could take a mindless meat ax to 13 appropriations bills. It is not a very good way to decide our country's priorities.

Mr. President, my Republican colleagues—and I respect them, but challenge their judgment on this one—argue if we do not pass the automatic CR we will have another Government shutdown. This is not the case. If we do our work we can pass most appropriations bills by October 1. And if we cannot pass them by that date we can pass a short-term continuing resolution that will allow us to finish all 13 bills. That is not the best way to do it. The

best way to do it is get it done. We have done this numerous times in the past and have avoided any disruption of Government services.

Mr. President, I strongly urge the Republican leadership to remove this onerous provision. This threatens the foundation of the entire 5-year budget agreement. If the majority does not budge soon on this issue, the whole budget deal could collapse, and we may never have a balanced budget, a children's health initiative, or any of the tax cuts that are also agreed upon though in some cases reluctantly. But it is a consensus. Is that where we want to go? I do not think so, Mr. President. I hope that my colleagues will stand up, analyze the situation carefully, and support Senator BYRD in his effort to strike this from the bill.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. It is my understanding that the Senator from California wishes some time.

Mrs. FEINSTEIN. Yes.

Mr. STEVENS. How much time would the Senator like or would settle for?

Mrs. FEINSTEIN. Is it possible to have between 5 and 10 minutes?

Mr. STEVENS. I will be happy to yield to the Senator 5 minutes-plus. We will try to run it if we can.

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

Mr. STEVENS. As usual, I request that I retain the floor.

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

Mrs. FEINSTEIN. I thank you, Mr. President.

And I thank the chairman of the Appropriations Committee.

I rise to support the Byrd position. I believe that to take an automatic cut of an additional $25 billion in real terms with the constraints of this budget would be extraordinarily difficult.

Mr. President, I have just in the last few days participated in several initiatives with respect to cancer, and appeared before Senator SPECTER's subcommittee on cancer and heard members on both sides of the aisle speak to the goal of doubling cancer research over the next 5 years. I think if this CR remains, any additional dollars for critical health research is really condemned.

Additionally, many of us believe that the bipartisan White House-Congress concordat bringing to this body a bipartisan plan to balance the budget was to be without the CR attached. So just a week ago both sides were cheering about this budget deal. Given the optimism surrounding the announcement, I think it is somewhat disingenuous to include the automatic CR in this legislation.

I think all of us want to avoid another Government shutdown and are willing to do almost anything to prevent a repeat of 2 years ago. But the way to do that is simple. Do what is necessary to pass an appropriations bill on time. And that means compromise. No one wants a Government shutdown. And the fact that a year-long CR was eventually passed following the last shutdown shows that reasonable minds are capable of reaching compromise when there is a will.

The automatic CR essentially means that we do not have to pass another appropriations bill this year. Conceivably we could all pack up and go home. However, the budget deal struck is going to require some very tough decisions, difficult negotiations, some forced compromises. Not everyone is going to get what they want, but I think we all recognize that in the interest of getting the job done we are prepared to sublimate some of our priorities.

The President said he would veto this bill if the automatic CR provision is included when it hits his desk. I cannot think of any clearer reason to drop this then from the bill. The emergency funding carried in this bill is simply too important.

This is a big bill. About $3.4 billion of it goes to California. Additionally, it goes really to people who are just destitute. And we have about 9,000 miles of delta levees, and we have had almost 100 levee breaks, 62 of them substantial. You had areas, 15 square miles, flooded, homes up to their rooftops, orchards of 14,000, 15,000, 16,000 trees at a crack just lost, people losing their homes and their livelihoods.

I really earnestly implore this body not to complicate this bill by attaching the CR.

If the CR is added, there are other things that happen as well.

We have a proposal for 500 additional border guards in 1998. That is on hold; 544 FBI agents delayed; the FAA unable to hire 500 air traffic controllers and 173 security personnel; Pell grants cut by $1.2 billion; funding of Goals 2000 cut by $97 million; Title 1 education, which goes to educate the poorest of youngsters at a time when everybody believes education is a top priority, cut by $320 million; and NIH, cancer research or death-inducing disease research could be cut by $414 million.

So, from the California perspective—I know my colleague and friend, Senator BOXER spoke to this earlier: 48 out of our 58 counties were declared disaster areas—this money is important. It should go. So I am hopeful that the majority will remove the request for the CR.

I am happy to rise to support the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the Senator.

Mr. President, it is my understanding the Senator from South Dakota seeks time.

Mr. JOHNSON. That is correct.

Mr. STEVENS. I beg your pardon. I am in error.

Mr. President, let me apologize to the Senator from South Dakota. I did commit to the Senator from Minnesota that I would yield to him 6 minutes at this time. And I yield the floor for 6 minutes so he might have the floor for 6 minutes, with the same understanding that I retain the floor at the end of that time.

At this time let me have an understanding with the Senator from South Dakota that he would automatically be recognized before I be recognized again.

How much time does the Senator from South Dakota seek?

Mr. JOHNSON. Two minutes for now.

Mr. STEVENS. The Senator is very conservative. It is nice to see one on the floor.

Two minutes for the Senator from South Dakota, and then I retain the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 6 minutes.

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

Mr. President, I would like to make a few brief comments about the Government shutdown prevention plan contained within the supplemental appropriations that would protect flood victims and every American whose paycheck depends upon the Federal Government by preventing future shutdowns of the Federal Government.

In the 104th Congress, as a result of disagreements between Congress and the President during the budget process, we witnessed the longest shutdown of the Federal Government in history. The shutdown created enormous financial damage, emotional distress, and just plain inconvenience for millions of Americans. Hundreds of thousands of Americans could not receive their social services, such as Medicare benefits, or travel overseas, or visit national parks and museums. Small business owners and local communities lost millions of dollars. Federal employees were furloughed with the fear of not getting paid. Even our troops stationed overseas were affected by the shutdown.

But the most serious damage caused by the 27-day shutdown was that it shook the American people's confidence in their Government and elected officials. We have not yet undone that damage, but we have the opportunity to do that today. We need to restore the public's faith in its leaders by demonstrating that we have, indeed, learned from our mistakes.

Now, we can all point fingers at who was the cause of this shutdown. But the inclusion of the Government shutdown prevention plan will send a clear message to the American people that we will no longer allow them to be held hostage in future budget disputes between Congress and the White House.

I am surprised by the opposition to this plan, and one has to ask the question, why would they oppose it? Each of us have differences in philosophy on policy and budget priorities. Often we

do not necessarily agree on these priorities, but there are essential functions of the Federal Government that provide critical services to the American people, and those services must continue, regardless of our budget differences.

Now, consider the devastation caused by the flooding in Minnesota and the Dakotas in recent days. I have heard some declare that the supplemental appropriation that is before us today will be the answer to all of our problems. That could not be further from the truth.

What would happen if a budget shutdown in Washington forced a Government shutdown just as it did 2 years ago? Minnesotans who have struggled against the floods could find themselves victimized a second time if their rebuilding efforts were stopped. This natural disaster has already been an exhausting nightmare for Minnesotans, and we cannot tolerate a manmade disaster on top of it.

Mr. President, I will work not to allow the citizens of Minnesota to be used as chips in some sort of high-stakes budget contest. Therefore, I support the critical provision within the disaster relief bill that will prevent a future Government shutdown. I believe this is the only way to stop the politics, to ensure that Congress and the President are committed to keeping the Government open, and protect our flood victims from any gamesmanship in Washington.

Now, last Friday, a budget agreement was reached between the White House and negotiators in Congress, and as a result some of my colleagues have argued there is no longer any need for this language. Well, if they did not intend to use the threat of a shutdown as a tool to extract more of what they want in budget talks, why would they oppose it?

I think a provision like this is kind of like insurance. We always hope we never need it, but it would be there if we did.

Last week's agreement does much to take the political pressure away from the current debate, which would allow us to focus more on the merits and the necessity of the shutdown prevention language and whether it is sound policy to have such a plan in place to prevent future shutdowns. More often than not, the lack of a Government shutdown prevention plan has yielded a ''money grab'' at the end of each fiscal year, as Members take advantage of the last-minute rush to pass a budget and avoid a shutdown by loading it up with pork projects. The merits of the spending are not debated at all, and programs are funded based not on merits but, many times, on political leverage. As a result, billions of hard-earned taxpayers dollars are wasted in the process.

Mr. President, the American people should not be held hostage to the efforts of those who want to keep alive the threat of future Government shutdowns for their own political purposes. We cannot allow for the possibility of a Government shutdown in the future that would prevent us from addressing the longer term needs of those Minnesotans who are trying to rebuild their lives in the wake of the flood. We must ensure we have a plan in place that will keep the Government up and running in the event the budget agreement is not reached.

Again, Mr. President, the Government shutdown prevention plan is sound policy. It is wise policy. It is also responsible policy. It is the right priority. And, by the way, it cuts nothing, and it allows the Government to do its job.

I urge all my colleagues to vote against the Byrd amendment.

Mr. STEVENS. The Senator from South Dakota is recognized for 2 minutes.

Mr. JOHNSON. Mr. President, I rise in strong support of the motion to strike by the Senator from West Virginia, and I thank, as well, the work and support from the Senator from Alaska on this matter.

Mr. President, there is a tremendous amount of pain and suffering across many States of the Union. In my State of South Dakota, where thousands of people have been evacuated, many are still not back in their homes, contamination of flood water is present, hundreds of thousands of livestock have been lost, businesses have been shut down, roads are still under water, there has been incredible damage to culverts and bridges, and public schools have suffered.

This is no time to use the suffering of these people as a point of leverage to compel this Congress and the President of the United States to accept an extraneous budget amendment. As a member of the Budget Committee, I welcome an opportunity to debate those who believe there ought to be a reduction in aid to schools, kids nutrition programs, law enforcement, environmental protection, or cancer research, among other items, that ought to be reduced. I welcome that debate. That is what this institution is for.

But South Dakotans wonder, as I think Americans wonder, why can't this Congress handle one issue at a time rather than tying extraneous issues onto bills of incredible urgency? Let us deal with this disaster in a constructive, positive and bipartisan way, and then take up the budget issues that have been raised by the CR issue in a separate context, and have a full-blown debate on the real consequence of these budget priorities. Some, no doubt, will win, and some may lose, but let them be debated separately and not try to tie the President's hand, not try to use the suffering of thousands of people in this country as a point of leverage for an agenda that he cannot accept and which will only in the end delay the urgent assistance so badly needed in my State of South Dakota and in some 30 other States, as well, as a result of the natural disasters that we have faced over these last several months.

I think this is simply a matter of equity and of fairness. We seem to be in the process of reaching a bipartisan budget agreement. That is a helpful step. We should take each process, one at a time, in its rightful order, and deal with this disaster now, and then deal in a timely fashion with the rest of the budget priority issues in their order.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate the remarks of the Senator from South Dakota. I did not mean to limit his time. He asked for 2 minutes, and he got 2 minutes. Would the Senator like more time?

Mr. JOHNSON. That was fine.

Mr. STEVENS. Mr. President, I notice the leader is here, and I know he has leader time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I appreciate very much the distinguished Senator from Alaska, and I will use my leader time.

I want to talk to the amendment, as well. But I first want to express profound appreciation to the two managers of the bill. Senator STEVENS and Senator BYRD have done an incredible job in dealing with the array of needs that the country has demonstrated and that we have brought to their attention. They have been remarkably responsive in addressing these needs, to the extent that our resources allow. I want to publicly praise both our leaders in this regard and thank them for their extraordinary response thus far.

I also want to thank the staff director of the Committee on Appropriations, Mr. Steve Cortese, for his helpfulness and his willingness to consider the needs of States like mine that have been devastated by disasters. He has performed admirably in his new role, and we look forward to working with him in the future. I would also like to thank the Democratic staff director, Mr. Jim English, for his fine work in putting this package together.

We can finish this bill easily this afternoon. I expect we can come to a conclusion with the remaining amendments. I only hope somehow even before we vote on final passage, we can come to some conclusion about this extraneous provision.

I cannot agree more heartily with the Senator from South Dakota, my distinguished junior colleague, in his remarks about the repercussions that this amendment could have and the extraordinary divisiveness in what otherwise has been a remarkably bipartisan effort, with Senators on both sides of the aisle responding to a natural disaster in so many parts of the country, that has to be addressed by this legislation. This is not the place for this. There is a way with which all of us can assure that there will never be another Government shutdown.

Those of us on this side of the aisle warned about Government shutdowns

long ago and did as much as possible to prevent them when they occurred. We can commit our determination, we can commit our willingness in every way, legislatively and otherwise, to assure that there will not be a Government shutdown. We will do everything in our power to prevent another one.

To hold this bill hostage to finding a mechanism to prevent one, to hold this bill hostage and tell all the people who are waiting, as we speak, for assistance, that that cannot happen until we resolve this particular problem, in my view, is a travesty. It sends exactly the wrong message about how cognizant we are of the urgency of this legislation.

I am troubled not only by the fact that it is on this bill, but by the proposal itself as it is now structured. I am troubled for three reasons. First of all, the level set, the 100-percent level of last year's appropriated amount, is substantially below the amount that we have just agreed in bipartisan budget negotiations would be the investments we make in education and in health care, in safe streets, in agriculture, in transportation, and in the array of investments that we spent so much time negotiating over the course of the last month.

What does this say to those who have committed, now, as this Senator has, to that agreement? That we did not mean it? That, indeed, we are willing now to settle for investments substantially below those that we agreed to just last week? That is what we are saying with this particular level of commitment in a continuing resolution, that it does not matter what we agreed to, because now we are going to submit to a much lower level.

That means 285,000 students lose Pell grants, 37,000 kids are cut from Head Start, 20,000 workers are dislocated from job training, 1,400 school districts lose aid, 640 Superfund sites do not get any help, 960 NIH research projects will be killed, public safety and crime prevention will be affected, 350 fewer air traffic controllers would be hired, and 390 fewer FBI agents would be hired.

Mr. President, we understood the need for a commitment in all of those and many other areas. For us now to negate that is very troubling. That is point one.

Point two: There will be needs that we must address in the future that we do not yet know about. We just had a discussion this morning by Republicans and Democratic Senators representing States most directly affected by this disaster. We all recognize that we do not know what it is we are going to be doing in the coming months with regard to this disaster because we do not know yet what the circumstances will bring. But we do know this: Because we cannot predict it all, we know we will have to go back again. We will have to talk to the distinguished Senator from Alaska, we will have to talk and consult with the distinguished Senator from West Virginia, we are going to be back again with corrections, with a need for additional commitments that we cannot contemplate now. To lock in a continuing resolution, to say we are not going to be cognizant, we are not going to be responsive to those particular needs this fall does a real disservice to the bill itself.

Finally, Mr. President, this is an exercise in futility. That is what is most disconcerting. The President said he will be compelled for the reasons I just stated to veto this bill. I have a letter, signed by 38 U.S. Senators, who will commit to sustaining that veto.

I ask unanimous consent to have that letter printed in the RECORD at this time.

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

U.S. SENATE,
Washington, DC, May 6, 1997.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you know, the Senate Committee on Appropriations attached an automatic continuing resolution to S. 672, the emergency supplemental appropriations bill. Congress should not hold disaster assistance to 33 states hostage to any political agenda. We applaud you for expressing your intention to veto the bill unless the Republican majority drops this extraneous provision.

There is no justification for holding up the disaster relief bill over an automatic plan to cut spending now that we have reached a bipartisan agreement for a five-year budget plan which includes fiscal year 1998 discretionary budget levels. It is inappropriate and premature to use the disaster-relief bill as a vehicle to lock-in next year's budget before Congress has even begun consideration of a budget resolution for FY 1998.

While we opposed the 1995–96 government shutdowns and will oppose all future efforts to shut down the federal government, passage of a new budget gimmick is not the answer. This provision would place the entire discretionary budget on automatic pilot. Far from making the government more accountable, this approach would actually make it easier for Congress to abdicate its responsibility. Instead of making the difficult choices needed to pass an appropriations bill, Congress could make no decisions and watch passively as funding for everything in the bill is automatically and indiscriminately reduced. The reductions would amount to 2 percent from this year's funding level and an average of 7 percent reduction from your request.

Congress has never resorted to such desperate measures in the 220-year life of this Nation, and we shouldn't resort to them now. This is no way to run the federal government.

Not only would such a provision abrogate Congress' constitutional responsibility to enact spending bills, but it would decimate programs that are vital to our nation's economy, and to working families. It could gut funding for education, the environment, health care, agriculture, transportation, veterans, crime prevention and other urgent needs of the American people.

Last year, the Republican majority held government workers and their families hostage to their demands for cuts in education, the environment, health care and crime prevention. This year, they may try to hold the victims of disaster hostage to a budget scheme that would install cuts in those programs automatically.

If you veto this bill over an automatic continuing resolution, we would vote to sustain the veto.

Sincerely,

TOM DASCHLE,
ROBERT C. BYRD,
And 36 other Democratic Senators.

Mr. DASCHLE. Mr. President, this veto ought not be necessary. This veto ought not even be necessary to consider today. This veto represents a determination by the President that this Congress do the job for which we were all sworn to do. We can do it right. We can complete the appropriations bills on time. We can be responsive to the needs that we anticipate this fall. We can recognize that the budget agreement we have agreed to is one that we will toil through and that the agreement is better than what we imply with this amendment, that our word is our bond and that we are going to commit to that level of investment this year, next year, and for the next 5 years. That is why this legislation, this amendment, is so ill-advised. It breaks the agreement. It discounts the need to come back, and it will be vetoed.

Mr. President, I urge we reject the automatic CR by supporting the amendment of the distinguished Senator from West Virginia if we cannot find a way with which to resolve it through compromise. I stand ready to continue to find ways with which to make compromise possible, and I hope we could do it prior to the time we find the need to vote on final passage. Short of that, Mr. President, I hope Senators will realize the extraordinary repercussions that this provision will have for this bill. I urge support for the amendment to strike the automatic CR.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I see the Senator from Nevada is here. Does the Senator seek time on this amendment?

Mr. REID. To the Senator from Alaska, I was one of the Senators that Senator BYRD had listed as speaking. If the Senator would grant me the time, I can go forward at this time, leaving, I think on this side, only Senator BYRD.

Mr. STEVENS. I understand the Senator wishes 5 minutes; is that correct?

Mr. REID. I have asked for 10 minutes.

Mr. STEVENS. Mr. President, I ask that the Senator be recognized for 10 minutes and I will retain the floor at that time.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 10 minutes.

Mr. REID. Will the Chair advise the Senator when I have used 9 minutes?

The PRESIDING OFFICER. I will do so.

Mr. REID. Mr. President, last New Year's Day, the people of northern Nevada suffered from flood waters that were untoward. We had never experienced anything like the floods that occurred in five northern counties. The State of Nevada, as large as it is, has

the seventh largest area, State-wise, including Alaska. It has 17 counties, very large counties, and five of those counties were severely damaged as a result of the flood—Washoe, Story, Douglas, Carson City and Lyon. I traveled over the area by car and helicopter. The picture that I saw is something I will never forget. The Carson, Walker, and Truckee Rivers, small as they are, when the floods came, were devastating.

Now, Mr. President, the flooding that we suffered in Nevada was significant. But the flooding and the disaster that hit Nevada was relatively small, as bad as it was, compared to the magnitude of disaster that we have seen in the Dakotas. To say that the community of Grand Forks, ND, is changed forever is an understatement. I had the opportunity the other evening of meeting the mayor of Grand Forks, ND, Pat Owens, and I had heard from the Senators from North Dakota, Senators CONRAD and DORGAN, and I have seen in the papers, watched on television, as we all have, the devastation that hit the Dakotas—lives lost, tens of thousands of people dislocated, many of whom will never get back in their homes, 156,000 cattle died; some of them died standing, frozen stiff. Almost 2 million acres of cropland were under water. North Dakota had more snow in a matter of weeks than it had in the previous 3 years. Total damages are still being added up, but it will be nearly $2 billion in that State, which has a little over 500,000 people in it. Neighborhoods were destroyed by fire.

Mr. President, we have had significant damage all over these United States this past year. That is what this bill is about—the damage caused by the floods in northern Nevada, by the floods caused by the Red River, which I understand runs normally at about 50 yards wide and now, in areas, is as much as 40 miles wide. That is what this bill is all about. It should not be about extraneous matters. That is the reason I am so committed to the amendment that has been offered and is pending.

We know that the Government was shut down. We know that those of us on this side of the aisle had nothing to do with shutting down the Government. We know the American people rose up against the shutting down of this Government. I think it is commendable that people are concerned about never shutting down the Government again, and I agree with that concept. I hope we never shut the Government down again. But this legislation is not the vehicle to do that. We need to go on with this legislation, this disaster relief, this emergency legislation. There are important matters in this.

In Hawaii, at the Lualualei Naval Station, there was flooding and mudslides, and tremendous winds have ripped this naval station to pieces. We need these moneys to go there, as have been committed. There is $45 million which will go to emergency infrastructure grants to repair water and sewer lines. These are fundamental to any community struck by these devastating floods. Only $4 million—a relatively small amount, as large as this bill is—will go for rural housing assistance programs to help the elderly with emergency repair of the housing. That is a priority. We should be doing that and not having continuing resolutions and other such matters in this legislation.

The principal nonemergency item is the one that we are now here having struck. We know the Government was shut down for a lot of reasons. One of the reasons was spread across all the newspapers and television shows that could carry it last year when the Speaker of the House was offended because he was asked to go out of the wrong door of Air Force One. This took a personal vendetta to a whole new level, but it should not have led to a shutdown of the Government.

Again, it is important that we don't have the Government shutdown at any time in the future. But this isn't the legislation that should do that. Last week, Friday, there was a celebration by the Democrats and Republicans that we had done something on a bipartisan basis; we had joined hands to come up with a bipartisan budget agreement, or compromise. Why don't we go ahead and see what bills we can get passed in the right way, the ordinary way—that is, we have 13 appropriations bills; why don't we pass those 13 appropriations bills. That would really send a message to the American public that we are doing things the right way around here.

We have been told the President will veto this legislation. We have been told by the minority leader that there are enough votes to sustain the veto. What are the things that will be affected by this amendment? We know that the stockpile stewardship program will be affected. We know that privatization projects to clean up nuclear waste will be affected—97 of them, to be exact. We know that the Appalachian Regional Commission, serving some of the poorest counties in the Nation, will be affected with this amendment.

The agreement that was reached by the President and leadership of both Houses of Congress is an important step in the right direction, so that we can go about Government in a normal fashion. This substituted amendment still cuts about $25 billion below what was agreed upon. All of us here can live with this McCain-Hutchison amendment. We can live with this. Everybody knows that. But let's live up to the agreement that we have, also, and that is, let's fund at levels that will get us to a balanced budget by the year 2002, or even earlier.

Is there something here that I don't understand that is going to say that we are going to agree to a budget but we are not going to really live up to it, and that is why we are not going to have to pass any of our appropriations bills and we are going to have to rely on a continuing resolution? I hope that we can move on beyond where we are here, that we don't have to have a veto of this legislation, and that we can go ahead and get the emergency relief to the five counties in Nevada that so desperately need it and the 21 other States in our Union that have had disasters that also need the relief. We should not be legislating on an appropriations bill, and that certainly is what this does.

I yield the remainder of my time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I have heard the debate and I think the debate has really been good today. I think that everyone has made their points, and I think everyone has stood on the principle that they believe is the correct one, and I think the lines are very clear.

I think it is very important that people understand exactly what we are doing. What we are doing in the first appropriations bill that has come to the floor in this session of Congress is we are setting the process by which we will move appropriations bills before September 30 of this year. And in stating what the process is, we are saying, right now, for all planning purposes, that if there is not an agreement by September 30, at the beginning of the fiscal year, we will make sure that we have a way to continue to fund the Government, a seamless transition into the next fiscal year so that there will be no disruption—no disruption in people's lives who work for the Federal Government, no disruption in people's lives who depend on the Federal Government for their veterans' payments, no disruption in people's lives who might have saved for family vacations. There will not be a disruption because we are going to continue Government, as we are saying right now, in a responsible way, which is what the people expect. So we are laying the framework for how we are going to appropriate this year, and we are going to have an orderly process that assures the people of this country that there is not going to be a stop in Government. We are going to fund at present levels all the way through, even if we don't have an agreement on an appropriations bill.

Of course, we are going to try to come to an agreement. But we believe the best way to do that is in the light of day, no hammers over anyone's head, no hammers over Congress, no hammers over the President. Everybody will be able to talk about the priorities and determine how much we will spend in Pell grants, how much we will spend for Meals on Wheels, and how much we will spend for education priorities. You see, I have heard talk on the floor about cutting Pell grants. Well, we are not cutting anything. We haven't passed one appropriations bill yet. So nothing has been set for the 1998 year.

Mr. STEVENS. Will the Senator yield?

Mrs. HUTCHISON. Yes.

Mr. STEVENS. I was called off of the floor. I have been seeking to ensure that there will be some limitations on Senators speaking on this amendment. How long does the Senator intend to speak?

Mrs. HUTCHISON. Just 5 minutes, or less if the Senator would like.

Mr. STEVENS. Mr. President, I renew my request that I regain the floor at that time.

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

Mrs. HUTCHISON. I have spoken approximately 2 minutes. So I will finish in approximately 3 minutes.

Let me just say that the President doesn't have to veto this bill. This is the President's bill. It is a supplemental appropriation. It is going to renew the coffers of the Federal Emergency Management Agency. Let's make no mistake, the money is going into North Dakota right now. The victims are getting all of the money to which they are entitled under Federal law right now. There is no delay. We are talking about refilling the coffers for future disasters that have not yet occurred. So there is no emergency here. The money is going out and we want to refill it. It is the same for the people serving in Bosnia. The money is going in there. They are having all the equipment and they are having all of their needs being met. But the fact is, we need to replenish the Department of Defense. So that is what we are talking about today.

The President has asked for more money for Bosnia. The President has asked for more money for FEMA, and we are going to give it to him. Now, he has a choice to sign the bill or to veto it on a process issue. I don't know why, if the President says he doesn't want to shut down the Government, he would even consider vetoing this bill. Why would the President veto the bill? It is his choice, his bill. We are giving him everything he has asked for in this supplemental bill. So why would he veto it, especially when he says he doesn't want to shut down Government?

So when we hear people say the President is going to veto this bill and it is going to hold up aid, that is not the case. First, the President has a choice. He can sign the bill, which is giving him everything he asked for, or the President can choose to veto the bill on the process. But that is his choice. If he wants to delay putting the money back into the Federal Emergency Management Agency, if he wants to delay putting money back into the Department of Defense, then that is his choice. I think it is the wrong choice. I hope the President will sign the bill because we have, in good faith, given him all of the money that he has asked for, and we want to do that.

Why should he worry about our setting the process so that we will know how we are going to deal with appropriations bills as we go through the end of the year?

Mr. President, I think it is very clear that we are doing the responsible Government operation here. We are going to make sure that the people in North Dakota get the help they need. We are going to make sure that our troops in Bosnia get the help they need. We are going to make sure that the Department of Defense can put the money back into buying spare parts for airplanes and retraining the people who are coming out of Bosnia. All of those needs will be met.

The question is, will the President really veto the bill because he doesn't want to assure that we will not shut down Government? That is the only issue here. I can't imagine that the President would veto a bill because we are providing for an orderly transition into the next fiscal year. In case we have disagreement, we will be able to negotiate those agreements without a hammer over the President's head or Congress' head.

Mr. President, the issue is responsible Government. I hope we can defeat the amendment by Mr. BYRD and stay with our program to keep the prerogatives of Congress for a more orderly transition into the next fiscal year.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have again the floor now. There are to my knowledge two remaining speakers, the Senator from Arizona and the Senator from West Virginia, [Mr. BYRD]. The two of them started this process last night. They did so well I do not want to try to interfere and put limits.

So I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I intend to be brief.

I thank the Senator from Alaska. This has taken up a great deal of time. We are completing this legislation soon. I appreciate his patience and his appreciation on this very difficult issue.

I also want to thank the Senator from West Virginia for his usual courteous, informative, and compelling debate in which we have engaged for many years.

Mr. President, as I said, I will try to be brief. Let's try to be clear about what we are talking about here. There isn't an either/or choice here. The money is going to the disaster areas. It will continue to flow. The President doesn't have to in any way veto a provision that would prevent what he so loudly decried for a period of about 2 months in December and January—December 1995 to January 1996—when the Government was shut down.

I am, frankly, astonished that during this debate people somehow think that because we will include a provision that prevents the shutdown of the Government that it would jeopardize anything else.

Let me also point out that, although the agreement on a budget is a laudable situation, we all know that the heavy lifting is in the appropriations process.

Mr. President, I still remember this much heralded budget agreement of 1990. It fell apart in a period of weeks. We got lots of tax increases. I remember a budget agreement in 1982 when it raised taxes to balance the budget. That was back in 1982. I know the Senator from West Virginia remembers it well.

Let's be clear. A budget is a framework upon which to work, and the appropriations is the heavy lifting. Whether it is right or wrong, fair or unfair, the Congress sometimes puts provisions on appropriations bills which the President of the United States does not like and, therefore, as is his right and responsibility, vetoes those bills.

What I am trying to prevent here is a situation where, even if it were within the agreed upon budget framework, there would not be a shutdown of the Government, which is patently and outrageously unfair to the American people. That is all we are trying to do here. To somehow convey the impression that that impairs either the budget process or the appropriations process simply is not accurate.

Let me point out the problems that we face just very quickly, because we have to remember what happened last time. We can't allow it to happen again.

Mr. President, according to a Greater Washington Consumer Survey in a poll taken, 4 out of 10 Federal employees fear losing their jobs because of budget reductions; 4 out of 5 Federal employees believe their agency will be hit by cutbacks; one-third of private sector employees believe their firms would be hurt by Federal budget reductions; and one-fifth of private sector employees believe their own jobs may be in jeopardy as a result of Federal budget reductions associated with the impact of a Federal shutdown.

Mr. President, I know my colleagues remember when the Government was shut down. Let me remind you of the impact during that 23-day period.

New patients were not accepted into clinical research at the NIH; the Centers for Disease Control ceased disease surveillance; hotline calls to NIH concerning diseases were not answered; toxic waste cleanup work at 609 sites was stopped; 2,400 Superfund workers were sent home; 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—each day; 10,000 new Medicare applications were denied every day; 13 million recipients of Aid to Families with Dependent Children, 273,000 foster care children, over 100,000 children receiving adoption assistance

services, and over 100,000 Head Start children experienced delays.

Mr. President, is that fair? Is that a decent way to treat the American people because we have a disagreement over an appropriations bill here in Washington, DC?

Ten thousand home purchase loans and refinancing applications totaling 800 million dollars' worth of mortgage loans for moderate- and low-income working families nationwide were delayed; 11 States and the District of Columbia temporarily suspended unemployment assistance for lack of Federal funds.

Mr. President, I ask again: Was that fair to the American people? Shouldn't we take whatever steps necessary not to have these innocent people suffer again? This is what it is all about.

The disaster relief is about the suffering of American citizens because of a natural disaster. We are taking steps to cure that, and provide them with the relief assistance that is the obligation of Government to its people. I argue, Mr. President, that we have an obligation to provide relief, comfort and, care, and Federal programs and assistance that innocent Americans deserve, and not shut down the Government.

I don't know how we justify 13 million recipients of aid to families with dependent children not receiving their funds, and 273,000 foster care children and over 100,000 children not receiving adoption assistance services. I don't know how we justify that. I think it is one of the blackest chapters in the history of the Federal Government. All we are doing is trying to see that that doesn't happen again.

There was suspension of investigative activities by the IRS. I am not sure that was all bad, Mr. President. So I will pass over that one.

Delays in processing alcohol, tobacco, firearms, and explosive applications by the Bureau of Alcohol, Tobacco and Firearms. The Department of Justice suspended work on more than 3,500 bankruptcy cases. OPM canceled recruitment and testing of Federal officials, including hiring 400 border control agents. On delinquent child support cases, the deadbeat dads program was suspended; closure of 368 National Park Service sites; loss of 7 million visitors; the Grand Canyon National Park closed for the first time in its 76-year history; local communities near national parks, losses estimated at $14.2 million per day in tourism revenue; and the closure of national museums and monuments for a loss of 2 million visitors; 20,000 to 30,000 applications by foreigners for visas for coming into this country went unprocessed each day; 200,000 U.S. applications for passports went unprocessed; U.S. tourist industries and airlines sustained millions of dollars in losses because of visa and passport curtailment.

It had a terrible effect on Native Americans and American Indians. The American veterans sustained major curtailment in services as a result of the Federal shutdown, ranging from health and welfare to finance and travel.

The impact of Federal contracting on the local and national economy is best shown by the fact that in 1994 the Federal Government purchased 196.4 billion dollars' worth of goods nationwide, and $18 billion in the Washington region. The billions of dollars received from Federal contracting is a boon to local economies. Over 500,000 small companies nationwide faced delays in Federal payments, and several companies with millions of dollars of exports couldn't get off the docks because there were no Federal inspectors to clear their cargo.

Mr. President, I could go on and on as to the terrible and devastating effects not brought about by a natural disaster but brought about by a manmade disaster.

I would argue that the facts are clear. The American people—who, by the way, don't think a great deal of us, if you believe the polls—deserve better. And, if we are concerned about the esteem or lack of esteem in which we are held by the American people, we should assure them that we would never do this to them again.

So I hope we will vote on this issue.

And let me finally say, in conclusion, Mr. President, as I have said on numerous occasions, I am eager—not willing but eager—to sit down with the White House and with my colleagues on the other side of the aisle and frame a proposal and an agreement that will prevent the shutdown of the Government.

If this isn't appropriate, if the President of the United States feels that this is not the right way to go, then we are open for business. We would like to talk, if we share the same goal. I know that the Senator from West Virginia shares the same goal to prevent the shutdown of the Government.

Again, it seems to me that reasonable men can reason together in a reasonable fashion.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, as we close the debate on my amendment, I pause first to thank the distinguished Senator from Alaska for his generosity, for his courtesy, which he has accorded us on this side of the aisle and on this side of the question. He could very well have made a motion to table at any point and, therefore, shut off debate on the amendment. He probably has the votes, if we look at the Appropriations Committee vote a few days ago when we saw a straight party-line response to my efforts to strike out the language during the markup. He probably has the votes.

So he could very well have moved to table, and could have tabled my amendment. So I thank him for his consideration in that respect. I think it is good for the Senate to have the debate on this matter. I found him to be, many years ago, not only a fine Senator but a gentleman.

Mr. President, I also wish to express my respect to Mr. MCCAIN, who is a genuine American hero. I respect him as one who has suffered not hours nor days nor weeks nor months but years. I take my hat off to him in that regard.

What I say about the amendment and my motion to strike language is not said in derogation of the Senator, nor any particular Senator, for that matter. I am addressing my remarks in the main to my amendment and to the language that my amendment seeks to strike from the bill.

We have heard much said, Mr. President, about this being an effort to avoid a manmade disaster. It has been said that the bill addresses a natural disaster. But that the language, which is supported by the other side in the main, and particularly by Senators MCCAIN and HUTCHISON, is to avert a manmade disaster.

Mr. President, let us reflect a little with respect to that so-called manmade disaster. Who caused that? I am against shutdowns in the Government. I had no part in bringing about that shutdown of late 1995 which continued into early 1996.

I say to my friends, I have only to point to the words of a distinguished Member of the other body. I do not know whether Senators are all aware of the fact that we are not supposed to refer to a Member of the other body by name, and so I will not do that. I have heard that done. It should not have been done. And I have noted in the past that the House leadership has been very circumspect about calling to the attention of House Members the rule against their making mention of a Senator by name in floor debate. So I do not make mention of a House Member by name, but I call attention to some statements that were made by a very prominent House Member and one which was repeated in the Washington Post on September 22, 1995. This is what that very prominent House Member had to say with respect to manmade disasters, shutting down the Government, and I quote:

> I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days—not this time.

So that is what a very well-known Member of the other body had to say about manmade disasters. He did not care.

And then I refer to a quotation from the same prominent, very distinguished Member of the other body, a quotation that appeared in Time magazine of June 5, 1995, when that same Member, in referring to ''manmade disasters,'' said:

> He can run the parts—
>
> He, meaning the President—
>
> He can run the parts of the Government that are left [after the Republican budget cuts] or he can run no Government. . . . Which of the two of us do you think worries more about Government not showing up?

Now, I could quote from the same individual additional instances, but so much for manmade disasters. This was a collective mistake that was made by the other party in 1995 and 1996. It was a collective mistake, and the so-called manmade disaster was the result of that collective mistake, which was a very definite strategy. That was the strategy. That was the Damocles sword that would be held over the Congress and over the President's head. And so the joint leadership of the Republican party sought to carry out those threats, and they got their fingers burned. They made the threats. They carried out the threats. And as a result there was the so-called manmade disaster. They got their fingers burned. Now they dread the fire.

It was not the President's strategy. That was the strategy of the Republican leadership of the Congress. Perhaps that is now conveniently forgotten, but it does not take a slip of the memory as long as Rip van Winkle's slip of memory to remind oneself of how that so-called manmade disaster was strategized and implemented by the Republican Party in Congress.

Rip van Winkle, as we all remember from our early studies—and as far as I myself am concerned, I read about it in Irving's ''Sketch Book'' back in a two-room schoolhouse in southern West Virginia—was a very amiable, idle, bibulous Dutch settler who had a termagant wife and who, while hunting in the Catskill Mountains, met up with the spirits of Hendrick Hudson and some of his companions who were playing ninepins and drinking schnapps. After taking a few drinks of that liquor with Hudson and his companions, our friend Rip van Winkle went to sleep and slept for 20 years. And when he awakened, he thought he had just taken a short nap. He went home. His wife had been dead, himself forgotten, his friends had died or were scattered, and the colonies had become the United States of America.

Well, it seems to me that some of our friends have been asleep less than 20 years and perhaps no more than 1 or 1½ years, but they seem to have forgotten whose strategy it was that brought on the manmade disaster which they now deplore. It was not mine. It was theirs. They got their fingers burned.

Now, under the cloak of hoping to avoid another manmade disaster, they come with this language in the bill I am seeking to strike.

Mr. President, I shall sum up the arguments that I make against the language. But before I do, there has been a good bit said with respect to the continuing ''flow of funds,'' to use their words, that will go to the people who are suffering as a result of the natural disasters, and it is said that delaying this appropriations bill will not delay succor and comfort and relief to those poor people who have gone through this travail in the instances to which we refer.

I have here a memorandum from the Office of Management and Budget which says that ''the resulting delay from the automatic continuing resolution will impede the disaster response effort.'' And I read extracts from that memorandum.

While several Federal agencies that provide immediate relief to disaster victims (FEMA, SBA, and the Corps of Engineers) have resources available and are providing immediate assistance to disaster victims, many long-term recovery and reconstruction efforts cannot proceed until the Disaster Supplemental is signed into law. In addition, some immediate assistance will be jeopardized by delay.

Unlike other Federal agencies such as FEMA, HUD does not currently have funds available to dedicate to the disaster recovery efforts. Any delay—

I repeat, ''any delay—

in enacting the disaster supplemental would impede HUD's efforts to provide disaster recovery assistance. The delay would increase the uncertainty over the amount of assistance that will ultimately be provided and thus compound the difficulty in planning for disaster recovery. Affected communities would experience a comparable delay in receiving funding.

With respect to the Department of Agriculture and the emergency conservation program, I quote from the memorandum.

No funds remain in the program to restore farmlands to production after natural disasters. A list of eligible recipients is being developed, but no one is receiving assistance. The delay in funding means that farmland remains vulnerable to future floods (spring thaw) and less ready to be planted to cropland this year. Cropland will not be leveled, debris will not be removed from fields, pasture remains unfenced, and conservation structures remain in disrepair. As a result, the damages to farmers increase, as the planting delay reduces their farm income (later planning results in lower yields per acre).

Now, as to watershed and flood prevention, I quote again from the memorandum by the Office of Management and Budget.

No funds remain for new projects.

I am talking about watershed and flood prevention.

No funds remain for new projects, all funding has been committed to addressing earlier natural disasters. USDA offices are accepting applications from local sponsors, assessing damages, and making determinations. A list is being developed, but no one—

No one—

is receiving assistance. The effect of the delay is to increase the likelihood of increased damages from flooding later this year as areas are left vulnerable: streams can overflow because they remain constricted from debris that has not been removed, threatening roads and bridges with wash-out. Other infrastructure and property can end up destroyed by the failure to repair damaged levees. Also, the opportunity for non-structural measures, like the purchase of floodplain easements from willing sellers, decreases with the delay in supplemental funding because landowners need to decide now whether to crop this year or wait for the possibility of an easement buyout.

As to emergency loans under the Farm Service Agency, here is what the memorandum says.

Existing appropriations for these loans will be depleted by mid- to late May. Any delay in the supplemental beyond this time frame will cause farmers to wait emergency loan assistance to offset economic losses from natural disasters. This loss of credit will reduce their ability to repair farm structures and purchase inputs for spring crop planting.

And so, Mr. President, here is a memo which I quote for the RECORD which clearly indicates that delay in action on this bill will spell delay for the people who are seeking relief from those terrible disasters. This bill will have some impact on West Virginia. West Virginia suffered during this time from floods. And for 40 years, Mr. President, 40 years I have been in Congress working to support the building of flood prevention structures, working in support of appropriations to provide relief in the wake of floods.

It was 40 years ago this year, while I was in the House of Representatives, that I introduced legislation to provide for the construction of a reservoir to give future protection from floods along the Guyandotte River, which had just flooded in that instance, in 1957, the cities of Logan and Stollings and other communities along the river.

So, I have seen the Guyandotte, I have seen the Cheat, I have seen the Greenbrier, I have seen the Tug Fork, and these other mighty rivers in West Virginia flood and take lives, destroy property, and cause hundreds and thousands of people to flee from their homes. Yet, because of their love for their roots, their love for their home State, they have gone right back in after the floods and they have hosed out the mud and the muck and sought to continue life again, as it were.

So I know something about the suffering and losses of people and, as I say, the loss of life that comes from disasters of this kind. We had the Buffalo Creek flood disaster. West Virginia has had more of its share of disasters. So my heart goes out to the people of North Dakota and South Dakota and Minnesota and the other States, as well as my own State, but not to the degree that those States have suffered in this particular instance. My heart goes out to them. I think we ought to enact this measure. I hope we will strike from the bill this language, and I am sorry that my hopes at this moment are probably not well founded.

But, in any event, we have it clear from the President that he will veto this bill if it comes to his desk with the language in it that I sought to strike during the markup at the Appropriations Committee and which still remains in the bill, though slightly changed from 98 to 100 percent, which is a freeze. But it would still amount to reductions of $20 billion to $25 billion, or possibly even more if this language goes into effect. So, while there may be a slackening, from the standpoint of raising the figure from 98 percent to 100 percent, which makes it a freeze, which would continue it as a freeze, the President's requests that were included in his budget are in jeopardy.

Mr. President, I hope Senators will support my motion to strike. Does the

Senator plan to move to table my motion?

Mr. LEAHY. Mr. President, I wonder if the Senator could withhold for just 1 minute on that, if I might speak on this?

Mr. STEVENS. Mr. President, I do seek the floor, but I will be happy to yield to the Senator from Vermont for 1 minute.

Mr. LEAHY. Sometimes we little tiny States——

Mr. BYRD. Mr. President, I call attention to the fact that I have not yielded the floor yet.

Mr. STEVENS. I presumed, Mr. President. When I get the floor, I will be happy to yield for a minute.

Mr. BYRD. I yield to the Senator with the understanding that the Chair protects my right to the floor.

Mr. LEAHY. I thank the Senator from West Virginia, and I will be very brief, as I advised the senior Senator from Alaska also.

I hope Senators will support the Senator from West Virginia on this issue. I have been here for 22 years. Twenty of those years I have served on the Appropriations Committee and proudly so. I know how hard we work to get our 13 appropriations bills through. Sometimes we have not. We have gotten most of them, and the rest have had to be done by a continuing resolution; but usually for just a few weeks, while we finish them up.

If this went through, this automatic continuing resolution, I do not care if it is at 125 percent of funding or at 30 percent of funding, it is poor policy. Basically it says to the Appropriations Committee—actually it says to the House and Senate—go home. We do not need you. We are on automatic pilot.

That is not what we are elected to do. We are elected to make the tough choices, vote for or against them, and do it on time.

So I support, and gladly and proudly support, the Senator from West Virginia on this. Whether we have a Republican President or Democratic President, Republican or Democratic Senate, I would vote exactly the same way. I do not want automatic continuing resolutions because we will not, then, have our feet put to the fire and have to actually cast the tough votes and make the policy decisions the people of America expect us to do.

Mr. BYRD. Mr. President, I thank the distinguished Senator. May I assure the distinguished manager that I will not detain the Senate very much longer.

Let me, in summation, state that the language that is in the bill, authored by Mr. MCCAIN and Senator HUTCHISON and others, means in a practical sense that if we fail to pass an appropriation bill, all of the programs contained in that bill will receive a cut, because they will remain at a freeze; in other words, no increase over inflation. But it will be a hard freeze. This means education programs, law enforcement programs, immigration programs, transportation programs, agriculture programs and so on.

Second, we will have lost most all of our negotiating strength with regard to fiscal year 1998 appropriations issues because all that the other side has to do is just pass the bills they want to pass and find some reason not to pass others, like the labor and health appropriations bill, and they will automatically keep those programs on a freeze level. I feel reasonably sure, also, that domestic discretionary programs are the ones that will end up feeling the automatic budget axe.

Moreover, any leverage that the White House thinks they may have in the budget talks will turn to quicksilver, because when the rubber hits the road in these appropriations bills, any hard-won victories by the administration can easily vanish just by the tactic of bogging down certain bills.

Fourthly, if we go down this road once we can be sure that we will go down it again next year. Slowly, slowly, we may be reducing the baseline for these programs by continuing on a freeze level and perhaps it could go below a freeze the next time around. So, we are talking about a real loss of buying power. If inflation should rise, we would be in a real hole.

Fifthly, we will be funding programs that may need serious cutting and should not be kept on the level of a freeze. If Congress exercises its oversight—and oversight is really exercised for the main part in connection with appropriations bills, appropriations hearings and so on—we will be continuing programs that perhaps ought to be reduced. Some ought to be eliminated. But under this language that I am seeking to strike, there would not be any reduction, and they would continue at a freeze level. Furthermore, because we are already so late with the budget resolution, appropriators are now behind the eight ball in getting started with our bills this year. So it is particularly easy for the other side to make sure that several appropriations bills bog down and then we get this automatic CR in place for bills which they may not like.

So, Mr. President, in short, this new gimmick would quite likely change the dynamic of the way we traditionally fund programs, this year and in the coming years. I hope it will not be successful. It is clearly a futile effort in the face of the President's threat to veto the bill if the language remains in it. And, to that extent, it constitutes a delay in the delivery of relief to the people who need that relief.

Mr. President, I ask unanimous consent to include in the RECORD at this point the memorandum by the Office of Management and Budget to which I have referred and from which I have already quoted excerpts.

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

[From the Office of Management and Budget]

AUTOMATIC CONTINUING RESOLUTION DOES NOT BELONG ON DISASTER SUPPLEMENTAL

RESULTING DELAY WILL IMPEDE DISASTER RESPONSE EFFORT

While several Federal agencies that provide immediate relief to disaster victims (FEMA, SBA, and the Corps of Engineers) have resources available and are providing immediate assistance to disaster victims, many long term recovery and reconstruction efforts can not proceed until the Disaster Supplemental is signed into law. In addition, some immediate assistance (see USDA discussion below) will be jeopardized by delay.

A budget process issue such as the automatic continuing resolution contained in S. 672 does not belong in emergency disaster relief legislation. The Senate should drop Title VII of S. 672 so that disaster relief is not delayed. Examples of Federal response efforts that would be delayed by the inclusion of this provision follow:

HUD: Community Development Block Grant

Unlike other Federal agencies such as FEMA, HUD does not currently have funds available to dedicate to the disaster recovery efforts. Any delay in enacting the disaster supplemental would impede HUD's efforts to provide disaster recovery assistance. The delay would increase the uncertainty over the amount of assistance that will ultimately be provided and thus compound the difficulty in planning for disaster recovery. Affected communities would experience a comparable delay in receiving funding.

This delay would impact activities not funded through other Federal disaster assistance programs, in particular activities to address the needs of lower-income individuals. The proposed $100 million in Community Development Block Grant (CDBG) funds would be used to buy out properties as part of a relocation effort; and to provide grants or loans to businesses and families who lack the income, savings, or credit history to qualify for an SBA loan.

Department of Agriculture

Emergency Conservation Program

No funds remain in the program to restore farmlands to production after natural disasters. A list of eligible recipients is being developed, but no one is receiving assistance. The delay in funding means that farmland remains vulnerable to future floods (spring thaw) and less ready to be planted to cropland this year. Cropland will not be leveled, debris will not be removed from fields, pasture remains unfenced, and conservation structures remain in disrepair. As a result, the damages to farmers increase, as the planting delay reduces their farm income (later planting results in lower yields per acre).

Watershed and Flood Prevention

No funds remain for new projects, all funding has been committed to addressing earlier natural disasters. USDA offices are accepting applications from local sponsors, assessing damages, and making determinations. A list is being developed, but no one is receiving assistance. The effect of the delay is to increase the likelihood of increased damages from flooding later this year as areas are left vulnerable: streams can overflow because they remain constricted from debris that has not been removed, threatening roads and bridges with wash-out. Other infrastructure and property can end up destroyed by the failure to repair damaged levees. Also, the opportunity for non-structural measures, like the purchase of floodplain easements from willing sellers, decreases with the delay in supplemental funding because landowners need to decide now whether to crop this year

or wait for the possibility of an easement buyout.

CCC Disaster Reserve Assistance Program (livestock indemnity)

No payments can be made until the supplemental is enacted (the program does not exist under current law). As a result, producers will likely not be able to replace livestock killed by the natural disasters, reducing farm income. (See note below)

Tree Assistance Program

No payments can be made until the supplemental is enacted (program doesn't exist under current law). As a result, orchardists and foresters will likely not be able to replace trees destroyed by natural disasters, reducing farm income. (See note below)

(NOTE: these two disaster payment programs do not have regulations in place, so while applications may be taken, payments will not be able to go out ''the next day'' after the supplemental is enacted, but will have to wait for regs—which will be expedited nevertheless.)

Emergency Loans (under the Farm Service Agency)

Existing appropriations for these loans will be depleted by mid to late May. Any delay in the supplemental beyond this time frame will cause farmers to wait for emergency loan assistance to offset economic losses from natural disasters. This loss of credit will reduce their ability to repair farm structures and purchase inputs for spring crop planting.

Department of the Interior

Delays in supplemental funding would have significant impacts on DOI park and refuge restoration work, particularly on Yosemite National Park in California. Interior has proceeded with the most urgent repairs to roads and infrastructure (using existing authority to transfer balances and presumably a similar DOT authority), but these are partial and interim solutions. The supplemental will be too late to help this summer season (it will be a mess), but the biggest effect from delay will be in the 1998 summer season. Contracts need to be awarded now to get as much work as possible started on widening roads, permanent utility repairs, replacing housing and lodging buildings before next winter, when this sort of work will not be possible. The public will not be as patient next summer and will rightly expect this to be fixed.

Department of Commerce/Economic Development

Delay in funding post-disaster economic recovery planning grants will mean that disaster-impacted local communities will not have the immediate institutional capacity to focus on long term recovery planning issues. These issues are both critical to reviving the local economy in the short term and restructuring the economy in the long term.

Post disaster technical assistance grants to States for marketing/promotion to help revive the tourism industry will not be available to salvage the Summer tourism season and bookings for the convention business.

The delay in implementing the EDA Revolving Loan Fund (RLF) program will slow down business recovery. For example, business segments not eligible for SBA funding will not be addressed, i.e., landscaping and nursery industries.

Mr. BYRD. Mr. President, I again thank Mr. MCCAIN, Mr. STEVENS, Senator HUTCHISON, and all other Senators, and I yield the floor.

Mr. LOTT. Mr. President, the Government Shutdown Prevention Act is the right thing for us to do, and this is the right time for us to do it.

If there's one thing we should be able to promise the American people, knowing we can keep that promise, it's that there will not be another Government shutdown, as there was in 1995.

We all know what happened back then. President Clinton vetoed appropriation bills because the Congress would not give him all the money he wanted to spend.

No matter what gloss my friends on the other side of the aisle want to put on that situation, that was the bottom line: He wanted more tax dollars than we wanted to spend, and he was willing to see much of the Federal Government close its doors rather than make do with less cash.

But the President did a masterful job at handling the PR of the situation. In fact, he ran rings around us, so much so that, to this day, most Americans probably believe that it was the Republican Congress that shut down their Government.

There's nothing we can do about that now. We have to leave all that to the judgment of the historians. But we should not leave the future to chance.

We have the chance today to guarantee the American people that the departments and agencies and bureaus of their Government will remain open this year, even if the Congress and the President cannot agree on spending issues.

We have a chance to redeem the reputation of Congress by placing the daily operations of Government—from our national parks to the FBI—above politics and beyond political squabbles.

All we are asking is that, if a department's appropriation bill is not completed by the start of the new fiscal year on October 1, 1997, that department can continue all its programs and services, spending at the rate of 100 percent of its current budget.

Just so no one misunderstands, let me restate that. All we want to do is ensure that, if any part of the Government does not have its annual appropriation in place by October 1, it can continue all its operations at 100 percent of their current level.

That is a reasonable, modest, prudent measure to safeguard the public interest. And yet, it seems to have provoked a considerable amount of opposition from both the administration and Senate Democrats.

I can understand why, and the reason has nothing whatsoever to do with some of the procedural arguments that have been advanced against this legislation.

No, the Government Shutdown Prevention Act does not abdicate Congress' responsibility to produce individual appropriation bills.

The appropriations process will go forward, and I hope to be able to call up—and pass—every one of those 13 bills. But what if that process fails? What if its failure imperils the operations of the Department of Justice? Or the Department of Health and Human Services? Or the Defense Department?

No, the Government Shutdown Prevention Act is not out of place on the supplemental appropriation bill. The indignation that has been expressed on this point in some quarters ignores the fact that it is not at all unusual for Congress to accomplish other important business in the context of a supplemental appropriation.

No, the Government Shutdown Prevention Act is not imperiling or delaying emergency assistance to the victims of floods in several hard-hit States. The aid they need will be forthcoming, and it will come on time.

The people of my own State of Mississippi have known, all too frequently, the force of natural disasters. Neither they nor I would tolerate efforts to play political games with the aid our neighbors need.

So let's set that canard to rest. The only way emergency aid will be held up to the Dakotas, to California, and to other hard-hit States is if a large number of Senators deliberately freeze the legislative process.

Under our Senate rules, a small minority can bring this place to its knees, can paralyze our most important activities. But I don't believe that's going to happen, not on this critical bill.

There is, however, one procedural argument against this bill that is right on target.

Enactment of the Government Shutdown Prevention Act will substantially reduce the ability of individual Senators, or a small group of Senators, to hold hostage the Nation's money bills.

I admit it. With this legislation in place, no one in this Chamber—and no one on any committee—will be able to threaten to shut down one or another part of Government unless he gets his own way with an amendment or a project.

It is hard to give up power. It is hard to give up even a little bit of power. But I think that's what the American people want us to do this time. They don't want any of us to have the power to play chicken with Government shutdowns. And I don't blame them.

So on this count, I plead guilty. I am, indeed, asking my colleagues to give up their ability to create a Government crisis by thwarting the appropriations process.

I am asking them today to enter into a formal agreement with the American people—a legal enactment of our promise that there will be:

No more legislated layoffs. No more concocted crises. No more administrative Armageddons. In short, once and for all, no more Government shutdowns.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I announce that after this vote is completed, we will announce the schedule for the remainder of the afternoon to the extent we have some agreements already. We do have some very good agreements for the Senate to consider.

Following this amendment, it will be my intention to move to the pending amendment, which is the Reid amendment. There will be a process to take that to a very rapid conclusion. We are pleased to announce there is an agreement on the endangered species amendment.

Mr. President, my one comment at this time would be that Members should keep in mind that we are finishing today, but the House has not acted yet. There will be a procedure so that when the House sends over its bill, we will automatically substitute our bill for that bill and go to conference with the House as soon as possible. But I do want to thank Senators for what they have done so far. We are, I think, moving on schedule. We do have agreements on at least five amendments that are ready to be considered by the Senate, as far as timeframes, for the balance of the amendments. And there is one left to be determined how long that will take.

At this time I move to table the Byrd amendment.

Mr. President, 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.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, is it in order to ask unanimous consent at this time? I ask unanimous consent a fellow in my office, Bob Simon, be allowed the privilege of the floor during the pendency of S. 672.

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

Mr. STEVENS. Does the Senator care to have his colloquy at this point?

Mr. BINGAMAN. Mr. President, I would prefer to make a short statement after this bill and then do the colloquy.

The PRESIDING OFFICER. The question is now on the motion to table the Byrd amendment to the McCain amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. STEVENS. Mr. President, I seek to clarify that. The Byrd amendment is to delete a portion of the bill before the Senate. The McCain amendment was incorporated in that.

The PRESIDING OFFICER. The Senator from Alaska is correct.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—55

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

NAYS—45

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

The motion to lay on the table the amendment (No. 59) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

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

Mr. STEVENS. We are proceeding now to get a consent agreement. To my knowledge, I report to the Senate we have agreements on all but two amendments I know of that will come up.

Let me state that we will proceed with the ESA amendment, the Reid amendment, now. There is an agreement to dispose of that. Then we will go to the amendment of Senator GRAMM of Texas, No. 118. And after that we have several small amendments, about 10 minutes to a side.

I would predict we will have a vote in about an hour and 10 to 20 minutes. And that will be on the amendment of the Senator from Texas [Mr. GRAMM].

I now ask unanimous consent that when the Senate now takes up the pending business, which is the Reid amendment—that is correct, is it not?

The PRESIDING OFFICER (Mr. ENZI). The Senator is correct.

Mr. STEVENS. I ask for the regular order.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do ask unanimous consent that the Reid amendment come before the Senate.

Mr. REID. Reserving the right to object, what is your unanimous consent?

Mr. STEVENS. By regular order, I am bringing back the Reid amendment. It was set aside temporarily.

The PRESIDING OFFICER. The Senator has a right to demand the regular order.

Mr. STEVENS. Mr. President, I ask unanimous consent for a 15-minute time limit equally divided between the Senator from Nevada and the Senator from Idaho [Mr. KEMPTHORNE].

Mr. CHAFEE addressed the Chair.

Mr. STEVENS. The Senator will have 5 minutes of that time, I might add.

Mr. CHAFEE. You have 15 minutes equally divided.

Mr. STEVENS. We talked about the fact the Senator had 5 minutes; the Senator from Idaho, 5 minutes; and the Senator from Nevada, 5 minutes.

Mr. BAUCUS addressed the Chair.

Mr. STEVENS. Does the Senator wish any time in addition to that?

Mr. BAUCUS. Yes.

Mr. STEVENS. Who wants to speak on this amendment?

One, two, three, four, five.

I ask unanimous consent each one of these five Senators have 5 minutes on the amendment, that Senator REID, Senator BAUCUS, Senator CRAIG, Senator KEMPTHORNE, Senator CHAFEE each have 5 minutes on this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Before that starts, Mr. President, I ask unanimous consent on the amendment of the Senator from Texas, amendment No. 118—following that time that these Senators will use and the disposal of the ESA amendment—that there be 1 hour equally divided, that the Senator from Texas may have his 1 hour equally divided on amendment No. 118.

Mr. GRAMM. That will be fine.

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

Mr. STEVENS. Does the Senator wish a rollcall vote?

Mr. GRAMM. I do.

Mr. STEVENS. There will not be a rollcall vote on the ESA.

I ask unanimous consent that it be in order to ask for the yeas and nays at this time on amendment No. 118 to be offered by Senator GRAMM from Texas.

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

Mr. STEVENS. Mr. President, I ask for the yeas and nays on that amendment.

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

The yeas and nays were ordered.

Mr. STEVENS. Following that amendment, for the information of the Senate, we will have an amendment to discuss that involves Senator HUTCHISON's amendment. Then there is an amendment from Senators CONRAD and DORGAN. We have a colloquy with Senator BINGAMAN, and two other amendments we do not have agreement on. It is still my hope, Mr. President, we would finish this bill before 6 p.m.

Mr. REID. Mr. President, if I could get the attention of the manager of the bill.

Mr. STEVENS. Yes.

Mr. REID. The Cloakroom just informed me of another Democratic Senator who wants 5 minutes.

Mr. STEVENS. I believe that would make it even. I am happy to add the Senator.

Who is it?

Mr. REID. Senator FEINSTEIN.

Mr. STEVENS. Mr. President, I ask unanimous consent to add 5 minutes for Senator FEINSTEIN or that the 5 minutes be designated by Senator REID.

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

AMENDMENT NO. 171

Mr. REID. Mr. President, I ask that the Reid amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 171) was withdrawn.

AMENDMENT NO. 139

(Purpose: To allow emergency repairs of flood control projects, structures and facilities)

Mr. REID. Mr. President, I call up amendment No. 139 which is at the desk.

That is an amendment that is offered by Senators KEMPTHORNE, REID, CHAFEE, BAUCUS, and CRAIG.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KEMPTHORNE, for himself, Mr. REID, Mr. CHAFEE, Mr. CRAIG, and Mr. BAUCUS, proposes amendment numbered 139.

Mr. REID. 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:

''(a) CONSULTATION OR CONFERENCING.—Consultation or conferencing under Section 7(a)(2) or Section 7(a)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) for any action authorized, funded, or carried out by any federal agency to repair a Federal or non-Federal flood control project, facility or structure, may be deferred until after the completion of the action if the Federal agency authorizing, funding or carrying out the action determines that the repair is needed to address an imminent threat to public health or safety that has resulted, or that may result, from a catastrophic natural event in 1996 or 1997. For purposes of this section, the term repair shall include preventive measures to anticipate the impact of a catastrophic event and remedial measures to restore the project, facility or structure to a condition that will prevent an imminent threat to public health or safety.

''(b) MITIGATION.—Any reasonable and prudent measures proposed under section 7 of the Endangered Species Act to mitigate the impact of an action taken under this section on an endangered species, or a threatened species to which the incidental take prohibition of Section 9 has been applied by regulation, shall be related both in nature and in extent to the effect of the action taken to repair the flood control project, facility or structure. The costs of such reasonable and prudent measures shall be borne by the Federal agency authorizing, funding or carrying out the action.

AMENDMENT NO. 139, AS MODIFIED

(Purpose: To amend the provisions of the bill with respect to consultation under the Endangered Species Act)

Mr. REID. Mr. President, I ask unanimous consent that the amendment be modified.

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

The amendment (No. 139), as modified, is as follows:

Beginning on page 50, line 15, strike all through page 51 and insert the following:

''(a) CONSULTATION AND CONFERENCING.—As provided by regulations issued under the Endangered Species Act (16 U.S.C. 1531 et seq.) for emergency situations, formal consultation or conferencing under section 7(a)(2) or section 7(a)(4) of the Act for any action authorized, funded or carried out by any Federal agency to repair a Federal or non-Federal flood control project, facility or structure may be deferred by the Federal agency authorizing, funding or carrying out the action, if the agency determines that the repair is needed to respond to an emergency causing an imminent threat to human lives and property in 1996 or 1997. Formal consultation or conferencing shall be deferred until the imminent threat to human lives and property has been abated. For purposes of this section, the term repair shall include preventive and remedial measures to restore the project, facility or structure to remove an imminent threat to human lives and property.

''(b) REASONABLE AND PRUDENT MEASURES.—Any reasonable and prudent measures specified under section 7 of the Endangered Species Act (16 U.S.C. 1536) to minimize the impact of an action taken under this section shall be related both in nature and extent to the effect of the action taken to repair the flood control project, facility or structure.''.

Mr. REID. Mr. President, this place we now find ourselves in is one that is a perfect example of legislation. It is the art of compromise or the art of consensus building. It has been very difficult. It has taken several days. I initially want to extend my appreciation to the chairman of the full committee, Senator CHAFEE, the ranking member of the full committee, Senator BAUCUS, and also the two Senators from Idaho for their cooperation in this matter.

It has taken a long time. Our staffs have worked very hard. I think, though, we have made something that will answer the questions that are now before us in this emergency supplemental appropriations bill dealing with disasters.

Over the past days we worked hard to resolve the issue. I think we have worked something out that is a compromise. There are things that we do not all agree on, but it is something that I think will do the job.

I also state for the record that the administration has also agreed to this amendment and a modification. I understand that the administration has also agreed to work with the Senators from Idaho on the St. Maries issue involving a problem in the State of Idaho that was a result of the floods that took place early this year. I have authority on behalf of the administration to extend that offer and that cooperation to my friends from Idaho.

I hope that there are no large conclusions drawn from this debate that has taken place behind the scenes the last few days. I hope that, however, this will allow us to go forward in the months to come with a reauthorization of the Endangered Species Act. It is important that we do that. It is important that we all recognize that the Endangered Species Act is important, but we do need to do some things with it to make it more practicable, and one that the States accept more than they do now.

The application of this amendment on the pending legislation is something that is debatable as to whether it should have been done. Some of us feel that the work done by the administration and the Fish and Wildlife Service over the past several months, especially in the State of California where they issued a regulation that dealt with the 47 counties there, was sufficient.

This is not the time to debate that issue. It is a time to declare that the legislative process has worked and that we are now able to move on past the issue that we now have before the Senate.

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

Mr. KEMPTHORNE. Mr. President, we have all read the stories lately about the floods in North Dakota, along the Mississippi River, in California, and last year in Idaho and the Pacific Northwest. What we didn't read much about though was the unnecessary loss of life and property that was the result of preventive measures that weren't taken and repairs that weren't made. In some cases, those repairs weren't made because the local communities were told that the repairs might adversely affect an endangered species and that therefore consultation with the Fish and Wildlife Service would be required under the Endangered Species Act. Public safety, human lives, and property were put at risk because of a procedural, bureaucratic requirement. And that's just wrong.

Let me tell you about a community in Benewah County, ID, which has just been through this consultation process. Last year, that community, St. Maries was devastated by floods. We were lucky that no lives were lost, but people lost their homes, their businesses, and their property. The floods also caused significant damage to levees on the St. Joe River. The County began work with the Army Corps of Engineers and the Economic Development Agency to repair the levees last year, but the work stopped in February of this year when they were informed by the Fish and Wildlife Service that consultation under the ESA would be required on the repair work because there might be American Bald Eagles in the area. No work has been done to repair the levees since February, while the Federal agencies have engaged in consultation.

The problem is that St. Maries and Benewah County are facing more flooding again this year. Snow pack in north Idaho is at 150 percent above normal levels. When that snow melts, communities like St. Maries that were devastated by last year's floods may

again be destroyed and people killed if the levees aren't repaired. And in the case of St. Maries, it isn't even really a question of protecting an endangered species. The Fish and Wildlife Service has acknowledged that the levy repair work would not adversely affect the American Bald Eagle.

We are dealing with a true emergency situation. And it's not just an emergency in St. Maries, ID. There are emergency situations in North Dakota, California, and other States too. That's why I am offering this amendment, along with Senator CHAFEE and my colleague from Idaho, Senator CRAIG.

Our amendment would accomplish three things.

First, the amendment will allow critical flood repair work and preventive maintenance to go forward, protecting human lives and property in an emergency situation. It gives Federal action agencies—those responsible for authorizing, funding, and carrying out flood control activities—the authority to defer the consultation process until after the threat to human lives or property is gone. For St. Maries, that would have meant that the repair work could have continued, and the risk to that community may have been avoided.

Second, the amendment will ensure that endangered species and their habitat are protected. it recognizes that in certain situations, some additional measures might be appropriate after the fact to mitigate the impacts of flood repair activities. Mitigation measures, however, should not ever delay flood repairs or preventive measures where human lives are at stake. And they must be resonably related in nature and scope to the actual impact on the endangered species. St. Maries, which is surrounded by millions of acres of State and National Forests, was told that, among other things, it would have to take out of farm production 35 acres and dedicate it to habitat for the Bald Eagle if it wanted to proceed with its levy repair, even though there is no evidence that Eagles would ever use the habitat. The total additional cost of the complete package for the mitigation that the Fish and Wildlife Service wanted was almost $1 million. That has to change.

And finally, our amendment will require the Federal Government to share in the costs of mitigation to the extent that it is involved in funding or carrying out a flood repair activity. It is only reasonable that the Government, which both conducts activities that impact endangered species and also requires mitigation for that impact, to pay its fair share of the costs of species protection. Communities like St. Maries should not have to bear the burden of mitigation costs when one Federal agency directed the activity that another thought would impact the species and a third Federal agency funded the activity.

I strongly support this amendment and I urge my colleagues to do so as well, because an emergency can happen at any time and in any community. And when it does, your communities also will want to have the protection that is offered by this amendment.

But I want to emphasize at the same time that this is a narrow, targeted amendment to address a true emergency situation. There are many other problems in the current Endangered Species Act that also need to be addressed, but this is not the appropriate vehicle to address those broader, more fundamental problems. What we need is an ESA bill that provides meaningful reform, while improving protection of our rare and unique fish and wildlife species, and we need that legislation now. Indeed, the very fact that we face amendments to the ESA on appropriations bills every year—last year, the ESA moratorium and others this year—clearly demonstrate that there is a need for ESA reform and a need to act now.

Many of you know that I have been working with Senator CHAFEE on a comprehensive bill to reform and improve the ESA. We have drafted a bill that will significantly improve the way the ESA works, benefiting both people and species. It will work to actually save species from extinction. It will treat property owners fairly. It will minimize the social and economic impacts on the lives of citizens. And it will provide incentives to conserve rare and unique species. These are important goals and ones which we should all be able to support.

I look forward to continuing to work with Senator CHAFEE, my colleagues on both sides of the aisle, and the administration to pass legislation that will finally bring much needed reform to the ESA. And the time for that legislation is now.

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

Mr. BAUCUS. Mr. President, I would like to join Senators KEMPTHORNE, CHAFEE, CRAIG, and REID in offering this amendment. I would like to briefly explain why Senator REID and I strongly oppose section 311 of S. 672 and then summarize the alternative we worked out with Senators KEMPTHORNE, CHAFEE, and CRAIG.

We all sympathize with the victims of the recent floods in North Dakota and Minnesota, and also with the victims of flooding earlier this year in central California and along the Ohio River. These people have suffered terribly.

This debate is not about whether they should receive assistance from the Federal Government. Of course they should. And the assistance should not be delayed.

But that is precisely the consequence of the language that the committee included in section 311 of the bill. The President has indicated that he would veto the bill if it includes section 311. So, if section 311 remains unchanged, we would, at the very least, delay the delivery of urgently needed assistance.

Another point. Section 311 doesn't belong in this bill. It is not a limitation on the use of funds, which is within the jurisdiction of the Appropriations Committee. Rather, it amends the authorizing statute, the Endangered Species Act, which is within the jurisdiction of the Environment and Public Works Committee.

As our colleagues know, Senator REID and I have been working closely with Senators CHAFEE and KEMPTHORNE for a number of months to write a bipartisan bill to reauthorize and reform the Endangered Species Act. it is complicated work, because we are trying to improve the conservation of species at the same time we make it easier for landowners to comply with the law.

So far, it has been a bipartisan effort, including the administration.

However, section 311 threatens our progress. If we start down the path of piecemeal changes, such as section 311, it may undermine the spirit and intent of those negotiations.

Finally, section 311 would open up a large loophole in the Endangered Species Act.

Let me put this argument in perspective.

The heart of the Endangered Species Act is section 7, which provides that Federal agencies must consult with the Fish and Wildlife Service to ensure that their actions are not likely to jeopardize the continued existence of an endangered or threatened species or destroy the critical habitat of such a species. It's a sensible requirement that's central to our efforts to conserve species.

But let's face it. There may be times when it's just not possible to comply with the ordinary consultation process. There's an emergency. A flood or a forest fire. Lives and property are threatened with imminent destruction. Federal agencies must react quickly. They may not have time to carefully consult to assure that their actions won't jeopardize a species.

As things now stand, this is taken into account. A provision of the current regulations allows Federal agencies to dispense with the ordinary consultation process in emergencies. The regulation says:

> Where emergency circumstances mandate the need to consult in an expedited manner, consultation may be conducted informally through alternative procedures that the Director determines to be consistent with the requirements of sections 7(a)–(d) of the Act. This provision applies to situations involving acts of God, disasters, casualties, national defense or security emergencies, etc.

To put it another way, when there's an emergency, the Forest Service, the Corps of Engineers, or any other action agency can initiate the emergency procedure, by calling the Fish and Wildlife Service and explaining the situation. Fish and Wildlife will then step out of the way, so that the action agency can concentrate on addressing the emergency. Later, after the danger has subsided, Fish and Wildlife will begin formal consultation to determine whether

additional measures are needed to minimize the impact on the species.

This provision has already been successfully invoked many times. It has been used to provide emergency assistance to victims of hurricanes, forest fires, and more recently, flooding in 46 counties in California.

In fact, in February of this year, the administration issued a policy statement applying the emergency provisions, for the remainder of this year's flood season, to the 46 counties in California that had been declared Federal disaster areas.

As a result, the Corps of Engineers can move quickly to repair or replace flood control facilities in those counties, without being impeded by the ESA.

In short, we don't have to choose between flood protection and species conservation. Using common sense and existing procedures, we can ensure that agencies like the Corps of Engineers can do what needs to be done, quickly, to save human lives and protect property.

Section 311 of the bill, however, would go much further. It provides a permanent exemption, from sections 7 and 9 of the Endangered Species Act, for operating, maintaining, repairing, or reconstructing flood control projects to the extent necessary to address public health or safety, in several different circumstances.

The language is confusing. What's more, the language creates a loophole, by creating a permanent exemption for any flood control measures undertaken ''to comply with a Federal, State, or local public health or safety requirement that was in effect during 1996 or 1997.''

What does this mean? The phrase ''public health or safety requirement'' is very broad. Conceivably, it could be stretched to include almost any State or local law that conflicts with the Endangered Species Act. This could have major consequences for the operation of the act. At the very least, these consequences should be considered carefully, in the context of the overall reauthorization of the Endangered Species Act, and not jammed into a supplemental appropriations bill.

Because of the grave nature of the flooding this year, Senator REID and I recognize the need for an immediate and effective emergency response. In doing so, we reserve judgment about whether any provisions of this amendment should be applied more generally. That question must be considered independently, in the contest of our negotiations on an ESA reauthorization bill.

Drawing on the U.S. Fish and Wildlife Service's emergency regulations and their February 19, 1997 policy, the Kempthorne-Chafee-Craig-Baucus-Reid amendment would assure that people threatened by flooding could respond quickly to an imminent threat to lives and property.

Specifically, our amendment would do two things. First, it would allow a Federal agency to defer formal consultation on repairs to flood control projects that the agency determines are needed to respond to an imminent threat to human lives and property in 1996 or 1997. Unlike section 311 of the bill, however, it would not exempt the agency from the requirements of section 7 of the ESA. It would simply defer formal consultation until the imminent threat to human lives and property had been abated.

Second, our amendment would require that any reasonable and prudent measures to minimize the impact of emergency repairs under this section must be related in nature and extent to the effect of the action taken to repair the project.

Mr. President, the Kempthorne-Chafee-Craig-Baucus-Reid amendment was agreed to only after several days of difficult negotiations. Although the amendment represents a compromise, I believe it addresses the needs of Federal agencies to respond to flood emergencies without undermining important protections for threatened and endangered species. Without doubt, it is a significant improvement over section 311 of the bill.

Like Senator REID, I strongly opposed the endangered species provision that was included in the committee bill, and I will tell you the four reasons.

First, the provision in the bill simply does not belong in the bill because it amends the Endangered Species Act. This is an appropriations bill, not a legislative bill.

Second, the provision is unnecessary. Why? Because existing regulations and policies already allow agencies to respond to floods and other emergencies without getting tied up in red tape under the act.

Third, the provision would undermine our efforts to provide badly needed disaster relief, because the President has indicated that he would veto the bill if the provision was included.

Fourth, and most significantly, the provision would open a loophole to the Endangered Species Act. The amendment we are offering today, in contrast, is a compromise, that is the result of several days of hard negotiations.

In contrast to the provision in the bill, this amendment by Senator REID would not exempt agencies from the requirements of the Endangered Species Act. Instead, it simply provides that, in certain emergency situations in which it is necessary to make flood control repairs, an agency can defer formal consultation until the imminent threat to human lives and property has been abated.

By doing so, the amendment confirms that Federal agencies can respond to flood emergencies, but does not undermine protections for threatened and endangered species. It is a substantial improvement over the provision in the committee bill. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am pleased to report after much debate and negotiation, my distinguished colleagues—Senator KEMPTHORNE, Senator REID, Senator BAUCUS, Senator CRAIG—and I have reached an agreement on language relating to the Endangered Species Act requirements for emergency flood control activities. I want to also say that the administration was a big help in this agreement. They were in on our negotiations.

Our amendment will ensure that the requirements of the Endangered Species Act will not impede actions to address emergency situations. It removes any uncertainty that the emergency procedures in the Endangered Species Act and its implementing regulations shall apply in those situations, and it resolves several ambiguities and procedures. It is a significant resolution that will not only expedite the passage of the Supplemental Appropriations and Rescissions Act—the main bill we are on here—but it also represents a promising step in our ongoing efforts to reauthorize the Endangered Species Act itself.

Briefly, I will touch on that. This, in my judgment, represents a significant step forward on the reauthorization of the Endangered Species Act which we are now working on in the Environment and Public Works Committee, and especially in the subcommittee headed by Senator KEMPTHORNE, with Senator REID being the ranking member.

I thank my colleagues for their hard work on this issue. We took a lot of time. I especially want to thank Senator KEMPTHORNE and Senator REID because of the hard work that they applied in bridging the differences between the original Craig amendment and the Reid amendment. I also want to thank the senior Senator from Idaho, Senator CRAIG, who was very, very helpful in reaching this final accord. Everybody gave a little bit of something. That is why we are here today.

Mr. President, the floods that have devastated much of the Midwestern and Western United States have been a tragedy of immeasurable dimensions, both financially and emotionally for all of the affected communities. The Supplemental Appropriations and Rescissions Act will provide desperately needed funds to continue the rebuilding process in those communities. It should be passed without any controversial riders that will slow its progress and threaten a veto.

No one can disagree with the absolute need to ensure that flood damage is minimized and that emergency flood response measures can go forward without unnecessary impediments. Nothing should compromise our efforts to save lives and homes in times of emergencies, catastrophic events and other disasters. These efforts must include measures to response adequately

to threats to health and safety as well measures to repair damaged flood control projects quickly and efficiently.

At the same time, there is a belief that the requirements of the Endangered Species Act do not allow for such exigencies, and that the act is inflexible and unworkable. This is a mistaken belief. The ESA itself and its implementing regulations explicitly allow for emergency actions to proceed without delay. Only after the emergency would the Fish and Wildlife Service or National Marine Fisheries Service formally review the action to determine its effects on endangered or threatened species, and whether such action requires any mitigation.

The FWS recently issued a policy for emergency flood control actions that expounds on these emergency provisions and gives them specific application to parts of California. The FWS has not only agreed to emergency procedures upon request by the Federal action agency, but it has invited action agencies to use the emergency provisions of the law.

Mr. President, let me set the record straight: The Administration—both the Army Corps of Engineers and the Fish and Wildlife Service—believe that these policies and procedures have addressed the needs of the emergencies adequately. These provisions indicated that the ESA itself has the flexibility to address emergency situations, so that a full exemption from the ESA is not required. To argue otherwise is just not accurate. Upon careful review of the anecdotes that abound, it has not been demonstrated that the ESA has impeded emergency response efforts.

But just as emergency flood control activities are to be carried out without impediments, it is equally important to recognize that such activities can have long-term impacts on the environment, including fish and wildlife and their habitat. Merely because an action must be taken to address an emergency does not mean that it has no effects on wildlife, or that those effects need not be considered subsequent to the emergency. When necessary and appropriate, the impacts of these activities on our natural resources should be mitigated. Indeed, Congress has explicitly required such mitigation in the Army Corps of Engineer's own authorities, such as the Water Resources Development Act.

The ESA, in turn, contains its own requirements with respect to endangered and threatened wildlife. Specifically, section 7(a)(2) requires that each Federal agency ensure that its actions are not likely to jeopardize listed species, and section 7(b)(4) requires that FWS or NMFS specify reasonable and prudent measures to minimize the impacts of any taking of such species.

The fact that mitigation is required both in the corps' statutory authority and in the ESA underscores the dual purpose of mitigation: Not only is it important for protection of wildlife, it is also important for effective management of the flood plain. Effective flood plain management requires adoption of measures to reduce flood damage, as well as measures to reduce future susceptibility to floods. These measures go hand in hand with protection of the flood plain resources themselves. Mitigation is thus an important component of flood control that cannot be ignored.

Yesterday, the House of Representatives debated and defeated the original version of H.R. 478, a bill that provided a sweeping exemption of all operations, maintenance, repair, and restoration of flood control facilities. While this exemption ostensibly was intended to address emergency situations, one does not have to read between the lines to see that H.R. 478 would have exempted all actions relating to flood control facilities from the ESA, even without any emergency situation. That bill was nothing more than a transparent attempt to use the ESA as a scapegoat for natural disasters and thus exempt a broad category of activities from the law, in perpetuity, under the guise of an emergency. I strongly oppose the terms of that bill, as well as similar bills or amendments in either the House or Senate.

By contrast, my distinguished colleagues—Senators KEMPTHORNE, CRAIG, BAUCUS, and REID—and I have negotiated an amendment to S. 672, with involvement by the administration, that is narrowly tailored to remove any uncertainty that the emergency procedures under the ESA shall apply in emergency situations. Let me repeat: The emergency procedures of the ESA shall apply in emergency situations. This would not require either an exemption nor an amendment to the current law. Our amendment does not contain language that could be misconstrued to create emergencies when none exist. Our amendment considers emergency situations to be those natural events that cause an imminent threat to human lives and property. Our amendment applies to emergencies that occurred in 1996 or at any time during 1997. We are including 1996 to ensure that flood control facilities damaged in last year's floods can be repaired expeditiously, to address emergencies that might arise this year. There is no sunset provision in our amendment, because of this inherent temporal limitation to emergencies only in 1996 and 1997.

Our amendment effectively codifies the current practice of the administration to defer formal consultation until after the emergency is over. This practice provides that the Federal agency taking the emergency action will consult informally with either FWS or NMFS at any time prior to or during the emergency. This informal consultation can be nothing more than a phone call between the agencies.

More importantly, our amendment resolves several ambiguities as to application of the existing emergency provisions. First, it makes clear that it is the Federal action agency that will have the discretion to determine whether an emergency exists.

Second, it clarifies that the actions to which this provision applies are repairs as needed to respond to an emergency causing an imminent threat to human lives and property, until that threat has been abated. This is consistent with the description of emergency actions in the statute and regulations of the Army Corps of Engineers. The corps considers emergency activities to include flood emergency preparation, flood fighting and rescue operations, postflood response, and emergency repair and restoration of flood control works. These measures are designed to meet an imminent flood threat, while permanent rehabilitation of flood control works are considered separately. Our amendment includes those emergency measures, and does not include routine maintenance and operations that would otherwise require ESA consultation.

Third, it makes clear that repairs can include both preventive and remedial measures to restore the project to a condition to remove an imminent threat to human lives and property.

Lastly, the amendment would require that reasonable and prudent measures be related both in nature and extent to the effect of the action. The current law requires that reasonable and prudent measures must not alter the basic design, location, scope, duration, or timing of the action and may involve only minor changes. This requirement makes sense for proposed actions that have yet to be taken. However, it does not apply well to actions already taken, such as those necessary to address emergencies. There have been instances where FWS has specified measures that the action agency feels go too far, but about which the agency can do nothing because its action has already been completed. Our amendment would ensure that reasonable and prudent measures specified for an action already taken or currently in progress will be similar in scope to measures that may be required for proposed actions.

It is important to note that the measures must be related to the effects of the action on listed species, not to the cost or nature of the action itself. Furthermore, by including this requirement, we do not prohibit any particular type of reasonable and prudent measure, such as offsite mitigation.

Mr. President, Senator KEMPTHORNE and I have been working diligently together to reauthorize the ESA. We issued a discussion draft for reauthorization in late January 1997, and we have since been negotiating with the minority members of the Committee on Environment and Public Works and the administration. My strong preference is to avoid any amendments relating to the ESA in this, or any other, appropriations bill. The proper context in which to discuss whether the ESA needs to address emergency situations better, and how the ESA should define

reasonable and prudent measures, is our reauthorization process, not here. My other goal is to avoid a contentious debate on the ESA when we are trying to pass an appropriations bill expeditiously, and when we are trying also to reauthorize the ESA itself expeditiously. I believe that our amendment accomplishes both of those goals.

In sum, our amendment will ensure that the requirements of the Endangered Species Act will not impede actions to address emergency situations. It removes any uncertainty that the emergency procedures in the ESA and its implementing regulations shall apply in those situations, and it further resolves several ambiguities in those procedures. It is a significant resolution that will not only expedite passage of the Supplemental Appropriations and Rescissions Act, but also represents a promising step in our ongoing efforts to reauthorize the ESA itself. For these reasons, I encourage my colleagues to support this amendment.

I thank my colleagues for their hard work in this issue, especially Senator KEMPTHORNE, who worked tirelessly with me to bridge the differences between the original Craig amendment and the Reid amendment. The amendment on which we agree today is based on an amendment filed by Senator KEMPTHORNE.

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

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise to speak on the Reid amendment and really on the subject in general, particularly from a California perspective.

California has over 6,000 miles of flood control levees. In the last decade, we have had three 100-year storms, in 1986, 1995, and 1997.

In 1986, four levees failed, three in the delta, one in Yuba County.

In 1995, 25 levees failed.

In 1997, there were 62 significant levee breaks, according to the Corps of Engineers. Of these, 40 were federally maintained levees, and the rest were non-Federal.

On January 2, the Feather River broke through the levee at Star Bend, flooding 15 square miles of farmland and the community of Olivehurst. The breach was 1,500 feet long.

This flood damage is relevant to the amount of money that is going to California in emergency assistance right now—$3.3 billion.

On January 4, a Sutter bypass levee failed at Meridian, flooding a 35,000 acre basin with more than 60 homes and businesses. The breach at Meridian was 1,100 feet long.

On January 4, the San Joaquin River plunged through levees in 14 places near the town of Mendota, flooding about 10,000 acres of farmland on both sides of the river in Madera and Fresno Counties. The biggest levee break, at Firebaugh, was 2,500 feet long.

On January 5, more levees broke along the Stanislaus, Tuolumne, and San Joaquin Rivers, causing flooding near Modesto. Now, the levees are a critical part of California's infrastructure and, in my view, they are the most troubled part of our infrastructure. In an earthquake, in a flood, when these levees go, two things happen. One, the water in these rivers is the drinking water for 20 million people. The soil behind the levees is peat. As the levees break, and the peat land is flooded and then drains, the peat soil drains back into the river. When this water is treated with chlorine for drinking water, it throws off carcinogens. So that has necessitated a change in the water treatment. Additionally, salt water intrusion also contaminates the drinking water supply.

So, not only do the levees protect farm land, the levees also protect our major source of drinking water.

Now, the problem here is maintenance of these levees. I spent 3 days talking to farmers. What farmers tell me increasingly is they are not going to maintain the levees because the bureaucratic hassle is so great. To pull out a bush on a levy, they have to go and get a permit. They have to mitigate. They do not have the money to mitigate. Therefore, more and more of the levees are not maintained. If the levees are not maintained and the levees break, the amount of Federal money that goes to California is just going to increase.

In addition, damage is done to cattle, to dairy cows, to farms, to orchards; homes are under water; and people's businesses are being wiped out. Why? Because in places, levees are not properly maintained because of the Endangered Species Act. I am not saying that these levee breaks are related to the Endangered Species Act, because I do not know. However, I do know from firsthand testimony to me that there are people that are not maintaining the levees because of the bureaucratic hassle they have to go through.

For example, the slopes of the levees along the Feather River in Sutter County have become overgrown in recent years with trees and vegetation, including elderberry shrubs. This vegetation hides rodent holes and beaver dams which undermine the integrity of the levees. These shrubs on the Feather River levees are habitat for the Valley Elderberry Longhorn Beetle which is listed as a threatened species under the Federal Endangered Species Act and the State act. U.S. Fish and Wildlife has indicated that if Sutter County tries to eliminate this habitat and maintain the levees, they would require mitigation. Elderberry bushes could only be removed from levees if replacement bushes were planted elsewhere. Sutter County cannot pay for this mitigation and take farmland out of production for habitat.

The Central Delta Water Agency says the prohibition of dredging and placement of fill for levee maintenance and the creation of shaded riverside aquatic or marsh habitat in areas designated as critical habitat for Delta smelt has been a problem. The agency has been required to spend money on habitat assessments, consultations, inspection, mitigation, and emergency removal—money which the agency believes would be better spent on reducing the flood risks.

Now, this is the point I want to make and it is important. In 1996, when Yuba County tried to move forward with a Corps of Engineers project to upgrade levees south of Marysville, the Fish and Wildlife Service would not let them proceed with the repair work after October 1 because the garter snake was dormant. If they repaired the levees after October 1, they might disturb a sleeping garter snake. They had to do costly mitigation before they could make these repairs. So the work was not done, and on January 2, a levee broke at Olivehurst, killing three people and flooding 500 homes.

I am delighted, Mr. President, that the Senator from Idaho, Mr. KEMPTHORNE, is in the chair and he is hearing these comments because, for this Senator, the Endangered Species Act—when it comes to the protection of life and property—really needs a second look. I heard this over and over and over again when I went to Yuba County. As a matter of fact, one family was standing there sobbing and had no place for their children. Their children were taken from them, when their property was flooded, and put in foster homes. When it comes to a garter snake versus somebody's home and property and life and limb, I really think we need to get our priorities straight. That is why I believe these levees should not be included in the ESA, that maintenance should be ongoing, and that repair and rebuilding should be permitted without a major bureaucratic hassle. I thank the Senator for his indulgence.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I don't think the Senator from California knows how much I appreciate her speaking boldly and frankly this afternoon about a very real, human problem, which is the inability to do reasonable and responsible maintenance on structures built over the last hundred years in our country to protect life and property. We are not allowed to do it, in many instances, because of the current Endangered Species Act. And I know, as most Senators know, that that was never the intent of the Endangered Species Act.

Another reason we are here this afternoon is because my colleague, who is now Presiding Officer, Senator KEMPTHORNE of Idaho, has acted boldly over the last 2 years to try to bring about responsible reauthorization of the Endangered Species Act. It just hasn't gotten done. The reason is because too many people behind him want to act timidly. It was because of that, because of the effort that the

Senator from Idaho had taken because of a crisis situation that existed in the small north Idaho logging community of Saint Maries, where a flood had occurred, a town had been under water, dikes had been destroyed, and now we were in the rebuilding process this last late fall and winter, at a time of unprecedented snowfall in Idaho, with a perched watershed of nearly 200 percent of normal sitting above this community, and in steps the Fish and Wildlife Service and halts the construction of the dikes, as my colleague from Idaho has expressed, and basically said, ''We want you to spend a million dollars mitigating.'' Those in the community said, ''My goodness, can't you see we are at risk here? Can't you see we have just replaced our homes? Can't you see we have just repaired our livelihoods and we have an impending flood and crisis in the making?'' The U.S. Fish and Wildlife Service said, in essence, we don't care, because the Endangered Species Act requires—thank goodness, the chairman of the Environment and Public Works Committee and Senator REID and Senator KEMPTHORNE and I were able to sit down, after I placed this amendment in the supplemental bill, to crank their tail and get some attention, that it was time we acted just a little boldly to solve a problem.

I must say that my colleagues did come together and they have acted a little boldly—I appreciate that—to amend the Endangered Species Act. I hope we can get that done in the comprehensive legislation that Senator KEMPTHORNE, Senator CHAFEE, and Senator REID are working on. It must be done. We want to protect species of plants and animals and insects; but doggone it, we have to protect human life. The hundreds of millions of dollars worth of investment in the California Delta is at risk today, as the Senator from California has so clearly said, and now it will cost hundreds of millions to replace it, when it would have cost hundreds of thousands just to maintain it. That is what we need in Idaho; that's what we need in the Red River Valley in the Dakotas, in California, in Oregon, and in Washington, and any other place in the Nation where flooding can and does occur, where dikes and levees have been built. We need the legislation that is now before us. I am glad we have come to an agreement where that can be resolved.

Will mitigation occur after the fact? Of course, it will. We want that to happen. Now, I am disappointed that we could not recognize the financing tool that is necessary and very critical to the Senator from California and important to Idaho. But I am also pleased that my colleague from Nevada would recognize our need in north Idaho and agree to help us mitigate the situation in Saint Maries. So what we have now is an amendment to this supplemental appropriations bill for 1996 and 1997 that eliminates this lengthy, unnecessary delay, that makes eligible flood projects respond to mitigation and activities to go forward. Eligible flood control projects are only allowed to perform preventive and remedial measures directly related to the natural disaster and for imminent safety threats. This is the compromise. It is an important one. It resolves the problem for 2 years—last year and this year. And then if we have not been able to effectively address the Endangered Species Act, as we should—and I know my colleague, the Senator from Idaho, wants to accomplish and is working to accomplish this—my guess is that the Senator from California and I will be back.

We have to solve our problems in Idaho, we have to solve the problems in California, and we have to solve this problem nationwide that man, persons, humans and his or her property come first when an imminent crisis is at hand, where their lives can be destroyed and their property swept away. They deserve the right to be first. Then we will worry about, as we should, any loss of habitat or species that might occur as a result of this natural disaster.

So I thank all of the parties for coming together to work with us to resolve this problem. Mr. President, it is my understanding that no one else wishes to address this. I believe we may be now ready for a vote.

Mr. REID. Mr. President, I have 2 minutes left and I will use that.

Mr. President, we have agreed to a narrowly tailored provision to address a specific issue caused by this year's historic flooding. I read from testimony given by John Garamendi, who is from California, the Deputy Secretary of the Department of the Interior, who said.

> . . . we are aware of no case where it can be shown that implementation of the Endangered Species Act caused any flood control structures to fail. Nor has the presence of any listed species prevented the proper operation and maintenance of flood control facilities prior to recent floods.

That was just given to a committee of this Congress.

I say that protecting lives or property are not mutually exclusive. Also, Mr. President, the Endangered Species Act didn't cause the floods or the damages. I believe that this narrowly tailored amendment is helpful. It certainly makes the duties of the administrative agencies more clear, even though the Endangered Species Act had language that would cover emergency provisions. I move the amendment.

Mr. CRAIG. Mr. President, I ask unanimous consent that a group of letters on this issue from many of our citizens in Idaho and different groups be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ENDANGERED SPECIES
ACT REFORM COALITION,
Washington, DC, May 2, 1997.

Hon. LARRY E. CRAIG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRAIG: During the week of May 5, you will be given an opportunity to support communities as they endeavor to protect themselves from, and clean up after, some of the most damaging floods in decades. An amendment to the FY 1997 Supplemental Appropriations bill, offered by Senator Larry Craig (R–ID) and adopted by the Senate Appropriations Committee on April 30, would allow the proper maintenance of flood control facilities in areas operating under restrictions associated with the federal Endangered Species Act (ESA) to continue undisturbed by ESA-related regulations. On behalf of the millions of Americans represented by the National Endangered Species Act Reform Coalition, we urge you to vote against any attempts to remove this language from the FY 1997 Supplemental Appropriations bill.

While there is still debate over how much ESA-related regulations contributed to the severity of the flooding in California and elsewhere earlier this year, there is little debate over the fact that these same regulations have hampered efforts to save human life and restore structures damaged in the flooding. The Department of the Interior admitted as much when it suspended the ESA in California so that desperately needed repairs could be made to damaged levees.

Senator Craig's amendment eliminates the lengthy, unnecessary delays to flood control efforts that have threatened human life and property. Contrary to what some of the amendment's detractors have said, this is a narrowly focussed initiative which would not provide for the suspension of the ESA to build new flood control facilities or dams.

Please vote against any attempts to strip the Craig amendment out of the FY 1997 Supplemental Appropriations bill and help Congress relieve some of the unnecessary burdens that are associated with the current ESA.

If you have any questions, or would like additional information on NESARC, please feel free to contact the Coalition's Executive Director, Nancy Macan McNally, at (202) 333–7481.

Sincerely,

JAMES A. MCCLURE,
Chairman.
GLENN ENGLISH,
Vice Chairman.

ENDANGERED SPECIES
COORDINATING COUNCIL,
Washington, DC, May 2, 1997.

Hon. LARRY CRAIG,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR CRAIG: On behalf of the attached list of members of the Endangered Species Coordinating Council (ESCC), a coalition of over 200 companies, associations, individuals and labor unions involved in ranching, mining, forestry, wildlife management, manufacturing, construction, fishing, and agriculture, we would like to thank you and offer our support for your language in the FY 97 Supplemental Appropriations bill (H.R. 1469) which targets emergency, time specific flood control measures for relief from certain Endangered Species Act requirements. It is our understanding that Senate floor consideration of H.R. 1469 is scheduled to begin on Monday, May 5.

In recent weeks, Americans have been horrified by the pain and suffering caused those who have been caught in the flooding across the Midwest and California. We have

watched as homes, businesses, entire communities have been washed off the map. It is a heartbreaking situation.

Your language would allow preventative maintenance and repair of flood control structures, activities that now are almost impossible due to the strictures imposed by the Endangered Species Act (ESA). In order to undertake levee maintenance or repairs under the current law, flood control officials must adhere to rigid regulatory requirements that are extremely difficult to satisfy and that exact a tremendous cost at the local level.

Protection of endangered species is a goal we all share, but it must be balanced with some common sense. Consequently, we have urged every member of the Senate to support your language in the FY 97 Supplemental Appropriations bill to allow the relaxation of the regulatory strictures that are making it impossible for families and business owners to be protected against the kind of devastation we have witnessed these past few weeks.

We also consider your legislative language as a step in the process to modernize the Endangered Species Act. This law badly needs updating so that we can return some reason to the process of protecting threatened and endangered species. Passage of H.R. 1469 with your flood control language is a good step in the right direction to designing a better law that will work for listed species, as well as the human species.

Sincerely,

JOHN M. TURNER,
Chairman.

ENDANGERED SPECIES COORDINATING COUNCIL MEMBERS

NATIONAL COMMITTEE

American Forest & Paper Assn.
American Sheep Industry Assn.
American Soybean Association.
National Assn of Manufacturers.
National Assn of Wheat Growers.
National Cattlemen's Assn.
National Corn Growers Assn.
National Cotton Council.
National Fisheries Institute.
National Mining Association.
Coalition of Oil & Gas Associations.
International Assn of Bridge, Structural and Ornamental Iron Workers.
International Brotherhood of Painters and Allied Trades.
International Longshoremen's Assn.
International Union of Operating Engineers.
International Woodworkers of America.
United Paperworkers International Union.
Utility Workers Union of America.
United Brotherhood of Carpenters and Joiners of America.
United Mineworkers of America.
Assn. of Western Pulp and Paper Workers.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, May 5, 1997.

Hon. LARRY CRAIG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAIG: We are writing to support the Craig language to the Supplemental Appropriations bill. The language will enhance disaster prevention at it allows local levee districts and local governments the ability to repair and maintain flood control devices without falling under the strict confines of the Endangered Species Act. Under current regulations, these governments and agencies find it difficult and expensive, if not impossible, to take the necessary measures to ensure levees and dikes work to stop flooding it there is a possible endangered species conflict.

The land involved in this exemption is less than one-one hundredth of one percent of the land mass of the United States. We feel strongly that human life and health concerns should be outweigh concerns about removing such a small amount of land from possible species protection. Please support any effort to keep this language in the Senate version of the supplemental appropriations bill.

Sincerely,

DEAN R. KLECKNER,
President.

EDISON ELECTRIC INSTITUTE,
Washington, DC, May 2, 1997.

Hon. LARRY E. CRAIG,
U.S. Senate,
Washington, DC,

DEAR LARRY: Very shortly, the Senate will debate the urgent supplemental (S. 672), which contains a provision authored by Senate Craig to ensure that actions can be taken in a timely fashion to maintain the structural integrity and operational soundness of projects that serve a flood control mission. In relieving certain activities associated with flood and control projects from consultation requirements and ''incidental take'' liability under the Endangered Species Act, Section 311 seeks to ensure that the well-known regulatory burdens associated with the law do not interfere with public safety.

For almost 100 years dams, reservoirs dikes and levees have provided effective protection to many Americans against loss of life and catastrophic destruction of homes and livelihoods. The systems's effectiveness, however, depends on careful inspection, maintenance, and repair of the flood and control facilities. Failure to maintain these facilities in good condition can result in catastrophic consequences even in the most normal of conditions, not to mention the unusual and unpredicted natural events like those that have occupied news headlines this spring.

The Edison Electric Institute and its member companies, which serve 79 percent of all electricity customers in the United States, regularly confront the demands of ensuring the availability and reliability of that public service while negotiating the hurdles associated with many regulatory requirements. We are committed to environmental protection, including fish and wildlife beyond those that are listed as threatened and endangered. We know from experience, however, the difficulties and risks associated with carrying out emergency repairs under the liabilities of the Endangered Species Act, as well as the problems that arise from the time consuming and resource intensive consultation requirements of the law.

Edison Electric Institute believes that Congress would be acting wisely to ensure that public safety needs and the species protection requirements of the Endangered Species Act do not work at cross purposes, either in preventing needed maintenance and emergency repairs or in imposing costs that do not provide a direct benefit to fish and wildlife at the expense of investments to protect public safety. Relief should be provided without the time limitations presently contained in Section 311 of S. 672.

Sincerely,

THOMAS R. KUHN.

IDAHO ASSOCIATION OF COUNTIES,
Boise, ID, May 6, 1997.

Hon. LARRY CRAIG,
U.S. Senator, Hart Senate Office Building, Washington, DC.

RE: Flood Control Amendment to the ESA.

DEAR SENATOR CRAIG: On behalf of all of Idaho's counties affected by recent flood disasters, the Idaho Association of Counties strongly supports your amendment to the Endangered Species Act to reduce the regulatory burden on flood control projects.

It is critical to Idaho's citizens and their counties that immediate action be taken to eliminate lengthy and totally unnecessary delays to flood control efforts that have threatened human life and property. To do otherwise ignores the toll these floods have taken on the physical and economic well-being of Idaho's citizens and their property.

The limited scope of your amendment will allow Idaho's local governments to respond as necessary to perform necessary reconstruction, repair, maintenance of operation measures directly related to the floods or imminent safety threat as a result of the floods of 1996 and 1997.

Again, the Idaho Association of Counties strongly supports your amendment and encourages your colleagues to do the same.

Sincerely,

DANIEL G. CHADWICK,
Executive Director.

COUNTY OF BOUNDARY,
Bonners Ferry, ID, May 5, 1997.

Senator LARRY CRAIG,
Coeur d'Alene, ID.

DEAR SENATOR CRAIG: The Boundary County Commissioners support the amendment to the 1973 Endangered Species act to reduce the regulatory burden on individuals and local, State and federal agencies in complying with that in connection with flood control projects.

At this time, Boundary County has no projects that could be enhanced by this amendment. However, we can see that this common sense approach to problems associated to the devastating flooding can speed the work required to protect the health and safety of the people in other parts of Idaho and across this great nation.

The Boundary County Commissioners whole-heartedly support this amendment and request that the United States Senate do as well.

Sincerely,

MERLE E. DINNING,
Chairman.
MURRELEEN SKEEN,
Commissioner.
KEVIN LEDERHOS,
Commissioner.

BENEWAH COUNTY CIVIL DEFENSE,
St. Maries, ID, May 6, 1997.

Senator LARRY CRAIG,
Coeur d'Alene, ID.

DEAR SENATOR CRAIG: Your efforts to amend the Endangered Species Act of 1973, as regarding regulations that have hamstrung local efforts to rebuild floods damaged levees, are appreciated. The suggested suspension or lessening of portions of the regulations, if accomplished in a timely manner, could have a positive effect on our efforts to recover from last year's flood.

Local agencies have been hindered to the point of impotence in fulfilling their role in protecting life and property. Drainage district commissioners, county commissioners and transportation officials have labored futilely to wend through the labyrinth constructed by federal interpretation of this Act.

Much of its stands without common sense. Much of it is arbitrary. None of it is provided with a speedy appeal or consultation process.

Last year, our flood waters were in excess of ten feet above flood stage. Levees were overtopped and required rebuilding to even withstand normal spring run off levels. Unfortunately, normal levels are not in our Spring, 1997 forecasts. The levees now stand, leaking and not reconstructed as planned.

You have no idea of the exasperation that I feel as emergency manager for Benewah

County that with weakened levees, we are entering into what might well be a more treacherous experience then the 1996 flood. For what reason? The ESA is necessary legislation, but public health or safety requires equal representation with the endangered species.

GEORGE M. CURRIER,
Director.

Mr. WYDEN. Mr. President, I want to congratulate those Members who have spent a good part of the last 2 days in search of a compromise on this question of how we make sure that these emergency efforts are not unreasonably hindered by compliance with the Endangered Species Act.

I have serious reservations about this compromise. This amendment includes a provision that seeks to clarify the phrase ''reasonable and prudent measures'' in the context of the Endangered Species Act. Reasonable and prudent measures are those things that the Fish and Wildlife Service or NMFS may require in order to protect fish and wildlife from the adverse effects of, in this case, a specific repair or reconstruction project.

The language directs that these measures be scaled to the scope and effect of the specific repair or reconstruction project. We are told by the amendment sponsors that their intent is to simply re-state existing law.

This raises two important procedural questions:

First, if the intent is simply to express a concept that is already in the law, then I see no reason to include it here.

Second, the question of how we define the scope of section 7 consultations under the ESA is a major issue in our work to reauthorize the Act. It strikes me as imprudent for the Senate to go on record on this question in this disaster supplemental, when at the same time the same issue is under intense negotiation in the Environment and Public Works Committee.

Having said that, there are several basic reasons to oppose the bill's existing provision allowing a broad exemption of all facilities with flood control functions from the requirements of the Endangered Species Act.

First, the financial resources that this legislation brings to bear on the extensive damages caused by this year's disastrous flooding are immediately threatened and unreasonably delayed by using the bill as a vehicle to broadly amend the Endangered Species Act. It seems clear to this Senator that the bill would be vetoed and we would be back to the drawing board in trying to direct Federal resources toward the people who have faced awesome difficulties in dealing with this year's flood waters.

Second, I firmly believe there is precious little support on either side of this issue for continuing to seek slam dunk, back door riders as a method of changing basic environmental laws. Reauthorization of the Endangered Species Act is already a complex and difficult chore, and we should set about that business within the regular committee process.

And third, I am convinced that this provision is a case of Washington trying to fix a problem that simply does not exist. Let me talk more about this third concern.

We have shown in Oregon—which has no shortage of endangered species issues—that we can get the dredges and cranes going quickly in response to the widespread damage we suffered in this extraordinary flood year. And we did it without sweeping aside the law.

We went down an almost identical road here in Congress in responding to last year's flooding. We provided emergency funding to address major problems, and that effort, I'm pleased to report, was successful. Since Oregon's 1996 floods, literally thousands of actions have been taken to repair flood damage and restore natural resources. These include more than 400 emergency projects of the Natural Resources Conservation Service, more than 150 projects of the BLM, and more than 350 Forest Service projects on the Mt. Hood National Forest alone. None of these has been stopped or significantly delayed by the Endangered Species Act or other environmental laws.

Oregon's experience once again is a model for the rest of the Nation. In fact, I'm told that it was Oregon's experience that has led to the much more efficient response to the floods in Idaho this year.

The record in my State is clear: when we need an emergency response to flood damage, we can do it efficiently under current statutory authority.

I want to talk for a moment about one example of our innovation—the cooperation with the U.S. Fish and Wildlife Service that ensured that these 1996 reconstruction projects went forward in a way that protects fisheries and aquatic resources. Early coordination with the Service led to the preparation of a manual that guided early project design work. We got the Service some extra money last year to put staff directly on the reconstruction projects. These efforts allowed the various agencies to essentially pre-approve various flood projects that may be funded by this year's supplemental flood response request.

The bottom line is, of course, that the process enabled the highest care to be taken in protection of fish and wildlife, but without delay to the projects.

Idaho has now benefitted from the Oregon experience. Already this year, I'm told that the Natural Resources Conservation Service in Idaho has processed three times the volume of flood repair projects as were done in all of last year in that State.

Finally, I believe the interests of the American people are advanced best when we address major issues in their proper forum and context. All of us support an appropriate streamlining of the Endangered Species Act to ensure the efficient reconstruction and maintenance of critical river facilities damaged by this extraordinary flooding.

This is not the time to begin a major overhaul of the Endangered Species Act. This bill would waive Endangered Species Act compliance in a broad range of nonemergency situations, including the routine operation and maintenance of Federal flood control facilities—flood control being one of the many benefits provided by virtually every dam, levee, and dike along our rivers.

I cannot imagine that we now want to take a sledgehammer to the requirements that Federal river facilities comply with the act and operate in a manner that is as protective as possible of the various salmon species that are in real trouble in our region.

The PRESIDING OFFICER. All debate having expired, the question is on agreeing to amendment No. 139, as modified, offered by Senators KEMPTHORNE, REID, CHAFEE, CRAIG, and BAUCUS.

The amendment (No. 139) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 118

(Purpose: To ensure full funding of disaster assistance without adding to the Federal debt)

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to amendment No. 118, offered by the Senator from Texas. One hour of debate equally divided has been agreed to.

Mr. GRAMM addressed the Chair.

Mr. STEVENS. Will the Senator yield before he starts?

Mr. GRAMM. Yes.

Mr. STEVENS. We have an hour equally divided. So that will mean the rollcall vote will start at 4:55.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 118.

Mr. GRAMM. 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. (a) Notwithstanding any other provision of this Act or any other law, each amount of budget authority provided in a nonexempt discretionary spending nondefense account for fiscal year 1997 for a program, project, or activity is reduced by the uniform percentage necessary to offset nondefense budget authority provided in this Act. The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Notwithstanding any other provision of this Act or any other provision of law, only

that portion of nondefense budget authority provided in this Act that is obligated during fiscal year 1997 shall be designated as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985. All remaining nondefense budget authority provided in this Act shall not be available for obligation until October 1, 1997.

Mr. GRAMM. Mr. President, I am afraid that my amendment is a lot more controversial than the amendment that we have just had. My amendment has to do with paying for disaster relief. I think every Member of the Senate wants to help people who have been affected by floods and earthquakes. It has always been our way to have national programs to help parts of the country which have been ravaged by natural disasters. But ultimately, in this kind of bill, you come down to the question, are you going to pay for it or are you simply going to add the cost to the deficit?

Interestingly enough, in the supplemental appropriations bill before us, we have a section for defense—basically money for Bosnia—and we have a section for the disaster, and then we have a lot of other spending programs in addition to the disaster. But every penny of new spending on defense is paid for by cutting defense programs. But, unfortunately, the nondefense spending in the bill that is before us providing this disaster relief, which none of us opposes, is going to raise the budget deficit by $699 million in fiscal year 1997—that is, between now and October 1 of this year—and it is going to raise the budget deficit, over the next 5 years, by a whopping $6.6 billion. In fact, it raises the deficit this year by $699 million. Then it raises the deficit next year by $1.67 billion, and the next year it raises the deficit by $1.56 billion. In the year 2000, we are still spending money out for this emergency appropriation—over $1 billion in that year.

Now, what my amendment does is very, very simple. It is a complicated process that we employ in the budget, and I apologize for that as people try to understand it. What we are doing is very simple. For the $699 million we are spending this year to help people deal with a natural disaster, we are going to require an across-the-board cut in all other programs of 1.9 percent, roughly, to pay for this program. So we are going to provide disaster assistance. The Gramm amendment does not stop $1 from going anywhere to provide assistance to anybody. But what the Gramm amendment says is, in the remaining 5 months of this fiscal year, we are going to ask each other program in the Government to throw in a little bit less than 2 cents of their annual appropriation, and only $699 million of their actual spending, so that we can pay for this emergency appropriation without raising the budget deficit.

Second, for all this money that is going to spend out over the next 5 years, all we are saying is that, with the new budget coming into effect, these outlay figures, this money we are going to spend next year and for the next 5 years, that spending will count as part of the spending caps that we set for each of these years.

So, for example, the $1.67 billion that we will spend next year as a result of this appropriations bill will simply count toward the spending for next year, and since the new budget will set a limit on the amount of spending, we will have to offset that next year against some other program.

What is the argument for doing this? It is kind of strange that in 1997 in America you have to give a strong argument for paying your bills. But this is Washington, DC. That argument is required. The argument is that spending is a problem. The argument is that, if we simply add another $6.6 billion to the deficit today, that $6.6 billion the Government is going to have to go out and borrow. And that $6.6 billion is not going to go to build new homes, new farms, new factories, nor to generate new economic growth, because the Government is going to borrow that money and it is not going to be available to the private sector to undertake those activities which the people would have put the money towards had the Government not seized it.

This amendment simply, for the remainder of this year, asks every program to throw in 2 cents on the annual appropriations to help pay for this emergency funding this year, and then for the next 5 years it simply says, in looking at the amount of money we are spending in each of those next 5 years, count the money we are spending as a result of this bill.

Let me explain why that is so important. We are on the verge of adopting a budget compromise that will increase discretionary spending by the Federal Government over the next 5 years by $193 billion, compared to the budget we adopted last year. But yet, at the very moment that we are moving toward adopting that budget which has such massive increases in spending, we are today considering an appropriations bill that will spend $6.6 billion more outside that budget. So, in a very real sense, if we do not adopt the amendment that I am presenting today before we even adopt the new budget, which the President says has the most rapid increase in social spending since the 1960's, before we even adopt that budget today, we will be busting the budget with $6.6 billion in additional spending that won't even count under the new budget even though that money will spend out over the next 5 years.

So, this is a good-government amendment. Let me also say, look, I am not saying that it is going to be easy to go back and have every program, project, or activity kick in 2 cents to pay for this program. I don't underestimate for the moment the argument that I am sure will be made by the chairman of the Appropriations Committee that we have only 4 or 5 months left in the fiscal year and that coming up with that 2 percent savings will be very difficult for the Government.

But I want to remind my colleagues that the Government is not the only institution in America that has emergencies. American families have emergencies all the time. They have to make decisions about how to deal with their emergencies. When Johnny falls down and breaks his arm, no matter at what point it is during the year, the family has to come up with money to have the arm set and provide the medical care. If they were the Federal Government, they could argue, Look, we have already written our budget. We are already well into the year. We have planned to go on vacation. We planned to buy a new refrigerator, and we can't do those things and have Johnny's arm set. So they would like to have this emergency appropriations that would simply allow them to spend money they don't have. But families don't have the ability to do that. Families have to make hard choices.

So, what they do, as we all know since we are members of families, is go back, and they don't go on vacation that year, or they don't buy a new refrigerator. They have to set priorities. The Federal Government almost never sets priorities.

Quite frankly, I offer this amendment, Mr. President, because I am worried that by creating this image that somehow we are dealing with the deficit in this new budget that we are opening the floodgates to new spending. What better example could there be than the supplemental appropriations before us which raises the deficit by $6.6 billion over the next 5 years?

I am not going to go through the list of all the programs. But as we all know, as we are all painfully aware, many of these programs have nothing to do with hurricanes, floods, earthquakes, or other natural disasters. Many of the programs in here represent ongoing spending. But by putting them in this emergency appropriations, unless we pay for it, we are going to be adding $6.6 billion to the deficit.

I know there will be debate: Are we really adding money to the deficit?

I have a memo from the Congressional Budget Office which does the official scoring for Congress. Let me read:

> CBO estimates that the nondefense programs in this bill would increase Federal outlays and the deficit by $699 million in fiscal year 1997. Total nondefense outlays for fiscal years 1997 through 2005 are estimated at $6.667 billion dollars.

I ask unanimous consent that this be printed in the RECORD.

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

May 7, 1997.

To: Rohit Kumar, Office of Senator Phil Gramm.

From: Priscilla Aycock, Congressional Budget Office Scorekeeping Unit.

Subject: CBO Estimate of the Budgetary Impact of Non-Defense Supplementals in S. 672.

This memorandum is in response to your request for CBO's estimate of the budgetary impact of non-defense supplementals and rescissions in S. 672, a bill providing emergency supplemental appropriations for fiscal year 1997.

CBO estimates that the non-defense programs in this bill would increase Federal outlays and the deficit by $699 million in fiscal year 1997. Total non-defense outlays for fiscal years 1997 through 2005 are estimated to be $6.667 billion. However, the actual change in outlays and the deficit in 1998 and later years would depend on future appropriations action.

Mr. GRAMM. Mr. President, I am not going to spend a lot of time debating whether or not this adds to the deficit. Our official accountant says it does. I think people know in fact that it does. I think we really ought to debate the merits of this amendment.

The merits of this amendment boil down to simple facts. Because we have natural disasters—we have had them every year. In fact, since President Clinton has been in office we have averaged $7 billion of expenditures on natural disasters, and we have not put money in the budget to pay for it. We have just simply added it to the deficit every single year.

My view is that in the midst of a new budget that has historic levels of increases in discretionary spending, even before that budget goes into effect, we ought not to be adding another $6.6 billion to the deficit.

So I hope my colleagues will vote for this amendment. I realize this is a difficult amendment. This is the kind of real-world decision that people face outside Washington, DC, where bad things happen to them and they have to deal with it but they have to pay for it. My amendment does not deny one penny of aid to anybody. Nothing in this program would change as a result of having to pay for it other than we would have to go back in light of these natural disasters and come up with other programs that we now say we will have to do without because we are going to pay for this money, that we are going to provide for areas of the country that have been ravaged by natural disasters.

Let's not turn this natural disaster for a handful of States in our country into a fiscal disaster for every State in the country and for every family and every person. Let's pay our bills. We can do it through this amendment.

I reserve the remainder of my time.

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

Mr. STEVENS. Mr. President, may I inquire of the Senator from Texas, are there additional people who are going to speak on behalf of the Senator's amendment?

Mr. GRAMM. Let me say that I have been asked by several people to reserve them time. I assume they are on their way over.

Mr. STEVENS. Mr. President, will the Senator mind if I use some of the time available to me for some routine matters here?

Mr. GRAMM. Certainly.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator's amendment be temporarily set aside and that amendment No. 100 be called up for immediate consideration.

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

AMENDMENT NO. 100

(Purpose: To direct highway funding in the bill.)

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], for Ms. MOSELEY-BRAUN, proposes an amendment numbered 100.

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 40, line 21, after the word ''County'', insert the following: '': *Provided further*, That $400,000 of the additional allocation for the State of Illinois shall be provided for costs associated with the replacement of Gaumer's Bridge in Vermilion County, Illinois''

Ms. MOSELEY-BRAUN. Mr. President, our amendment sets aside $400,000 for costs associated with the replacement of Gaumer Bridge in Vermilion County, IL.

The town of Alvin, IL is bisected by a heavily-traveled railroad line. There used to be three ways of getting from the East side of Alvin, where the fire station and other emergency facilities are located, to the West side. Cars could drive over either of two railroad crossings, or over Gaumer Bridge. Unfortunately, Gaumer Bridge was damaged by a flood in 1994 and removed by local officials in 1995. The bridge has not been replaced.

Today, the only way to get from one side of Alvin to the other is by crossing over one of the two railroad crossings, which are not far apart. If a train stalls or breaks down, it could easily block both intersections at once, cutting off 165 Alvin residents from the rest of the town and from emergency services.

According to Alvin residents, trains have blocked both intersections twice since the bridge was removed. One time, a train shut down for more than 4 hours in the middle of the night. According to news accounts, one resident had to climb under the train to get home, and another resident was almost fired from his job because he could not get out to get to work. Residents and local officials are concerned it is only a matter of time before a real tragedy occurs, when emergency vehicles will be unable to get to residents on the West side of Alvin.

This amendment will provide the funds necessary to replace Gaumer Bridge, so that Alvin residents who live west of the train tracks will no longer face the possibility of isolation.

I want to thank the managers of this bill for agreeing to include this provision in the bill.

Mr. STEVENS. Mr. President, this is an amendment from the senior Senator from Illinois relating to a bridge in Vermilion County.

This amendment has been cleared on both sides. It is acceptable. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 100) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 134

Mr. STEVENS. Mr. President, on behalf of Senator MURRAY, 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], for Mrs. MURRAY and Mr. GORTON, proposes an amendment numbered 134.

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:

STATE OPTION TO ISSUE FOOD STAMP BENEFITS TO CERTAIN INDIVIDUALS MADE INELIGIBLE BY WELFARE REFORM

SEC. . Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by—

(a) inserting in subsection (a) after ''necessary, and'', ''except as provided in subsection (j),'' and

(b) inserting a new subsection (j) as follows—

''(j)(1) A State agency may, with the concurrence of the Secretary, issue coupons to individuals who are ineligible to participate in the food stamp program solely because of the provisions of section 6(o)(2) of this Act or sections 402 and 403 of the Personal Responsibility and Work Opportunity Act of 1996. A State agency that issues coupons under this subsection shall pay the Secretary the face value of the coupons issued under this subsection and the cost of printing, shipping, and redeeming the coupons, as well as any other Federal costs involved, as determined by the Secretary. A State agency shall pay the Secretary for coupons issued under this subsection and for the associated Federal costs issued under this subsection no later than the time the State agency issues such coupons to recipients. In making payments, the State agency shall comply with procedures developed by the Secretary. Notwithstanding 31 U.S.C. 3302(b), payments received by the Secretary for such coupons and for the associated Federal costs shall be credited to the food stamp program appropriation account or the account from which such associated costs were drawn, as appropriate, for the fiscal year in which the payment is received. The State agency shall comply with reporting requirements established by the Secretary.

''(2) A State agency that issues coupons under this subsection shall submit a plan, subject to the approval of the Secretary, describing the conditions under which coupons will be issued, including, but not limited to,

eligibility standards, benefit levels, and the methodology the State will use to determine amounts owed the Secretary.

''(3) A State agency shall not issue benefits under this subsection—

''(A) to individuals who have been made ineligible under any provision of section 6 of this Act other than section 6(o)(2); or

''(B) in any area of the State where an electronic benefit transfer system has been implemented.

''(4) The value of coupons provided under this subsection shall not be considered income or resources for any purpose under any Federal laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

''(5) Any sanction, disqualification, fine or other penalty prescribed in Federal law, including, but not limited to, sections 12 and 15 of this Act, shall apply to violations in connection with any coupon or coupons issued pursuant to this subsection.

''(6) Administrative and other costs associated with the provision of coupons under this subsection shall not be eligible for reimbursement or any other form of Federal funding under section 16 or any other provision of this Act.

''(7) That portion of a household's allotment issued pursuant to this subsection shall be excluded from any sample taken for purposes of making any determination under the system of enhanced payment accuracy established in section 16(c).''.

CONFORMING AMENDMENT

SEC. . Section 17(b)(i)(R)(iv) of the Food Stamp Act of 1977 is amended by—

(a) striking ''or'' in subclause (V);

(b) striking the period at the end of subclause (VI) and inserting ''; or''; and

(c) inserting a new subclause (VII) as follows—

''(VII) waives a provision of section 7(j).''.

Mrs. MURRAY. Mr. President, I rise today to bring attention to a pressing problem for legal immigrants in Washington State, that may also soon affect other States around the Nation. I urge you to support passage of amendment No. 134 to S. 672, the 1997 Supplemental Appropriations Act.

This amendment simply gives the USDA authority to sell food stamps to States, provided that all Federal costs are fully reimbursed.

Under last year's welfare law, certain legal immigrants will soon be excluded from eligibility for the Federal Food Stamp Program. However, Congress granted States the flexibility to provide some assistance to legal immigrants with their own State funds.

At the end of last month, Republicans and Democrats in the Washington State Legislature appropriated $66 million to grant food aid to nearly 40,000 legal immigrants, many of them children, who are not covered by Federal programs. By doing so, they issued a mandate for Gov. Gary Locke's administration to provide food assistance to these immigrants.

To carry out this mandate, the State wants to purchase food stamps from USDA. The State will pay all costs for administration, printing, shipping, and redeeming of the food stamps. This is State money—they are looking to buy food stamps from the Federal Government, because that program is already in place, and will maximize the use of this State money.

Since October, Washington State has been trying to make arrangements with USDA to buy food stamps. Officials at USDA have expressed a willingness to cooperate, but believe technical barriers exist.

USDA is concerned that State payments may end up in the general treasury instead of coming back to the Food Stamp Program.

USDA is also concerned that it may be violating the Anti-Deficiency Act, at least briefly. This is because USDA would be furnishing food stamps for a non-Federal purpose, although only until the State reimbursement arrives.

The State of Washington has made various offers to USDA to provide advance payment for the food stamps. To date, however, USDA has not granted a waiver allowing the State of Washington to purchase food stamps.

Time is running short, since these immigrants lose their Federal benefits at the end of August.

If USDA does not sell Washington State food stamps, a State scrip program will have to be set up. This will be costly and duplicative. According to estimates by the Washington State Department of Social and Health Services, this would cost a minimum of $1.5 million—due to the costs associated with printing and distributing the scrip. In addition, the State would have to establish new relationships with all food stamp venders in the State.

This has the potential to create many more problems than are necessary—two separate systems for Washington State customers, confusion for small businesses in border towns in Oregon or Idaho, and the added cost for everyone of learning an entirely new system.

Of course, this issue is not specific to the Pacific Northwest or to Washington State. Other States may be seeking to buy food stamps in this manner in the future. Massachusetts has already made strides toward this approach, and the California Legislature is looking at similar questions.

I urge unanimous support for this amendment.

Mr. KENNEDY. Mr. President, I strongly support Senator MURRAY's amendment to give the Department of Agriculture the authority to sell food stamps to States, with all Federal costs fully reimbursed.

The so-called welfare reform law enacted last year disqualifies large numbers of legal immigrants from the Federal Food Stamp program. This imposes represents a serious new cost on the States, if they decide to meet the food needs of these immigrants on their own. Many States, including Massachusetts, are now actively exploring ways to provide food aid using State and local funds. This amendment allows States to provide food aid to legal immigrants by buying-in to the Federal Food Stamp Program.

Allowing States to do so will avoid the need for them to needlessly duplicate the Federal Food Stamp Program with State and local funds. It will save the States time and money, while enabling them to continue giving food aid to needy legal immigrants.

In addition, it will have no cost to the Federal Government, because all Federal food stamp funds paid out will be fully reimbursed by the States. Recently, I sent a letter to Secretary Glickman, urging him to support the food stamp buy-in option for States. I ask unanimous consent that this letter be printed in the RECORD.

This is an important amendment, and I urge my colleagues to support its passage.

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

U.S. SENATE,
Washington, DC, April 3, 1997.

Hon. DAN GLICKMAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR SECRETARY GLICKMAN: The welfare law enacted last year disqualifies most legal immigrants from the federal food stamp program. This action represents a potentially serious new cost burden for the states, if they decide to meet the food needs of these immigrants on their own. Many states are now actively exploring ways to continue food assistance to needy legal immigrants using state and local funds.

The purpose of this letter is to urge you to give states the option of buying into the federal food stamp program in order to provide this valuable aid to immigrants. In fact, the Massachusetts Senate voted today unanimously to pursue this option. Without this possibility, many states are facing the unwelcome prospect of creating separate state-run food programs for immigrants, while other citizens continue to be assisted by the federal food stamp program. Our hope is that we can find a way to avoid this needless duplication.

Section 15(a) of the Food Stamp Act (7 U.S.C. 2024(a)) authorizes the Secretary of Agriculture to issue food stamp coupons ''to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States.'' We feel that granting states the flexibility to help poor legal immigrants in this way is permissible under this standard.

We understand that this proposal may raise an anti-deficiency issue under federal budget laws. If states buy into the food stamp program to help immigrants, the state reimbursement goes into the general federal treasury and not into the food stamp account. This leaves the food stamp program with an illegal deficit. One way in which this issue might be addressed is for states and the Department to agree to subtract the value of the food stamps the state is purchasing from the reimbursements for administrative expenses that are otherwise due to the states under the food stamp program.

This option would offer states a broader range of choices as they seek to minimize the harm to their legal immigrant constituencies under the new welfare law. With legislatures in most states currently considering their budgets for the next fiscal year, we would be grateful if you could give this proposal your prompt attention.

Many thanks for your consideration, and we look forward to hearing from you.

Sincerely,

JOHN F. KERRY.
EDWARD M. KENNEDY.

Mr. STEVENS. Mr. President, I ask unanimous consent that the current

occupant of the chair, Senator GORTON, be added as an original cosponsor of this amendment.

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

Mr. STEVENS. The amendment has been cleared on both sides. It pertains to giving States the option to issue food stamp benefits to certain individuals currently ineligible because of welfare reform.

It has been cleared on both sides.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 134) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider the vote and the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair.

AMENDMENT NO. 236

(Purpose: To make a technical correction to Amendment No. 234)

Mr. STEVENS. Mr. President, on behalf of Senator COCHRAN, 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], for Mr. COCHRAN, proposes an amendment numbered 236.

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 13, line 4, strike ''$161,000,000'' and insert in lieu thereof ''$171,000,000''.

Mr. STEVENS. Mr. President, this is a technical correction to the bill called to our attention by the Senator from Mississippi.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 236) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 118

Mr. GRAMM. Mr. President, I yield to the Senator from Arizona, Senator KYL, 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me thank the Senator from Texas for yielding and for presenting his amendment.

I fully support the Gramm amendment. I hope that shortly our colleagues will support it as well.

Let me say at the outset that I think we all support the disaster relief that is provided in the underlying legislation, whether we agree with the specific level or not. Certainly my heart goes out to the families that have lost their homes and their businesses and their schools and who have suffered because of these recent floods and snows. We have all seen the devastation on the television and read about it in the newspapers. I think all of us support what we can do about that.

I also think that we owe it to the rest of the people in the United States not only to put the full resources of Government into the States in which these disasters occur but also to ensure that the taxpayers of the United States, in effect, don't have to pay twice. We should ensure that the money that is spent in the States where these disasters have occurred is counted fully in our budget process.

It is, I think, interesting that in the very week that the budget agreement was announced, we have before us a piece of legislation that would add to the budget deficit in violation of that agreement.

I think we owe it to the American people to make sure that in solving one serious problem, the disaster problem, we don't make another problem worse. We can and we should find some way to meet our obligations without just adding to the budget deficit.

As I said, it was just 6 days ago that the White House announced the budget agreement that would result in a balanced budget by the year 2002. The ink is not even dry on that agreement—in fact, parts of it have not even been written—yet the very first piece of legislation to come to the Senate floor after the agreement was announced is a bill to add $6.6 billion to the Federal budget deficit over the next few years.

It seems to me, if people are going to have any confidence in the budget agreement that was struck with the White House, and we expect them to believe what we say about balancing the budget, that we cannot continue this kind of business as usual. We have to begin exercising some discipline. That means that this is a good time to start by saying that what we spend will be counted in our budget in order to know whether we are in balance. It would be one thing if there were no other way to get the aid to the flood victims except to borrow. But it is quite another thing when we ignore other options in order to keep spending on other programs.

What would it take to pay for this emergency spending bill? Well, it takes only two things. In the first year, it is less than 2 cents on every dollar in spending reductions in other programs to ensure that the money that needs to flow immediately in the remainder of this fiscal year can flow. And for the remainder of the money to be spent, it would merely have to count in our budget so that we can know whether we are in balance. That may mean growth in some other areas might have to be restrained.

We know that these kinds of disasters have always occurred and will continue to occur because they are natural disasters, and yet we do not plan for them. We spend every nickel that we have, knowing that if there is an emergency, we can appropriate additional funds. And if the past is any guide, we will simply add that onto the deficit rather than include it in the budget that has to be balanced.

The Appropriations Committee acknowledged in its own report that the number of major disaster declarations in the 1992 to 1996 period has increased 54 percent. In other words, we had ample warning that something would occur somewhere. Had we prepared for the need for disaster assistance last fall instead of using every extra dollar to meet President Clinton's demands for new spending, we would already have been able to respond to the emergency in the Midwest and elsewhere around the country. We would not need to be here today debating a bill to spend additional money. But by ignoring potential disasters last fall, we merely paved the way for adding to the deficit now when the need for relief takes precedence over budget concerns.

I know some will say that this bill is already offset by reductions in budget authority. Frankly, that is Washington speak. The Congressional Budget Office tells us this measure is going to add nearly $1 billion to the deficit this year and about $6.6 billion over the next several years. It is true that budget authority may be offset but outlays are not. And outlays are what count.

The PRESIDING OFFICER. The 5 minutes yielded to the Senator have expired.

Mr. GRAMM. I yield the Senator 2 additional minutes.

Mr. KYL. Let me explain to those who may be watching and do not appreciate the difference between budget outlays and budget authority what we are talking about here.

Congress frequently passes laws granting authority to spend amounts of money on Government programs, but until that authority is backed up by appropriations, it does not mean anything.

Granted, you have to have the authority, but you also have to have the money. When we say that we are going to offset this disaster relief by rescinding certain budget authority, that authority may never be funded. It frequently is not funded, and as a result it is not really offsetting actual expenditures or money that is going to be spent. It is merely offsetting authority that may or may not ever be funded and money that may or may not ever be spent.

Senator GRAMM has done a good job of analogizing the two things that are necessary to writing a check. You need a check or a checkbook of checks and you also need some money in the bank. The budget authority is like your checkbook, but unless you have the money in the bank, the checkbook does

not do you a whole lot of good. So you tear up a bunch of checks and throw them in the wastebasket and say we have offset the spending. You have not really done that. All you have done is removed that check, not the money in the bank. We need to offset the spending in this disaster relief bill, which we support, with actual money so that we do not end up spending both and thereby break the budget deal.

I will conclude at this point. Again, we just agreed to a budget deal that allegedly will result in a balanced budget in 5 years. Unless the Gramm amendment passes, that budget deal will be broken before it is ever signed, before we even vote on it. It will be broken this week when we pass this supplemental appropriations without offsetting future spending in the next 5 years. I support the Gramm amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the distinguished chairman, Senator STEVENS. And I say to my friend from Texas, I am very hopeful that one of these days on something real important that will come along, the Senator and I will be on the same side. I just happen, on this one, not to agree with the Senator, and I would like to take my few moments to explain to the Senate why.

Actually, Mr. President, when we drafted the budget law of the United States, we put a provision in it that said you prepare the budgets so that whatever it is Congress decides it wants to spend money for, you budget it, allocate it, put it in place, and then in the event that a disaster occurs, and the disaster is serious enough for Congress to say it is an emergency, and as a further safety valve it is serious enough for the President to say it is a disaster and an emergency, then Congress in its wisdom said that spending does not become part of the ordinary budget. It is on top of the budget.

Now, frankly, there is good reason to suggest that perhaps, perhaps in the interest of frugality, we ought to not declare this $5.6 billion covering disasters in 33 States of America, as emergency disaster spending. There may be some reason to say it is not a disaster. I do not believe that is the case. In addition, I do not think it is the case from the standpoint of rational, reasonable fiscal policy.

Now, our Government is big. Our budgets are big. We are already halfway through the year that we have for which we have budgeted money for all of the things the American people expect to get from their National Government. I would be the first to say that I will join with anyone who would like to spend 2 years going through the programs of our Government and see how many we could throw away. We have not done that, and incidentally, the Gramm amendment will not do that. The Gramm amendment takes all programs as they are and says that after you have appropriated for them, and they are operating on a 12-month cycle and you are well past a half year before you ever start taking any of this money away, then you just come along and take it away from the programs that are already funded.

It is interesting to me, and I do not ask this question of my friend from Texas, but I merely put this before the Senate, how big would a disaster have to be for it to make absolutely no sense to take the cost of the disaster aid out of the ongoing programs of our Government? I believe $5.6 billion is big enough. If one is interested in making Government smaller, I say to the Senator from West Virginia, then maybe there ought to be three or four disasters in a row, maybe three or four at $6 billion each, and then one could say, let us not declare them an emergency. Let us just take them out of Government programs which we have already appropriated.

I am not suggesting, the Senator from New Mexico is not suggesting, that anybody is thinking of that. I am merely suggesting that it is not very good fiscal policy, it is not very good Government policy to shrink Government by not paying for disasters as emergencies but, rather, by cutting Government to pay for them.

Now, there may be an overwhelming number of Senators here tonight who want to shrink Government by paying for disasters from the ordinary operations of Government. I would think of innumerable ways of shrinking Government that are better than doing it that way. I rise here tonight to say there is nothing about which to be embarrassed. The law of the land says if a disaster is an emergency that is serious and costly—and I would assume comes late in the year when you cannot budget for it—you ought not take it out of ongoing Government operations.

Will the Senator yield me one additional minute?

Frankly, I submit we ought to do something a little different, and then my friend, Senator GRAMM, will not have to be here and maybe he should not have to be here. I believe we ought to start putting in the regular appropriations bills a sufficient amount of money, literally, that is appropriated for the purpose of responding to disasters. Then one need not come down here and say, let us pay for the disaster out of the ongoing Government programs because we have provided for it, and in the process decided that Government needed less money someplace else, but we did it in an orderly manner.

So tonight I compliment the chairman of the Appropriations Committee on his first major bill in the Chamber. I want to tell him that I think he's done a wonderful job. He has showed a lot of leadership. Hundreds of amendments seem to flow to the floor on this kind of bill, and we considered them in short order, and yet people got their say and many won and many lost. We are going to decide within the next couple of weeks to keep the business of Government going. I thank him for yielding to me, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me pick up the point that our dear colleague from New Mexico made. If we do not want to disrupt Government by having to pay our bills when disasters occur, we ought to appropriate the money in advance for disasters. But what has happened, and the reason I have offered this amendment, is that we have not done that. At one time we did, but I just would like my colleagues to recognize we are paying for disasters but there is nothing unexpected about it. Every year in America there are hurricanes, there are floods, there are earthquakes. In fact, in 1993, we spent $5.4 billion on disasters; in 1994, $9 billion on disasters; in 1995, $10.1 billion on disasters; in 1996, $4.6 billion on disasters, and in 1997, we have already spent $5.4 billion.

My point is, there is nothing unexpected about disasters. It is unexpected if you have a flood in your State, but it is not unexpected that America is going to have disasters. But what produces the financial disaster is we do not provide money in advance and, as a result, every year we add to the deficit by saying, well, look, we have to spend this money; we do not want to have to pay for it because it means disrupting ongoing Government. But I commend to my colleagues, going back to my example in a family, when Johnny falls down and breaks his arm, it does not do the family any good to say, well, now, wait a minute; we had planned that we were going on a vacation, or we had planned that we were going to buy a new refrigerator. They do not have that luxury. They have to disrupt what they are doing.

I think the Senator from New Mexico, in talking about good Government, is right; I hope in this new budget we are getting ready to write with all the money we will have, it would be a good idea to just set aside about—we have averaged $7 billion a year of disasters during the Clinton years. Why not set aside $7 billion next year, and then if we do not have disasters, we can spend it. But the point is, year after year after year we do not do it, and I do not know any way to make us do it other than to make us begin to pay our bills. That is what the amendment is about.

I yield.

Mr. STEVENS. Will the Senator from Texas withhold just a second, please, and let me inquire how much time we have remaining?

The PRESIDING OFFICER. The Senator from Texas has 7 minutes remaining. The Senator from Alaska has 20 minutes, 25 seconds.

Mr. GRAMM. Does the Senator want to use——

Mr. STEVENS. I said to the Senator from Texas I will yield to him. I will yield now 10 minutes and reserve the remaining 10 minutes for our time.

Mr. GRAMM. I thank the Senator very much.

Mr. STEVENS. If the Senator will not mind, after the next spokesman, I would like to yield 3 minutes to the Senator from Nevada.

Mr. GRAMM. Surely.

Mr. STEVENS. If it is proper.

Mr. BRYAN. Three minutes.

Mr. STEVENS. May I yield to him, then. The Senator can use the remainder of the time.

Mr. GRAMM. Sure.

Mr. STEVENS. And then Senator BYRD and I will close.

Mr. BRYAN. Mr. President, I thank the Chair and I thank the distinguished Senator from Alaska for yielding me 3 minutes.

Mr. President, I rise today to stress the importance of passing this bill so that vital disaster relief assistance is made available to the hundreds of communities impacted by weather-related disasters. In Nevada, this flooding took place in early January, and the situation facing Nevada's farming and ranching communities gets more critical with each day that passes.

The damage that occurred when the Truckee, Carson, and Walker Rivers overflowed their banks devastated urban and rural areas alike in six counties in Nevada. Thousands of homes in Nevada were flooded, forcing families to move into emergency relief centers to wait for the floodwaters to recede. In the cities of Reno and Sparks, water flowed 10 feet above the banks of the Truckee River in the business district. Hundreds of businesses were forced to shut down, putting 20,000 people out of work.

Much of this initial damage was addressed by the swift and able Federal emergency relief efforts. I was extremely pleased with the assistance provided by Federal and local workers, who put forth an incredible effort. As the emergency funds that supported these initial life-saving efforts have dried up, however, Nevada's rural communities in particular have been unable to begin repairs to riverbanks, levees, and flood control structures that are essential to their livelihoods.

The damage to these areas was severe; after surveying flood damage from a helicopter with FEMA director James Lee Witt, I was struck by how much the normally rolling green hills of Mason Valley looked like a giant rice paddy in Southeast Asia. Dams were destroyed, rivers carved new paths through fields and pastures, and roads were washed out by the record flows on Nevada's rivers.

The irrigation structures that divert water to ranches and farms in Northern Nevada were severely damaged or wiped out completely, leaving the farms near the riverbanks under water, while those farther away from the river were cut off completely. These families lost crops, livestock, all of the hay that normally would carry their cattle through the winter, and miles of fencing around their property. Some of those cut off from the rivers dug new ditches to bring water to their livestock at their own expense, while others have simply resigned themselves to the fact that they will not be able to survive this season, and may go out of business. You see, Mr. President, most of the farms and ranches that I am talking about are family-owned and managed, and are hard pressed to keep going without some immediate help.

Mr. President, the circumstances in my own State and some other 30 States compel that we act immediately. It is for that reason I express my profound regret that some have found necessary to add political riders to this bill, riders that are totally unrelated and irrelevant to the issue at hand.

I urge immediate action on this bill. Nevada's families deserve no less.

I yield my time and thank the distinguished Senator from Texas for accommodating me.

The PRESIDING OFFICER. Who yields time? The Senator from Texas.

Mr. GRAMM. Mr. President, let me make it clear—and I do not believe the Senator's comments were aimed at this particular amendment—but let me make it clear that under this amendment we do not hold back a dollar of disaster assistance. We provide the assistance. We provide it as fast as it can be provided. We simply pay for it. So I wanted to make that clear.

Let me now recognize the Senator from Kansas, Senator BROWNBACK.

The PRESIDING OFFICER. For how much time?

Mr. GRAMM. For 5 minutes.

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

Mr. BROWNBACK. Mr. President, I thank the Senator from Texas for bringing this important amendment forward. I state at the outset that I support disaster relief. I think it is important to help those places in our country that are experiencing great difficulty because of a natural disaster that is occurring. We ought to step in. It is important that we do it. But I also think we ought to stop creating and continuing the manmade disaster that we have done here, the $5.4 trillion in debt that is stealing from our children, that is driving interest rates up, that is taking jobs, that is hurting our Nation.

It seems that in and of itself is almost a definition of a disaster, and we create it. I think this is an important debate because the point here is not whether we support disaster relief, because we do. We support disaster relief. The question is, do we pay for it and should we be doing that in this overall debate? I do not think we have really looked at this before, even though we have been talking about balancing the budget, now, for a number of years. It seems now we are finally on a track to discuss really balancing the budget. For a lot of years it was just kind of: That is good politics to talk about balancing the budget, but we really cannot do it. Now we are going to do it. Now we are really going to balance the budget. We are actually going to balance the budget by the year 2002, if not before. With this strong economy we could do it by the year 2000.

This is for real now. It seems to me, then, as we enter into these debates now about emergency supplementals, helping people out, that we do things for real. One thing that is real to families is that, if you have a disaster personally, you are going to have to figure out some way to pay for it. The same should be true for us. If we have a disaster, we need to figure out how we can pay for it.

This is a minimal act. I hope people have focused on what we are talking about. We are talking about 1.9 percent offset against discretionary spending the rest of this year, and then just requiring that the money go against the caps in future years. That is all we are talking about. That is it. It is not talking about cutting disaster relief. It is not talking about: We are going to steal this money out of here and take it out of there; 1.9 percent, 2 percent, and then in the future it is just about being under the budget caps.

As we move forward to balance the budget for real we need to move forward and take care of our emergencies for real. This is for real. This makes it real. This allows us to actually do what is real in balancing the budget, so we do not keep driving up this manmade disaster of the $5.4 trillion in debt that we have.

I think this is an important debate and I hope Members really search through and think about it. If they really do support balancing the budget, they would really do what is for real here and vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Texas.

Mr. GRAMM. Mr. President, I yield the Senator from Pennsylvania, Senator SANTORUM, 5 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Texas for his leadership on this issue and his continuing leadership on this issue.

To paraphrase a colloquial that is used often, ''Been there, done that.'' We have been here and we have done this many, many times before. A disaster bill comes, a supplemental comes to the Senate floor—to the House floor when I was in the House—with these pictures. I guess these are on the Senators' desks. These are very compelling pictures of horrible disasters. And I understand the pictures.

Let me give you some credibility here before I go on about what is going

on in the Dakotas and in the upper Midwest. I was here last year on another emergency supplemental bill for Pennsylvania disaster funding, $1.2 billion. Most of that money was going to Pennsylvania. I stood here with Senator GRAMM, supporting his amendment to do the same thing when the money was directed at my State. Because it is not right to use—I hate to put it in these strong terms but this is what is going on—to use the calamity of others to run up the deficit. That is exactly what is going on.

I know that sounds harsh. We have a FEMA. Even the committee report says that FEMA acknowledges that the escalation in costs is due not only to the increase in large-scale disasters, but also because the scope of Federal disaster assistance is expanded, the Federal role in response is expanded considerably, and State and local governments are increasingly turning to Federal Government for assistance. Not only are we not budgeting enough money to FEMA in the annual budget—Why? Let us ask that question first. Why are we not budgeting enough money to FEMA? We know these disasters come. They come every year. This is not a surprise. Why don't we do it? Because we want to spend it somewhere else and we know we can bring these pictures to the Senate and get borrowed money to do it later. So we do not have to live within our budget. We can underfund FEMA, knowing that no one is going to deny these people who are facing this horrible disaster. And, if you do, you left your heart at the door and how dare you come in and say you are compassionate?

I mean, that is just a shell game. I want to state for the record, as I did last year, I am for disaster relief. But I am for doing what we should do with every aspect of our budget, which is set priorities. If the priority of this Senate, if the priority of this Congress, the priority of the President is to make sure that these people get the disaster relief they deserve—fine. Count me in. But when the refrigerator breaks you cancel the vacation. And that means that you have to come up with some other area of the budget and fund it.

Some will say, if this is a disaster in the family, if the refrigerator breaks, I may have to borrow money. That is true. But if your refrigerator keeps breaking, then at some point you have to realize you are not budgeting right here. There is something wrong and you have to fix the problem. What we have is a broken refrigerator in FEMA and the way we fund FEMA, and a broken refrigerator in the way they are more and more taking a bigger and bigger share of disaster relief costs. That is a very serious problem and it is blowing big-time holes in the deficit of this country.

So, I know it is not popular to stand up here—and Senator GRAMM and I maybe make somewhat of a career on taking unpopular stances. But this is not right. It is not right to, on the backs of those suffering, really pursue your other agenda. Because we all know that money is going to North Dakota and South Dakota. We all are for that. It is not that money that is really being debated here. It is the other money that is stuck in there that should have been going to FEMA in the first place. That is the money they are really protecting here. That is the money they are hiding. That is what they do not want to cut.

What Senator GRAMM has put forward is a very reasonable proposal. It says cut 1.9 percent across the board. We would like to do it in a targeted way, but you cannot do that kind of thing. We have rules against that. So he has to do it across-the-board. And it says in the future, as we spend money for this disaster, it just has to stay under the caps. In other words, it cannot increase the deficit.

It is a reasonable proposal that says live within your means. Responsibly budget for disasters. Do not use these very gut-wrenching, heart-wrenching, heartfelt, compassionate stories to fund your little projects off here to the side and to fund all those other things that could not stand the light of day if, in fact, they were compared to funding these or those.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 8 minutes and 10 seconds left.

Mr. GRAMM. I yield to the Senator from Oklahoma, Senator NICKLES, 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment my colleague from Pennsylvania for his statement as well as Senator GRAMM, for this amendment.

I find this amendment to be very important and one I certainly hope will pass. The Senator from Pennsylvania said we want to provide economic assistance for the victims of this most recent flood. I agree with that. Senator GRAMM says we ought to pay for it. I agree with that. We should pay for it. If we do not, if we pass this bill as it is right now, we are going to be increasing the national debt by $6.5 billion—not this year but over several years.

Senator GRAMM's amendment says let us do it in two ways. Let us have an across-the-board reduction of about 1.8 or 1.9 percent this year to fund the outlays for this year. For the second part of that, for the outlays that will be strung out over the next 5 years, let us reduce the outlays in those years. We are going to be spending about $1.6, $1.7, $1.8, $1.9, $2 trillion dollars in those successive years. Surely we can afford the couple of billion dollars in outlays in those years. We can have offsets. We can pay for it. We can reduce outlays in those future years by an amount to pay for this disaster relief.

We ought to pay for it. We ought to say yes, we want to help the people with the floods, but we want to pay for it. We should be responsible. Let us not increase the national debt by $6.5 billion. If we do not pass this amendment that is exactly what we are going to do. So I urge my colleagues, this proposal—and I have the greatest of sympathy for the victims of this flood but the President requested $4.6 billion in discretionary spending and the committee proposes $7.7 billion in discretionary spending. If you include the mandatory spending the President requested, $6.2 billion, and in this bill that is $9.5. If you include discretionary and mandatory, it is about $3, $3.1 billion over what the President originally requested. I do not want to pass that much money. I am bothered. We had a vote earlier on the highway bill. We had several hundred million dollars, $773 million, I believe, in highway funding that was not requested that was added to this bill. The funding formula was changed. We get into a funding fight. People voted for what was best for their States. But, frankly, that did not belong in this bill and we find there are hundreds of millions of other dollars that do not belong in this bill.

I hope when this bill goes to conference it comes back a lot leaner, that it really is constrained to disaster relief.

Then, likewise, I hope that we will pay for it. I heard a lot of people say we should pay for it. Frankly, as the bill is written right now, this bill increases national debt over this 5-year, 6-year period of time $6.5 billion. Let's pay for it. Let's pay for it this year by a small, less than 2 percent reduction for the next few months. That is certainly manageable. Then for the future years, let's reduce spending enough to pay for it.

I think it is a responsible amendment. I think it is fiscally responsible. I think it is the right thing to do, and I urge my colleagues to support the amendment.

Mr. President, I ask unanimous consent that a table comparing the budget request to the committee recommendation and the differences be printed in the RECORD.

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

FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS BILL

	Request	Committee recommendation	Compared w/request
BUDGET AUTHORITY (NET)			
Title I—Department of Defense	2,098,214,000	1,805,480,000	(292,734,000)
Title II—Natural Disasters and emergencies:			
Agriculture	123,100,000	276,250,000	153,150,000
Commerce	22,800,000	65,500,000	42,700,000
Energy and Water	325,700,000	554,355,000	228,655,000
Interior	276,879,000	382,642,000	105,763,000
Transportation	311,200,000	688,100,000	376,900,000
Labor-HHS	0	15,000,000	15,000,000
VA, HUD	1,079,000,000	3,600,000,000	2,521,000,000
Treasury and General Government	200,000,000	0	(200,000,000)
Subtotal	2,338,679,000	5,581,847,000	3,243,168,000
Title III—Other supplementals:			
Agriculture	106,000,000	70,600,000	(35,400,000)
Commerce, State Justice	921,000,000	100,000,000	(821,000,000)
DC	0	31,150,000	31,150,000
Interior	10,000,000	10,000,000	0
Legislative Branch	0	0	0
Transportation—(COLA and contract authority)	322,277,000	959,836,000	637,559,000
Treasury, Postal, General Government	7,092,000	7,333,000	241,000
VA, HUD—(COLA mandatory)	753,000,000	753,000,000	0
Labor-HHS	0	325,000,000	325,000,000
General Provisions	0	(92,500,000)	(92,500,000)
Subtotal, including mandatory	2,119,369,000	2,164,419,000	45,050,000
Subtotal, discretionary	123,092,000	273,576,000	150,484,000
RECISSIONS			
Title IV—Defense Offsets:			
Unspecified Recissions	(4,800,000,000)	.....	4,800,000,000
Recissions	(72,000,000)	(1,805,943,000)	(1,733,943,000)
Subtotal	(4,872,000,000)	(1,805,943,000)	3,066,057,000
Title V—Other Offsets and Recissions:			
Commerce, Justice, State	(6,400,000)	(6,400,000)	0
Interior-Department of Energy	(21,000,000)	(28,000,000)	(7,000,000)
Transportation (rescind contract authority)	0	(1,647,600,000)	(1,647,600,000)
Treasury, Postal, General Government	(5,600,000)	(5,600,000)	0
VA, HUD	(250,000,000)	(4,109,200,000)	(3,859,200,000)
Agriculture	(56,000,000)	(29,000,000)	27,000,000
Energy and Water (Defense-Civil)	(52,111,000)	(30,000,000)	22,111,000
Subtotal	(339,000,000)	(5,796,800,000)	(5,457,800,000)
Title VI—Social Services Block Grant	.....	language	.....
Total, New Budget Authority, discretionary	4,559,985,000	7,660,903,000	3,100,918,000
Total, New Budget Authority, w/mandatory	6,556,262,000	9,551,746,000	2,995,484,000
Total, Recissions	(5,211,000,000)	(7,602,743,000)	(2,391,743,000)
Total, Discretionary	(651,015,000)	58,160,000	709,175,000

Source: Senate Appropriations Committee.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I think I have 3 minutes left. I know Senator BYRD and I know our distinguished committee chairman wishes to speak. I do not know how the Chair wishes to handle it, but I would like to try to reserve about 3 minutes.

The PRESIDING OFFICER. The Chair will state that the time is divided equally. There are 3 minutes, 4 seconds left for the Senator from Texas; 7 minutes for the Senator from Alaska.

Mr. GRAMM. The Senator from Alaska has 7 minutes?

The PRESIDING OFFICER. Yes.

Who yields time?

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 7 minutes left.

Mr. STEVENS. Mr. President, I regret to say I shall move to table this amendment, and I want to point out the problem we have.

If we cut 1.9 percent off the original 1997 nondefense appropriations at this time, it will be a 5-percent reduction on the amount that is available for the rest of the year. For agencies such as the Veterans Administration, Department of Education, the Coast Guard and many others, that would be devastating in this final period of this year, the final one-third of this year.

I do share the concern—I think I have demonstrated that —of balancing the budget. On the other hand, I remember too well one of the greatest earthquakes that has occurred since we started recording earthquakes, the second largest, apparently, in the history of the United States, in my State. We also had a flood that was so large it engulfed almost the whole interior of Alaska, around Fairbanks, for miles. I know what these people are going through.

Much of the mismatch in this situation comes from the scoring process under the budget; not from how money is spent, but how it is scored. For instance, I have managed the defense bill substantially now over the past years. When we originally get budget authority for defense, it has 100-percent outlays. If we rescind that now, with a quarter of the year left—it will be effective for the last quarter of the year—we get a 25-percent outlay cut. The authority is for a year. If we start spending it the 1st of October, there would be 100 percent. If we can rescind it the 1st of October, and this is what the Senator from New Mexico was saying, if we can rescind it in the budget authority at the beginning of the year and not spend through the whole year, we get 100-percent credit. When we rescind it now and it becomes effective in the last quarter of the year, we get 25 percent.

This is really a great way to shrink Government. All you have to do is pray for the largest disaster in history and you cut the Government in half. There is no sense being proposed, from the point of view of the disaster victims. It may make theoretical sense. We have cancelled enough budget authority—we deal with budget authority, and the scoring says you only get 25 percent, because if you start spending this money in the beginning, you spend 100 percent; if you have not spent it so far and if you start spending it now, you only get 25 percent. The Senator goes further, though. He carries it into the next year and succeeding years.

We have done our best to try and mitigate the budgetary impact. For the first time, I cannot remember a disaster bill where we tried our best to mitigate by offsets, but we have. We have offset budget authority. It is not possible at this time of the year to offset enough so that we can get it all accounted for this year. The Senator from Texas says, ''Well, then go into next year.'' We are already fighting—as a matter of fact, the fight is going on in this very building—over what the budget agreement means in terms of

next year and succeeding years in terms of outlays and budget authority.

I tell the Senate very simply, until we work out a better way to deal with disaster relief—incidentally, I concur with the Senator from New Mexico who said we have done this in this bill. We have money here that anticipates there are going to be more disasters during the balance of this year, and we have put it up and we have offset that money.

There will be disasters, Mr. President, unfortunately, in the balance of this year. I mentioned the earthquake that we had. The earthquake that started somewhere down in the Tennessee area and came up the valley, came up the fault, was so great in the 1850's that when that earthquake occurred, the bells rang in churches in Boston. If that fault goes at this time in our lifetime, Mr. President, the cost will be so staggering that you cannot imagine the cost, or the cost of a San Francisco earthquake.

That is what the Senator from New Mexico asked: How large does a disaster have to be before it is an emergency? We will do our best to prepare for emergencies, and if we can work out a different approach on the scoring so it makes more sense from the point of view of the budget, I am perfectly willing to work with anybody to do it.

We did not appropriate any money unless we thought it was absolutely necessary and justified. We had a bipartisan review. We had everyone critique these bills. We had many amendments suggested, a few on this floor this week, but we have not heard many money arguments.

The Senator from Texas is raising a money argument. We have not had debates about the money because people know the money in this bill has been gone over and over and over, and it is justified. I say we have done our best. We set a new precedent. We set the precedent that even disaster money will be offset to the extent it is possible to find budget authority to do so, and the outlay scoring is a secondary question. That is all we ask for the emergency part that is authorized under the Budget Act. We are authorized to ask for a total emergency waiver of the Budget Act. All we have asked for is a waiver of the scoring impact of outlays, and that will give us the money that we need to proceed to meet these disasters.

Mr. President, I do believe it is an absolutely essential bill. Again, I point out, though, my last comment, I hope we are not accused, again, of somehow or another delaying the money. There is over $2 billion down there in the executive branch right now that is being obligated. I am told if they obligate everything they can, they will not obligate all that in the balance of the year. There may be a deficit of about $250 million if they do everything they can possibly do between now and the end of September. It will be about $2 billion.

The Senator is right to think about when the money is going to be spent. It is going to be spent over the years to come. But that is the way you recover from disasters: You put the money up, obligate it, and it, in fact, will be spent over a period of years. Hopefully, those areas will be strong again and they will recover, as our State has recovered from the great earthquake that happened in 1964.

Mr. BYRD. Mr. President, we are told by the Congressional Budget Office that this amendment would require cuts in all nondefense discretionary appropriations for fiscal year 1997 throughout the Federal Government of approximately 5 percent of remaining unobligated balances. Apparently the purpose of the Senator's amendment is to fully offset not only the budget authority, which the committee itself did, but the outlays that will result from these emergency disaster assistance appropriations as well.

As I stated in my initial remarks when the Senate took up this measure, I do not agree on principle that emergency assistance to provide relief to those affected by natural disasters should have to be offset in any way. It was for this reason that at the budget summit in 1990, I strongly recommended, and that Act included, a section specifically exempting emergencies from the need for offsets. That section of the Act has worked very well and has not been abused, in my judgment, since its enactment.

The suffering of hundreds of thousands of people in hundreds of communities throughout the Nation are awaiting the financial resources that will be made available to them upon the enactment of this legislation. We should provide that relief to them pursuant to the emergency section of the Budget Enforcement Act and thereby not require offsets of this emergency spending. Even though in this instance the committee has recommended full budget authority offsets for these emergency appropriations, that should not be a requirement for making disaster assistance appropriations. We cannot determine the time of year, the severity, or the number of natural disasters or their resulting costs, so we should not tie ourselves to any requirement that offsets should be provided for emergency disaster assistance appropriations.

The effect of the pending amendment would be to indiscriminately cut every program throughout the nondefense discretionary portion of the budget, regardless of the ability of any particular program to absorb the anticipated 5 percent reduction required by the amendment—for example, the FBI, the Justice Department, the Judiciary, all other law enforcement agencies, the border patrol, the INS, the administrative costs of programs such as Social Security, Medicare, Medicaid will be affected. It is clear that many agencies could not absorb these cuts this late in the fiscal year without severely impacting their ability to carry out the essential services that they provide to the Nation.

The PRESIDING OFFICER. All time allocated to the Senator from Alaska has expired.

Mr. GRAMM. Mr. President, I thank the Senator from Alaska for yielding me 10 minutes of his time.

Let me address the issue of how big does a disaster have to be. We spend $1.6 trillion a year here in Washington, DC, on the Federal budget. The bill before us is going to spend $699 million this year over budget in new deficits. So what I am asking is simply that less than $1 out of every $1,600 we spend be dedicated to pay for this emergency appropriation.

The second point I would like to make is this is not the first time I have offered this amendment. In fact, nearly every time we do one of these add-on spending bills, I offer an amendment to require that we pay for it. Some of our colleagues say, wouldn't it be better if we paid for it in advance? It would be better. We ought to do it, but the point is we are not doing it. In 1993, we added $5.4 billion to the deficit in the name of a disaster; $9 billion in 1994; $10 billion in 1995; $6.4 billion in 1996. We have already added $5.4 billion in 1997.

The point is, when do we start paying our bills? I think the answer ought to be today.

We are getting ready to write a brand new budget with record spending in it. We ought to be setting aside $7 billion a year for disasters, something we have not done in the last 5 years, but we are not going to do that unless we adopt this amendment today so that we see we are going to have to begin to pay these bills.

So the question ultimately boils down to deficits. Do we want to pay for helping people, or do we want to pass the burden on to our children and our grandchildren? Do we want to, year after year after year, spend money we don't have?

Finally, we are in the process today of busting a budget which is not even in effect yet. We are spending $6.6 billion today that will not even count as that budget even though we will spend it over the next 5 years. So we are writing a budget with record spending, and we are busting the budget before it even becomes the law of the land. That is how serious we are about spending.

I am not saying it is easy to pay our bills, but I am saying that every family in America has to pay its bills. Every day families have to deal with emergencies, and they do not have the ability to just declare it a dire emergency and go on about their business. They have to go back and take things they wanted, things they planned for, things they needed, and they have to deny themselves those things to pay their bills.

What is wisdom in every household in America cannot be folly in the governance of a great nation. If you really are concerned about deficits, if you are really concerned about the Government paying its bills, if you want more jobs, more growth, more opportunity,

if you really want to balance the budget, today we have an opportunity to take $6.6 billion, with a ''B,'' off the deficit in the next 5 years.

I urge my colleagues, if you are for fiscal responsibility, show it today, show it today, not in some abstract speech somewhere back in your State, but show it today by voting to pay for this bill and, in the process, to eliminate $6.6 billion of deficits.

I thank the Chair for his tolerance. I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I move to table the Senator's 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 to lay on the table Gramm amendment No. 118. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—62

Akaka	Dorgan	Lugar
Baucus	Durbin	Mikulski
Bennett	Feinstein	Moseley-Braun
Biden	Ford	Moynihan
Bingaman	Glenn	Murkowski
Bond	Gorton	Murray
Boxer	Graham	Reed
Breaux	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Hollings	Roberts
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Sarbanes
Chafee	Johnson	Shelby
Cleland	Kennedy	Smith (OR)
Cochran	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Landrieu	Stevens
D'Amato	Lautenberg	Torricelli
Daschle	Leahy	Wellstone
Dodd	Levin	Wyden
Domenici	Lieberman	

NAYS—38

Abraham	Gramm	Mack
Allard	Grams	McCain
Ashcroft	Grassley	McConnell
Brownback	Gregg	Nickles
Burns	Hagel	Roth
Coats	Helms	Santorum
Coverdell	Hutchinson	Sessions
Craig	Hutchison	Smith (NH)
DeWine	Inhofe	Thomas
Enzi	Kempthorne	Thompson
Faircloth	Kohl	Thurmond
Feingold	Kyl	Warner
Frist	Lott	

The motion to lay on the table the amendment (No. 118) was agreed to.

HIGHWAY FUNDING LEVELS

Mr. ABRAHAM. Mr. President, I believe it is important we review the vote conducted earlier today regarding the Warner amendment to distribute supplemental highway funds by the ISTEA formulas rather than by the new arbitrary standard delineated in the supplemental appropriations bill, and its meaning for the overall issue of ISTEA reauthorization. What we have just witnessed has happened time and time again since ISTEA was passed in 1991—the majority of donee States join forces and take gas tax money from the remaining minority of donor States. This happened when the original ISTEA formulas were developed, it has happened when hitches have disrupted the flow of donor State money to donee States, and today it has happened when the very formulas established to protect at least a portion of the donor States' money were found inconvenient by the donee States and, were therefore set-aside.

The equity adjustment programs, designed in the original ISTEA legislation to guarantee donor States would at least get a portion of the gas tax revenues raised in their State back for highway maintenance, have a real and necessary purpose. Without these minimal programs, States such as Michigan would be forced to give up vast portions of their gas taxes to States whose highway needs may not be as immediate and pressing as they are in Michigan. In this fiscal year, two of the programs, the 90 percent minimum allocation and the 90 percent of payments programs, kicked-in for the first time, resulting in a significantly increased return of gas taxes for the donor States. Yes, this resulted in the donee States Federal highway funds being reduced, but what must be pointed out is that not one donee State would have become a donor State because of these equity programs. They still would receive more money from the Federal Government than they contributed, and the donor States like Michigan would continue to contribute more than they received.

But this was not enough, and what appears to have happened now is that the donee States cannot accept that the donor equity programs may actually work. So this supplemental appropriation took nearly a half of a billion dollars, and distributed it not by the ISTEA formulas so carefully crafted by the Congress in 1991, but by their determination that donee States should never lose money.

Mr. President, I am incredulous. It is bad enough that the ISTEA formulas discriminate against States like Michigan and force us to send our gas tax money to highways that do not contribute in any way to our economy or transportation infrastructure. But if the law can be so blithely set aside in order to meet the latest needs of the donee States, why should we believe that any follow-on to ISTEA will be honored. Why won't it be similarly set-aside whenever a simply majority of the Senators, motivated neither by ideology nor philosophy, neither by regional nor personal loyalties, but simply by the immediate ability to increase their revenues at the expense of other Senator's States, decide to set them aside once again? The answer, Mr. President, is that it will be simple to do so, and this body will do it.

That is wrong, that is capricious, and that is not what we were sent here to do. Mr. President, when the environment of an issue such as transportation has become so reduced to simply bringing home the bacon, it is time to act and act decisively. Today's vote demonstrated with crystal clarity that the Federal Government cannot be trusted to administer highway funds. We must extract ourselves from this process and allow the States to conduct their own road programs, raising their own revenues, and spending their own money. That is why, Mr. President, we need to pass the Transportation Empowerment Act, which I cosponsored with Senator MACK, and stop this highway robbery.

Mr. DEWINE. Mr. President, I rise today in support of the fiscal year 1997 supplemental appropriations bill. This bill does many good things, including the provision of an adequate level of support to our troops as they disengage from Bosnia.

The bill also provides for a much-needed parking facility at the Wade Park VA Hospital in Cleveland. Representative LOUIS STOKES and I have believed for years now that this is an absolutely necessary improvement, and we are glad that we have finally been able to see it to this point in both the authorization and appropriation process.

But on behalf of the people of Ohio, let me say that we appreciate most specifically some of the provisions that will help us cope with the consequences of the terrible flooding that took place in our State last month.

The southern part of Ohio was ravaged by the worst flooding we have experienced in 33 years. Today, the flood waters have receded, but life is far from back to normal. In some towns, people still do not have permanent places to live. They are staying with relatives, or in RV's. Some have had their homes condemned—some have lost nearly everything and have to start again from scratch.

When you drive through these towns, as I did, you see piles of people's belongings—like water damaged carpets—piled up outside their homes to dry, as they endeavor to rebuild their homes and their lives.

Townships, villages, and counties all over southern Ohio are struggling to rebuild the roads and bridges that were damaged in the flooding. Some of the bridges dated back to the turn of the century.

In Brown County, for example, they lost one covered bridge outright, and sustained serious damage to another one.

In Clermont County, I saw Bear Creek Road that was completely washed away. They have been able to fix it temporarily, but school buses and garbage trucks can't use it. A permanent repair has to wait until money is available from the Natural Resource Conservation Service—or NRCS.

Our hearts go out to all the people who are suffering the consequences of this flood, especially those who have lost family members and friends. We will do our best to help you carry on.

We have already seen a wonderful outpouring of humanitarian assistance

in response to this tragedy, the American Red Cross and the Ohio National Guard—along with many other concerned public and private organizations—have offered a desperately needed helping hand to some families who are having a really tough time.

This legislation will help continue that process. It includes a $77 million appropriation for the Emergency Conservation Program, which provides cost-sharing assistance to the farmers whose land was damaged by the floods.

It includes $161 million for the NRCS Watershed and Flood Prevention Operations, which are designed to open the dangerously restricted channels and waterways, repair diversions and levees, and assist in erosion control on steep slopes.

The people of southern Ohio have shown an incredible spirit in working together to get through this crisis. This bill will help them move forward in that same spirit.

I thank the members of the Committee for the fine job they have done in crafting this legislation, and I yield the floor.

Ms. MIKULSKI. Mr. President, I rise in opposition to the supplemental appropriations bill but do so with great hesitation.

Like all of us here today, I want to extend my sympathies to the communities and families of the Upper Midwest who have experienced the terrible flooding over the past several weeks.

It brings back vivid memories of the flooding that hit Western Maryland last year and I know all Marylanders join me in extending our thoughts and prayers to everyone in the Midwest.

Like many of my colleagues, I was hoping for quick consideration of this important legislation so we could speed relief to disaster victims. They are counting on us to help them get back on their feet—to help them rebuild their homes and businesses.

I am so disappointed that what should have been a speedy, nonpartisan targeted relief bill has turned into another nasty partisan battle that is designed to divide us and provoke a veto from the President.

I am particularly alarmed by the inclusion in this package of what is artfully called the Shutdown Prevention Act.

Nobody knows the pain of a government shutdown better than me and the Marylanders I represent. When the last shutdown occurred, I visited Government agencies that had to remain open.

I saw the frustration on the faces of the workers and the financial hardship it caused for all Federal employees.

I do not want another shutdown and will do everything I can to prevent it. But, the revised bill now provides for a permanent continuing resolution which is nothing more than a partisan trick.

If we fail to enact our appropriations bills on time, the continuing resolution contained in this bill will prevent Congress from increasing spending for cancer research, crime fighting and education. It will also prevent Congress from cutting spending and eliminating waste.

In addition, I am disturbed by the way in which we have chosen to pay for this bill. This bill takes over $3 billion in unobligated funds from HUD's section 8 public housing program to pay for FEMA's disaster relief fund.

I do not believe we should be robbing Peter to pay Paul. Eventually, Peter will be broke.

The projected budget problems with regard to the section 8 program are well known. In fiscal year 1998, section 8 renewals will cost $10.2 billion. That is a $7 billion increase over the fiscal year 1997 funding level.

We will need the unobligated funds to pay for the section 8 renewals in fiscal year 1998. We should not be raiding the program to pay for disaster funding.

We must find a new way to pay for emergency supplemental appropriations bills because these disasters are not going to end.

We could be facing even more expensive disasters in the near future. Are we going to continually rob one or two agencies to pay for these bills?

I believe we need a new system or a new arrangement to deal with these type of disasters—a new system that is off-budget.

Mr. President, I am forced to oppose this bill because of the continuing resolution and the way in which we have chosen to pay for the bill. As a result of the continuing resolution, the bill is likely to be vetoed by the President. I hope in the future we can avoid partisan fights over disaster relief bills and find a more equitable way to pay for them.

Mr. TORRICELLI. Mr. President, I rise today in strong support of the efforts by the Appropriations committee to fund research into environmental risk factors associated with breast cancer as a part of S. 672.

I would especially like to thank and acknowledge the efforts of the distinguished chairman of the Appropriations Committee, Senator STEVENS, the distinguished ranking member of the Appropriations Committee Senator BYRD, as well as the efforts of the chairman of the Labor, HHS Subcommittee, Senator SPECTER and its ranking member, Senator HARKIN for their attention to the concerns I have raised regarding this issue. All have been dogged advocates of breast cancer research and I am grateful for their previous efforts and for what they have done in the legislation before the Senate. I am especially grateful for their acknowledgement in the committee's report of the alarmingly high breast cancer rates in the Northeast and specifically my State of New Jersey.

Few issues pose as significant health threat to the constituents I represent as does breast cancer. It is estimated that nationally 1 in 8 women will be diagnosed with breast cancer in their lifetime and over 46,000 women die annually from breast cancer. It is truly one of the leading health threats facing American women.

However, it is an absolute health crisis confronting the women of New Jersey with mortality and incidence rates that far exceed the national average. New Jersey has the highest breast cancer mortality rate of any State and our incidence rate of breast cancer is 11 percent higher than the national average and the average for in the Northeast. It is estimated that there will be 6,400 new cases of breast cancer diagnosed this year and 1,800 women will die from breast cancer in 1997 alone in New Jersey.

I have long believed that behind our State's history of environmental problems lies the reasons for our high breast cancer rates. I do not believe that it is a coincidence that the State, New Jersey, with more Superfund sites than any other, as well as thousands of other contaminated sites not listed under Superfund, has the highest cancer rates in the Nation.

In response to this I recently introduced the New Jersey Women's Environmental Health Act with Senator LAUTENBERG that would authorize a 4 year $10.5 million study into the possible association between environmental risk factors and breast cancer. I believe this effort will provide not only answers to the women of my State but ground-breaking research into this association.

In New Jersey, we are extremely fortunate to have one of the leading cancer research institutes in the Nation. The University of Medicine and Dentistry of New Jersey is only 1 of 7 academic institutions in the United States which houses a National Cancer Institute designated clinical center and an NIH-designated comprehensive Center of Excellence for environmental health sciences. Indeed, not only does it have the State's only NCI-designated cancer center, but the University is also home to a HHS-designated Women's Health Initiative site. I believe that this unique institution is the type of multicenter institution envisioned by the committee to do this important research.

Working with these scientists and clinicians, we have developed a proposal that would assess breast cancer in New Jersey at many levels, from molecular markers of environmental exposure to clinical evaluation and treatment. It also includes the involvement of the State Department of Health in a population-based epidemiological study.

Mr. President, our leading environmental health scientists from Rutgers, our State University, and the University of Medicine and Dentistry of New Jersey, both partners in the State's NIEHS Center of Excellence, concur that there are several key elements of this study which must be pursued. These include the need to: (a) identify the disease patterns in the State—ethnicity, geographic location, occupation

and education of the victims; (b) identify and characterize the potential etiologic factors—such as exposure to Superfund effluents, pesticides and occupational hazards; (c) analyze tissue samples and environmental samples for etiologic agents and tissue samples for genetic markers of disease; and (d) conduct a full scale case control study.

That is why I am so encouraged by this committee's efforts to fund research into this important area and am thankful that the project I have developed in consultation with the University of the Health Sciences of New Jersey and the New Jersey Department of Health will have an opportunity to immediately compete for the funds necessary to begin its implementation.

I would like also to thank the subcommittee chairman, Senator SPECTER, for his recognition that the issues this initiative proposes to address are the type of issues the committee envisioned to be studied with this funding.

As I have stated earlier, I believe our initiative will not only provide answers to the women of New Jersey but will provide ground-breaking research into the association between environmental conditions and breast cancer in this Nation and greatly assist in this committee's goal of providing answers that may account for some of the startling regional variations of breast cancer in this Nation.

FUNDING FOR THE DIRECT OPERATING LOAN PROGRAM

Mr. ROBB. Mr. President, I wanted to take this opportunity to thank Senators COCHRAN and BUMPERS, chairman and ranking member of the Agriculture Appropriations Subcommittee, and Senators STEVENS and BYRD, chairman and ranking member of the full committee, for their help in making loans available to low-income farmers and averting a potential man-made disaster.

This is planting season. Many farmers in the Commonwealth, and around the Nation, need to borrow funds to cover the costs of planting, which are repayed when crops are harvested. In the past, these funds have been made available by the U.S. Department of Agriculture through its direct operating loan program. Unfortunately, this program is out of funds for the year, and the very livelihoods of many farmers, mostly on small farms, are threatened.

Mr. President, when I was told of this situation by a number of farmers who came to my office 2 weeks ago, I contacted Agriculture Secretary Glickman and Senator BUMPERS. It was clear to me that the crisis these farmers faced was as real as the floods faced by our fellow Americans in the upper Midwest. With their help, we were able to include in this bill an appropriation that will provide $100 million in direct operating loan funds to our Nation's low-income farmers. Getting this money out into the fields is an emergency. In passing this provision, we will be ''filling the sandbags'' that can protect our farmers from a disaster, this one of manmade origins.

Let me just add that this provision is especially important to minority farmers, who have suffered in the past from well-documented discrimination within the Department of Agriculture. I know Secretary Glickman is committed to eradicating the discrimination, but I'm not sure he will be able to succeed on his own. These loans are crucial to these farmers. To quote a memo from the Department of Agriculture, ''many of the low-income farmers which we will not be able to provide operating loan [OL] funds to—if no further money were appropriated—are minorities. Having adequate direct OL loan funds is critical for low-income minority farmers in their effort to become self-sustaining, successful, contributing members of rural communities.''

Again, Mr. President, I thank my colleagues for their help in this matter, and I urge my colleagues to move this legislation quickly, to alleviate both the pain of natural disasters past and the possiblity of this manmade disaster in the near future.

Mr. WELLSTONE. Mr. President, I rise today in support of S. 672, the emergency supplemental appropriations bill. The President has now declared a major disaster for over 50 counties in the State of Minnesota, and ordered Federal aid to supplement State and local recovery efforts in areas hard hit by severe flooding, severe winter storms, snow melt, high winds, rain, and ice. This disaster assistance is urgently needed in my State and I want to thank Senators STEVENS and BYRD for their work in getting this package through the Senate.

While I intend to vote for this bill, I am very concerned about the ramifications of the McCain amendment, which triggers an automatic continuing resolution for fiscal year 1998 if Congress fails to pass appropriations bills. This disaster bill provides important assistance to Minnesotans struggling to rebuild their lives following an unprecedented natural disaster, and I think it is outrageous that we have used the emergency supplemental bill in this way. The continuing resolution will result in harsh cuts to important education and health programs. This is an uncaring and thoughtless way to proceed on the budget and it does not reflect the priorities and needs of the American people.

The people of Minnesota, North Dakota, and South Dakota have suffered tremendous losses as a result of the devastating winter storms and 500-year spring floods. In Minnesota alone, over 20,000 people have been displaced from their homes, many of these families will not be able to return to their homes for weeks and months to come. The record flooding and cold temperatures have had a major economic impact on my State. From small businesses in East Grand Forks to dairy farmers who were unable to milk their herds or to transport milk. Where it is still very early in the process of assessing losses, the Federal Reserve Bank has already estimated that there has been a loss of over $1.2 billion in the Red River Valley alone.

I want to congratulate Senators STEVENS and BYRD for their commitment to get assistance out to disaster victims. I appreciate their commitment to continue to do all that we can to help families and businesses rebuild in the region. While this bill before us does not contain all the funding that the region will need to rebuild from the unbelievable losses caused by flooding and winter storms, it does provide the first installment of assistance.

The emergency supplemental contains critical funding for the region, including $500 million in community development block grant funding, over $900 million in disaster assistance under FEMA, $54.7 million for EDA, and additional funding for transportation losses due to flooding and severe winter weather.

The State of Minnesota learned in the 1993 that CDBG funding is one of the best vehicles to get assistance into the communities for rebuilding homes and businesses and for flood mitigation projects. I am glad that we were able to secure this additional CDBG assistance and the assurances from Senators STEVENS and BYRD that they will support this funding level in conference.

In addition, this bill contains a provision to require the administration to release $45 million in emergency contingency funding under the LIHEAP program for emergency energy needs of flood victims. As families begin to return to their homes in Ada, Breckenridge, Warren, and East Grand Forks, they will need this assistance to replace their heating systems. With this funding thousands of families will be able to return to their homes and do the hard work of cleaning up.

Finally, I want to acknowledge the tremendous volunteer effort that continues in my State. On my visits to the Minnesota and Red River Valleys, I was touched by the sense of community among the residents. Many folks didn't care who they were working next to, as long as they were working for the common good. People worked tirelessly to build dikes to try to save homes and businesses and are now working tirelessly to help flood victims begin to clean their homes, schools, and businesses. In particular, I want to send a special word of thanks to all the high school students who volunteered on the frontlines.

In the weeks and months ahead there will be many more hours of hard work; cleanup, removal of sandbags, restoration of buildings, ensuring that water supplies are not contaminated. People need not only the support of their neighbors, they need the support that only the Federal Government can provide. I am pleased that the Senate has acted and is now approving this package of much needed disaster assistance. With this funding, the flooded communities and families can begin to rebuild

their towns, their businesses, and their lives.

DUAL-USE APPLICATIONS PROGRAM

Mr. BINGAMAN. Mr. President, I would like to speak about my amendment No. 69, which strikes section 305 of this supplemental appropriations bill.

Section 305 of the bill states that ''Section 5803 of Public Law 104–208 is hereby repealed.'' That is a very economical formulation, but it doesn't tell the reader much about the substantive issues at stake. For this reason, I would like to take some time to describe to my colleagues what I think the key issues underlying section 305 in the supplemental appropriations bill are, and why I believe section 305 is an unwise step and should be stricken from this bill.

Section 305 repeals a $100 million appropriation to a Department of Defense program known as the Dual-Use Applications Program. By doing so, it eliminates one of the two major initiatives in this program. The Dual-Use Applications Program is just getting started. It was authorized for the first time in last year's Defense Authorization Act. Because of this, most of the money appropriated last year has not yet been spent. Awards are now just being made and announced. So, at a very superficial level, the $100 million looks attractive as a candidate for rescission.

But the Dual-Use Applications Program is, in my view, essential to our future national defense. This program will introduce major technological changes and cost savings in military applications, and major cultural changes in how the Department of Defense manages R&D. We have forged a bipartisan consensus on the Senate Armed Services Committee in favor of this program. Once my colleagues in the Senate understand what this program is all about, I am confident that they will agree with me that gutting the Dual-Use Applications Program at its inception is a very bad idea for our long-term national security.

America's Armed Forces today enjoy technological supremacy over any potential adversary. This is not an accident. It is the result of two things: wise past investments in defense R&D and competent advocacy from the top echelons of DOD for moving the fruits of that R&D into practice.

Our current recipe for maintaining military technological supremacy, though, is not a guarantee of future success. In fact, to ensure that our men and women in uniform maintain their technological edge over any future adversary, we will need a new strategy for defense technology. In this strategy, we will have to rely more on the commercial sector to provide defense technologies, through adaptation of cutting-edge commercial technologies to military use, rather than developing the same technology in isolation in a MILSPEC world.

There are two forces driving this new overall technology strategy.

The first force is the constrained budget for defense R&D. Defense R&D, like all defense spending, is under tremendous pressure as we move toward a balanced budget. We no longer have an open checkbook for defense scientists and engineers, as we essentially did during the cold war. Thus, we need to spend our funds more strategically, and seek ways to leverage our defense R&D dollars. with R&D investments being made by other funding sources.

The second force driving the defense world toward greater use of commercial technologies is the fact that technological advances from commercial R&D are outpacing similar advances from military R&D in many applications important to national defense. For example, the military is faced with an explosion of requirements for rapid and widespread processing and dissemination of information. The commercial world has led the development of the Internet, despite its origins in DARPA, and there is now much that the defense world can learn from the commercial world's experience with distributed information processing and communication.

Despite the emergence of these two new forces, the defense world is not used to, and is not prepared for, working with the commercial R&D sector in a radically new manner. It is used to thinking about its own, supposedly unique, defense requirements and perhaps some subsequent defense spinoff to commercial applications. It is not used to thinking about common requirements between defense and commercial applications and desirability of commercial ''spin-ons'' to defense applications.

This is where the Dual-Use Applications Program, established by section 203 of the National Defense Authorization Act for Fiscal Year 1997, comes in. The missions of this program are to a prototype and demonstrate new approaches for DOD to use in leveraging commercial research, technology, products, and processes for military systems.

Over the long term, these new approaches to working with industry must become widespread throughout DOD, in order for the Department to take full advantage of the technological opportunities afforded by the commercial sector. These leveraging approaches are not widespread in DOD today, by DOD's own admission. While acquisition reform has helped clear the path to a new relationship between DOD and the commercial sector, DOD reports that its experience to date with acquisition reform has shown that leveraging approaches are unfamiliar to many in DOD and are not widely adopted in the services.

There are two initiatives now underway in the Dual-Use Applications Program. Both encourage the leveraging, by the services, of the commercial sector's research, products, and processes for the benefit of DOD and the Nation's defense capabilities.

The first initiative is in science and technology research and development. It is very important, and I will describe it at some length. It is not immediately affected by this supplemental appropriations bill, in its current form, but I understand that it is likely to become a target for cuts in a conference. I hope that, after I finish my statement, the distinguished chairman of the Appropriations Committee can give me some assurance that he will resist attempts to cut the Science and Technology Initiative.

The second initiative is zeroed out by section 305 of this supplemental appropriations bill. It is a Commercial Operations and Support Savings Initiative that will prototype an approach that the service can use to insert, on a routine basis, commercial products and processes into already-fielded military systems to reduce operations and support costs.

Section 305 of the bill would repeal section 5803 of last year's Defense Appropriations Act. That provision provides $100 million in funding for DOD's commercial operations and support savings initiative, known as COSSI. Under the COSSI program, DOD plans to insert new commercial technologies into weapons systems to reduce operations and support costs.

I am concerned that the elimination of this program could increase defense costs in the long run. DOD has learned that for many weapons systems, operations and support costs far exceed acquisition costs. By investing in upgraded commercial technologies with improved performance, the Department hopes to bring operations and support costs down in the long run.

Mr. LIEBERMAN. I share the Senator's concern. Under the COSSI program, DOD intends to make sensible investments that will reduce weapons systems costs in the long run. By upgrading the F–14A/B Inertial System, for example, DOD expects that it could increase the mean time between failures from 40 hours to 4500 hours, substantially reducing program costs over the next decade. Similarly, by installing constant velocity joints in its fleet of M939 5 ton trucks, the Department expects to reduce its tire costs by two-thirds. In my view, we can't afford *not* to make these kinds of money-saving investments.

Mr. LEAHY. The Senator from Connecticut is exactly right. There are many commercial technologies that can save the Defense Department money in the long run. For example, one Navy COSSI program uses sensors and software to monitor engine and rotor components on helicopters. The technology tells the user when a given part needs to be replaced, as opposed to the current system, which for safety reasons requires perfectly usable parts to be replaced at regular intervals. Navy program managers have estimated that this technology can save over $1 billion over 10 years if adopted on just two kinds of helicopters. In this

time of tight budgets, this is the kind of program that we should all be supporting.

Mr. INOUYE. I believe that the Senators have expressed valid concerns. This is an important program, and I hope that we will be able to restore a substantial amount of the funding in conference.

Mr. STEVENS. I understand the Senators' concerns. The administration has expressed similar concerns about this provision. We will certainly look carefully at this provision in conference and do what we can to provide an appropriate level of funding.

Mr. BINGAMAN. Having made the case for restoring funds to the COSSI program, I would like to state my hope that such restoration not come at the expense of other dual-use technology programs that will benefit the Department of Defense. The Senate Armed Services Committee has carefully reviewed and authorized the dual use science and technology research element of the Dual Use Application Program as provided for in section 203 of the National Authorization Act for fiscal year 1997. Programs developed under this section will provide major enhancements in our military capabilities and can also benefit the commercial sector. Cooperation between DOD and the private sector will provide dual use benefits at a significantly lower cost to the government.

Mr. STEVENS. I understand the Senators' concerns. The administration has expressed similar concerns about this provision. We will certainly look carefully at this provision in conference and do what we can to provide an appropriate level of funding for both elements of the Dual Use Program.

Mr. LIEBERMAN. Mr. President, I share Senator BINGAMAN's concern about section 305 of the bill, which would eliminate $100 million in funding for DOD's commercial operations and support savings initiative, known as COSSI. Under the COSSI program, DOD plans to insert new commercial technologies into weapons systems to reduce operations and support costs. DOD has learned that for many weapons systems, operations and support costs far exceed acquisition costs. By investing in upgraded commercial technologies with improved performance, the Department hopes to bring operations and support costs down in the long run.

I am concerned that the elimination of the COSSI program will increase defense costs in the long run. At the same time, I agree that we should not try to fund the COSSI program at the expense of the Department's limited funding for dual use technologies. Senator BINGAMAN has worked long and hard to establish the Dual Use Program and to keep it going, and this program has shown real benefits for both the Department of Defense and the economy as a whole. I hope that the conferees will be able to find an appropriate level of funding for the COSSI program without undermining the Department's dual use technology initiative.

SECTION 314

Mr. HARKIN. Mr. President, I rise to express my opposition to section 314 of S. 672, the supplemental appropriations bill. Section 314 was added to the bill in committee and would prohibit the Health Care Financing Administration from continuing with a Medicare competitive pricing demonstration project. I believe this provision does not belong on this emergency supplemental bill and if need be would more appropriately be addressed in the upcoming Labor, Health and Human Services Appropriations bill for fiscal year 1998. In addition, I believe this provision would hurt our ability to reform Medicare and make certain that it gets the best deal possible for Medicare beneficiaries and other taxpayers.

For many years, I have been working to identify and reform wasteful payment policies and practices in the administration of Medicare. The General Accounting Office estimates that up to 10 percent of Medicare funds are lost each year to waste, fraud and abuse. And my experience is that a large percentage of that is due to wasteful payment policies and practices. Clearly, the current Medicare payment scheme for managed care falls into this category and needs reform. Current policy grossly overpays in some areas and underpays in many rural areas.

While there may be issues that need to be resolved with beneficiaries and providers in the area in which this managed care competitive pricing demonstration is to occur, that does not justify a complete cutoff of funds for the test. Officials at HCFA should promptly work with the community to address these issues. If there are legitimate issues that cannot be resolved over the next month or two, we could consider options for action on the fiscal year 1998 appropriations bill.

Mr. President, as I mentioned earlier, we need to test ways in which we can achieve Medicare savings to ensure this critically important program's long-term solvency while preserving access and quality for beneficiaries. Enacting section 314 of this bill would be a setback to this important effort. Because of this I'm hopeful that this matter will be reconsidered and that any problems associated with this particular demonstration project can be promptly worked out administratively without the need for legislative action.

I also want to express my concern with section 323 of the bill. This section is a legislative rider that is unrelated to the substance of S. 672. It repeals section 1555 of the Federal Acquisition Streamlining Act of 1994 which was intended to save taxpayers millions of dollars by giving State and local governments to take advantage of the purchasing power of the Federal Government. Implementation of this provision was delayed for 18 months last year to give time for the General Accounting Office to study the issue and report back recommendations to Congress. We should allow time to get the GAO's report and recommendations before taking action on this important issue.

AMENDMENT TO DELAY IMPLEMENTATION OF THE WELFARE LAW FOR IMMIGRANTS

Mr. KENNEDY. Mr. President, yesterday Senator D'AMATO offered an amendment, which I cosponsored, to delay implementation of certain provisions in the new welfare law which affect legal immigrants.

Last year, Congress passed a so-called welfare reform bill that drastically restricts the ability of legal immigrants to participate in public assistance programs. It prohibits them from receiving food stamps, SSI benefits, and Federal nonemergency Medicaid benefits.

In recent months, we have seen the harsh impact of this bill on legal immigrant families. Many fear being turned out of nursing homes and cut off from disability payments beginning on August 1, 1997. In recent weeks, some needy immigrants have taken their own lives, rather than burden their families.

Last week's negotiations on the fiscal year 1998 budget produced more hopeful prospects on this issue. But, needy immigrants will begin to lose their SSI benefits on August 1, 2 months before the fiscal year 1998 begins. We need to extend the August 1 deadline while we get our act together and work out a satisfactory compromise.

Senator D'AMATO's amendment extends the effective date for certain parts of the welfare law which affect legal immigrants until the end of the 1997 fiscal year. This extension is fair and reasonable. We need to ensure that no one loses SSI benefits while the budget process works its course.

SAMPLING IN THE 2000 CENSUS

Mr. MOYNIHAN. Mr. President, I am pleased that the Senate has agreed to Senator HOLLINGS' amendment to allow the Bureau of the Census to plan for sampling in the 2000 census. In that year the Bureau proposes to count each census tract by mail and then by sending out enumerators until they have responses for 90 percent of the addresses. The Bureau proposes to then use sampling to count the remaining 10 percent of addresses in each tract, based on what they know of the 90 percent. This would provide a more accurate census than we get by repeatedly sending enumerators to hard-to-count locations and would save $500 million or more in personnel costs.

The census plan is supported by the National Academy of Sciences' National Research Council, which was directed by Congress in 1992 to study ways to achieve the most accurate population count possible. The NRC report finds that the Bureau should:

make a good faith effort to count everyone, but then truncate physical enumeration after a reasonable effort to reach nonrespondents. The number and character of

the remaining nonrespondents should then be estimated through sampling.

The supplemental appropriations bill would prohibit the Bureau from planning for a census that includes sampling, and would even prevent the Bureau from planning to send out the long form, from which we get crucial and legally required information about education, employment, immigration, housing, and many other areas of American life. The long form gives us a detailed picture of the populace that we cannot do without.

Mr. President, the taking of a census goes back centuries. I quote from the King James version of the Bible, chapter two of Luke: ''And it came to pass in those days that there went out a decree from Caesar Augustus that all the world should be taxed [or enrolled, according to the footnote] . . . And all went to be taxed, everyone into his own city.'' The early censuses were taken to enable the ruler or ruling government to tax or raise an army.

The first census for more sociological reasons was taken in Nuremberg in 1449. So it was not a new idea to the Founding Fathers when they wrote it into the Constitution to facilitate fair taxation and accurate apportionment of the House of Representatives, the latter of which was the foundation of the Great Compromise that has served us well ever since.

The Constitution says in Article I, Section 2:

> Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years of the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall direct by law.

Opponents of sampling often say that the Constitution calls for an ''actual enumeration'', and this requires an actual headcount rather than any statistical inference about those we know we miss every time. However, numerous lower court rulings have found that it is permissible under the Constitution to use sampling. When the New York case was decided last year, the Supreme Court found that the decision by the Secretary of Commerce not to adjust the 1990 census for the undercount was a reasonable choice in areas where technical experts disagree, and within the discretion granted to the Federal Government. The opinion by Chief Justice Rehnquist stated that ''We do not decide whether the Constitution might prohibit Congress from conducting the type of statistical adjustment considered here.'' So it appears to be left to the executive and legislative branches to decide how best to count the populace.

I note that we have not taken an actual enumeration the way the Founding Fathers envisioned since 1960, after which enumerators going to every door were replaced with mail-in responses. The Constitution provides for a postal system, but did not direct that the census be taken by mail. Yet we do it that way. Why not sample if that is a further improvement?

Sampling would go far toward correcting one of the most serious flaws in the census, the undercount. Statistical work in the 1940's demonstrated that we can estimate how many people the census misses. The estimate for 1940 was 5.4 percent of the population. After decreasing steadily to 1.2 percent in 1980, the 1990 undercount increased to 1.8 percent, or more than 4 million people.

More significantly, the undercount is not distributed evenly. The differential undercount, as it is known, of minorities was 4.4 percent for blacks, 5.0 percent for Hispanics, 2.3 percent for Asian-Pacific Islanders, and 4.5 percent for Native Americans, compared with 1.2 percent for non-Hispanic whites. The difference between the black and nonblack undercount was the largest since 1940. By disproportionately missing minorities, we deprive them of equal representation in Congress and of proportionate funding from Federal programs based on population. The Census Bureau estimates that the total undercount will reach 1.9 percent in 2000 if the 1990 methods are used instead of sampling.

Mr. President, I have some history with the undercount issue. In 1966 when I became director of the Joint Center for Urban Studies at MIT and Harvard, I asked Prof. David Heer to work with me in planning a conference to publicize the nonwhite undercount in the 1960 census and to foster concern about the problems of obtaining a full enumeration, especially of the urban poor. I ask unanimous consent that my forward to the report from that conference be printed in the RECORD, for it is, save for some small numerical changes, disturbingly still relevant. Sampling is the key to the problem and we must proceed with it.

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

SOCIAL STATISTICS AND THE CITY

(By David M. Heer)

FOREWORD

At one point in the course of the 1950's John Kenneth Galbraith observed that it is the statisticians, as much as any single group, who shape public policy, for the simple reason that societies never really become effectively concerned with social problems until they learn to measure them. An unassuming truth, perhaps, but a mighty one, and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful word!) during a period when the relevant cabinet officers had on their own reached very much the same conclusion—and distrusted their charges all the more in consequence. For it is one of the ironies of American government that individuals and groups that have been most resistant to liberal social change have quite accurately perceived that social statistics are all too readily transformed into political dynamite, whilst in a curious way the reform temperament has tended to view the whole statistical process as plodding, overcautious, and somehow a brake on progress. (Why must every statistic be accompanied by detailed notes about the size of the ''standard error''?)

The answer, of course, is that this is what must be done if the fact is to be accurately stated, and ultimately accepted. But, given this atmosphere of suspicion on the one hand and impatience on the other, it is something of a wonder that the statistical officers of the federal government have with such fortitude and fairness remained faithful to a high intellectual calling, and an even more demanding public trust.

There is no agency of which this is more true than the Bureau of the Census, the first, and still the most important, information-gathering agency of the federal government. For getting on, now, for two centuries, the Census has collected and compiled the essential facts of the American experience. Of late the ten-year cycle has begun to modulate somewhat, and as more and more current reports have been forthcoming, the Census has been quietly transforming itself into a continuously flowing source of information about the American people. In turn, American society has become more and more dependent on it. It would be difficult to find an aspect of public or private life not touched and somehow shaped by Census information. And yet for all this, it is somehow ignored. To declare that the Census is without friends would be absurd. But partisans? When Census appropriations are cut, who bleeds on Capitol Hill or in the Executive Office of the President? The answer is almost everyone in general, and therefore no one in particular. But the result, too often, is the neglect, even the abuse, of an indispensable public institution, which often of late has served better than it has been served.

The papers in this collection, as Professor Heer's introduction explains, were presented at a conference held in June 1967 with the avowed purpose of arousing a measure of public concern about the difficulties encountered by the Census in obtaining a full count of the urban poor, especially perhaps the Negro poor. It became apparent, for example, that in 1960 one fifth of nonwhite males aged 25–29 had in effect disappeared and had been left out of the Census count altogether. Invisible men. Altogether, one tenth of the nonwhite population had been ''missed.'' the ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that a public airing of the issue might lead to greater public support to ensure that the Census would have the resources in 1970 to do what is, after all, its fundamental job, that of counting all the American people. As the reader will see, the scholarly case for providing this support was made with considerable energy and candor. But perhaps the most compelling argument arose from a chance remark by a conference participant to the effect that if the decennial census were not required by the Constitution, the Bureau would doubtless never have survived the economy drives of the nineteenth century. The thought flashed: the full enumeration of the American population is not simply an optional public service provided by government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case, there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a

full enumeration. Inasmuch as Negroes and other ''minorities'' are concentrated in specific urban locations, to undercount significantly the population in those areas is to deny residents their rights under Article I, Section 3 of the Constitution, as well, no doubt, as under Section 1 of the Fourteenth Amendment. Given the further, more recent practice of distributing federal, state, and local categorical aid on the basis not only of the number but also social and economic characteristics of local populations, the constitutional case for full enumeration would seem to be further strengthened.

A sound legal case? Others will judge; and possibly one day the courts will decide. But of one thing the conference had no doubt: the common-sense case is irrefutable. America needs to count all its people. (And reciprocally, all its people need to make themselves available to be counted.) But if the legal case adds any strength to the commonsense argument, it remains only to add that should either of the arguments bring some improvement in the future, it will be but another instance of the generosity of the Carnegie Corporation, which provided funds for the conference and for this publication.

CDBG

Mr. GRAMS. I would like to remind my colleagues that our CDBG request is based on very preliminary loss figures. There are many residents of communities along the Red River Valley who still have not returned to their homes. It will take months before we have a better idea of what the total losses will be.

As a result, all of us in Minnesota, North and South Dakota hope we can count on the support of the Appropriations Committee to help meet our future needs during the 1998 appropriations process, or, if necessary, in future supplemental requests. I realize that the rebuilding effort will take some time, and I would request the support of my distinguished colleague, the chairman of the Appropriations Committee, to help us fund additional disaster relief beyond this supplemental request as the true losses are determined.

Mr. STEVENS. The committee is well aware that funds for these disasters must be appropriated during the entire rebuilding period, which can take several years. We will work with the Senators from Minnesota, North and South Dakota to ensure that the disaster needs of your States are met during the 1998 appropriations process, as well as future appropriations bills, if necessary.

Mr. BINGAMAN. Mr. President, during the last several days, I have expressed concerns about various provisions and amendments on this supplemental appropriations Bill. In the end, however, I believe that this bill addresses not only New Mexico's transportation infrastructure needs but also many of the disaster relief demands facing other parts of the Nation, and I will vote for passage.

Unfortunately, this bill's continuing resolution provisions—which call for automatic across-the-board cuts—if the Congress fails to pass our appropriations bills before the end of the fiscal year is a poor and unacceptable way to legislate. I strongly oppose this provision which does remain in the supplemental appropriations bill. I am hopeful that this provision will be struck in conference and support the President's promised veto if this provision is not struck.

These supplemental appropriations bills should focus on the most pressing needs of the Nation—particularly natural disasters that call for our care and attention. We should not be cluttering these bills with provisions such as the continuing resolution provision which either the Conference Committee or the President must remove.

Mr. SANTORUM. Mr. President, the supplemental appropriation before us today contains funding for floods which devastated the Northwestern and Midwestern States. I can appreciate the necessity of providing FEMA funding for those States. The last time that this body considered a measure to provide funding for disaster assistance, it was a proposal for $1.2 billion in assistance, mainly to my State of Pennsylvania. That funding was an acknowledgment of the devastation that occurred as a result of the harsh winter, extensive snowfall, and severe flooding throughout Pennsylvania.

Again, Mr. President, the situation is no less severe and the need no less dire in the Northwest and Midwest. I sympathize with those Senators from affected States that have taken to the floor during this debate to talk about the devastation to homes, businesses, and communities that they have seen firsthand. The FEMA funding in this bill will be very helpful to States and localities in providing swift assistance in a timely manner.

During our last debate, Mr. President, I offered an amendment addressing the need for a structural change in the manner in which the Federal Government provides disaster funding. Specifically, the Senate passed several amendments I offered to the fiscal year 1996 omnibus appropriations bill which provided a mechanism to pay for $1.2 billion in disaster funding, called for a long-term funding solution, and ensured that disaster assistance funds were deficit neutral in the final conference committee bill.

The bill before us today and, specifically, the committee report build upon several of those amendments debated and passed last year. The committee report addresses concerns with the long-term structure of FEMA. The FEMA funding contained in this bill is offset by corresponding spending reductions within the same subcommittee jurisdiction. The work done by Senator BOND, chairman of the VA/HUD Appropriations Subcommittee, and Senator MIKULSKI, the ranking member, admirably balances the need for FEMA funding with the necessity of finding reductions within the jurisdiction of their subcommittee.

Specifically, I would like to cite page 26 of the committee report which mentions that:

> The Committee notes its continuing concern with the escalating costs of FEMA disaster relief. . . . FEMA acknowledges that the escalation of costs is due not only to the increase in large-scale disasters, but also because the scope of Federal disaster assistance has expanded, the Federal role in response has expanded considerably, and State and local governments are increasingly turning to the Federal government for assistance. . . .

The report also states that, ''The FEMA Director is committed to submitting a comprehensive proposal, including proposed legislation, by July 4, 1997.''

Mr. President, I would like Senator BOND to know of my continuing interest in working with him and the subcommittee on structural reform of FEMA, and of my anticipation of the report and recommendations from FEMA due in a few months. I will be sending him a letter offering my assistance, resources, and energies in restructuring the manner in which we have budgeted and provided relief for natural disasters. Senator BOND's statement in the committee report references several proposals worth considering. Among those reforms are the development of objective disaster declaration criteria and comprehensive Federal policies to control the Federal costs of disaster assistance, review of the appeals process, elimination of funding for tree and shrubs replacement, elimination of assistance for cultural and decorative objects, elimination of funding for certain revenue-producing facilities such as golf courses and stadiums, and creation of incentives for States and local governments to carry insurance to cover the repair and rebuilding of their infrastructure after a disaster.

There are several other proposals and recommendations that I have previously reviewed and that I hope we would also consider. Those proposals would require stringent, written justification by the President and Congress to designate emergency appropriations; enact a requirement for a three-fifths majority budget point of order for emergency supplemental appropriations; identify multi-year spending cuts to pay for emergency appropriations and remain within the budget; base annual disaster funding on historic funding levels, permitting occasional surpluses; and protect the contingency fund from being raided as a funding source for nondisaster projects.

Our action today is not without concerns, and I wanted to touch on a few areas of the supplemental appropriation, aside from the issue of disaster assistance. The supplemental appropriation is unfortunately riddled with additional spending in a variety of accounts and programs. The majority of these programs are not associated with the Northwest and Midwest floods. Rather, this process seems to serve as a vehicle to bolster Federal funding for programs that have otherwise operated this fiscal year under a very fair and

widely supported allocation. The supplemental funding that is not associated with either Federal disaster assistance or support for our troops in Bosnia reverses the work done in both the fiscal year 1996 and fiscal year 1997 omnibus appropriations bills. More troubling is the fact that the total amount of funds provided in this bill today is not completely offset with spending reductions and this overall supplemental appropriations package is not deficit neutral. For the remainder of this fiscal year, the bill creates excess spending of $467 million in budget authority and roughly $1 billion in outlays. The budget projection for years 1998 through the year 2002 create an even more troubling scenario.

I have been working with Senator GRAMM on two amendments to pay for both the 1997 funding shortfall and the imbalance for the remaining fiscal years. Those two amendments would make the fiscal year 1997 appropriations deficit neutral. The remaining spending obligations under the bill would count against the new budgetary caps established under the recent balanced budget agreement. Both amendments will rectify shortfalls in the bill and are in the spirit of how this body should continue to conduct our business—spending must remain deficit neutral. Again, Mr. President, the FEMA disaster assistance in this bill is offset. The issue with this bill is about additional discretionary spending versus shortfalls in spending reductions, and the need for this bill to be deficit neutral. I hope that this body will support the amendments.

Mr. GORTON. Mr. President, I speak today on behalf of the thousands of citizens of my home State whose homes and businesses were damaged or destroyed by floods and landslides this year. Washington was hit hard in late December and early January by unprecedented weather patterns that wreaked havoc across the State and again in the spring by flooding caused by snow melt in the mountains.

Freezing rain, snow, strong winds, and rapidly rising temperatures with warm rains led to unprecedented problems across the State. Mudslides and flooding eroded major roads and bridges, rendering them impassable; small businesses were destroyed by collapsing roofs due to heavy snow; and flooding harmed hundreds of homes and businesses. All but 1 of Washington's 39 counties were declared Federal disaster areas.

I visited many of the people whose lives and livelihoods were affected by the storms. Traveling across the State in February, I witnessed first hand nature's devastating impact. In Kalama, ground movement caused by soggy soil led a natural gas pipeline to rupture and explode, sending flames hundreds of feet into the air and terrifying nearby neighborhoods. In Edmonds, heavy, wet snow collapsed the roof of a marina housing 400 private boats, causing $15 million in damage. Several homes, roads, and bridges were destroyed by landslides throughout the Seattle area. Tragically, on Bainbridge Island, a family of four was killed when a mudslide buried their home in the middle of the night without warning. And in Yakima, Wenatchee, and across eastern Washington, farms and farm buildings sustained heavy damage. Apple, pear, and potato storage houses and dairy farms were destroyed when roofs collapsed under heavy snow.

Mr. President, when natural disasters touch the lives of so many people, it is the Federal Government's responsibility to offer a helping hand. The bill before the Senate today will do just that. The $5.8 billion in disaster relief funded by this legislation will go a long way to help Americans hurt by natural disasters across the Nation get back on their feet. Small Business Administration loans will help business and homeowners alike with necessary repairs. The Federal Emergency Management Agency will provide assistance to both individuals and State and local governments to repair private homes and businesses and roads and bridges damaged by the storms. And the Corps of Engineers will work to rebuild and strengthen levees and other flood protection measures to provide our communities better protection from rising rivers in the future.

On behalf of the people of Washington State, I commend Senator STEVENS for his dedication and diligence in bringing this legislation to the floor. His work and the work of my colleagues on the Appropriations Committee will ensure that America can recover from a particularly harsh winter and spring. This legislation will help millions of people who had the misfortune to be in the path of mother nature. I strongly support this bill, and I urge my colleagues to do the same.

DAIRY PRICE REPORTING AMENDMENT

Mr. SPECTER. Mr. President, I am pleased that the supplemental appropriations bill will include an amendment that I introduced to assist our Nation's dairy farmers. The amendment, which was cosponsored by Senators SANTORUM, FEINGOLD, and KOHL, would require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and would require the Secretary to report to Congress on the rate of reporting compliance.

Dairy prices set an all-time high in 1996, with an average price of $13.38 per hundredweight for the year. The price reached its peak in September at $15.37 per hundredweight, then dropped to $14.13 per hundredweight in October. The market experienced its largest drop in history during November, falling to $11.61 per hundredweight, which represents a 26-percent decline. During this same period, the cost of dairy production reached a record high due to a 30- to 50-percent increase in grain costs.

On November 22, 1996, I joined with 19 of my Senate and House colleagues in writing to Agriculture Secretary Glickman, urging him to take action to help raise dairy prices. Secretary Glickman responded on January 7, 1997, by announcing several short-term actions to stabilize milk prices. While these actions did have a small positive effect in increasing dairy prices, they did not provide adequate relief to our Nation's dairy farmers.

In order to hear the problems that dairy farmers are facing first hand, I asked Secretary Glickman to accompany me to northeastern Pennsylvania, which he did, on February 10. We met a crowd of approximately 500 to 750 angry farmers who complained about the precipitous drop in the price of milk.

During the course of my analysis of the pricing problem, I had found that the price of milk depends on a number of factors, one of which is the price of cheese. For every 10 cents the price of cheese is raised, the price of milk would be raised by $1 per hundredweight. Then I found that the price of cheese was determined by the National Cheese Exchange in Green Bay, WI. At least according to a survey made by the University of Wisconsin, there was an issue as to whether the price of cheese established by the Green Bay exchange was accurate. The authors of the report used a term as tough as manipulation. Whether that is so or not, there was a real question as to whether that price was accurate. Therefore, 3 days after the hearing at Keystone College, I introduced a sense-of-the-Senate resolution with Senators SANTORUM, FEINGOLD, KOHL, JEFFORDS, LEAHY, WELLSTONE, SNOWE, COLLINS, and GRAMS. The resolution, which passed by a vote of 83 to 15, stated that the Secretary of Agriculture should consider acting immediately to replace the National Cheese Exchange as a factor to be considered in setting the basic formula price for dairy.

In my discussions with Secretary Glickman, I found he had the power to raise the price of milk unilaterally by establishing a different price of cheese. Therefore, on March 10, I wrote to Secretary Glickman and urged him to take immediate action to establish a price floor at $13.50/cwt on a temporary, emergency, interim basis until he completes action on delinking the National Cheese Exchange from the basic formula price.

This subject was aired during the course a special hearing before the appropriations subcommittee on March 13. At that time, Secretary Glickman said that they had ascertained the identity of 118 people or entities who had cheese transactions that could establish a different price of cheese. He told me they had written to the 118 and were having problems getting responses. I suggested it might be faster to telephone those people. Secretary Glickman provided my staff with the list of people, and we telephoned them

and found, after reaching approximately half of them, that the price of cheese was, in fact, 16 cents higher by those individuals than otherwise. On March 19, I again wrote Secretary Glickman and informed him of the results of my staff's survey, explaining that there is a $.164 difference in the price of cheese and the price from the National Cheese Exchange. This translates to a $1.64 per hundredweight addition to the price of milk.

Moreover, on April 17, I introduced two pieces of legislation to revise our laws so that they better reflect current conditions and provide a fair market for our Nation's dedicated and hardworking farmers. The legislation goes to two points. One is to amend the Agriculture Market Transition Act to require the Secretary to use the price of feed grains and other cash expenses in the dairy industry as factors that are used to determine the basic formula for the price of milk and other milk prices regulated by the Secretary. Simply stated, the Government should use what it costs for production to establish the price of milk, so that if farmers are caught with rising prices of feed and other rising costs of production, they can have those rising costs reflected in the cost of milk.

The second piece of legislation would require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and provide the Secretary with the authority to require reporting by such manufacturing plants throughout the United States on the prices of cheese, butter, and nonfat dry milk.

On Tuesday, May 6, 1997, the Department of Agriculture announced that they were replacing the National Cheese Exchange in Green Bay, WI with a survey of cheddar cheese manufacturers in the United States in order to determine the price of cheese for use in setting the basic formula price for dairy.

Currently, the Department of Agriculture is relying on the voluntary compliance of cheese manufacturers to obtain information for their newly announced survey. My amendment requires the Secretary to report to Congress 150 days after the date of enactment of this bill the rate of reporting compliance by cheese manufacturers. The amendment further allows the Secretary to submit legislative recommendations to improve the rate of reporting compliance. The amendment also protects the pricing information provided to the Secretary of Agriculture. This information shall be kept confidential, and shall be used only to report general industry price figures which do not identify the information provided by any individual company.

This amendment takes a significant step toward ensuring that our Nation's dairy farmers receive a fair price for their milk. However, we still have much work ahead of us as the Department of Agriculture and Congress work together to reform the entire milk pricing system. I will continue to work in this area to ensure that the voices of dairy farmers in Pennsylvania and throughout the Nation are heard, and to ensure that any change in Federal dairy policy is fair and provides the necessary support for our Nation's milk industry.

Mr. STEVENS. If the Senators will bear with us, I think we will start a vote at about 20 minutes of 6 o'clock.

Let me first take care of the housekeeping problem. I ask unanimous consent after the Senate votes on the question of advancing S. 672 to third reading, it be held at the desk, and that when the Senate receives H.R. 1469, the Fiscal Year 1997 Supplemental Appropriations and Rescissions Act from the House, the Senate proceed immediately to its consideration, that the text of S. 627 as amended by the Senate be adopted as a substitute for the House text, that the House bill as amended be read for a third time and passed, the Senate insist on its amendment, request a conference with the House, that the Chair be authorized to appoint conferees, that motions to reconsider the votes on the preceding action be tabled, and that all the above mentioned actions take place without any intervening action or debate.

Let me explain. That means in a few minutes we will vote on advancing this bill to third reading. That, in effect, will be the final vote by the Senate on this bill. There are people that asked for a final vote. This is the way to do it. The House has not acted on the bill. We have done this before. It has been cleared with both sides.

I repeat my request for unanimous consent.

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

Mr. STEVENS. I have a series of matters, here, and then I ask the Chair to recognize the Senator from Texas, [Mrs. HUTCHISON] once we complete these matters. That is the end of the business before the Senate. There are some Senators that wish to make statements. I will deal with that in a minute.

AMENDMENT NO. 114

(Purpose: To study the high rate of cancer among children in Dover Township, New Jersey)

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. TORRICELLI, for himself and Mr. LAUTENBERG, proposes an amendment numbered 114.

Mr. STEVENS. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

On page 57, between lines 3 and 4, insert the following:

SEC. . MICHAEL GILLICK CHILDHOOD CANCER RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) during the period from 1980 to 1988, Ocean County, New Jersey, had a significantly higher rate of childhood cancer than the rest of the United States, including a rate of brain and central nervous system cancer that was nearly 70 percent above the rate of other States;

(2) during the period from 1979 to 1991—

(A) there were 230 cases of childhood cancer in Ocean County, of which 56 cases were in Dover Township, and of those 14 were in Toms River alone;

(B) the rate of brain and central nervous system cancer of children under 20 in Toms River was 3 times higher than expected, and among children under 5 was 7 times higher than expected; and

(C) Dover Township, which would have had a nearly normal cancer rate if Toms River was excluded, had a 49 percent higher cancer rate than the rest of the State and an 80 percent higher leukemia rate than the rest of the State; and

(3)(A) according to New Jersey State averages, a population the size of Toms River should have 1.6 children under age 19 with cancer; and

(B) Toms River currently has 5 children under the age of 19 with cancer.

(b) STUDY.—

(1) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry shall conduct dose-reconstruction modeling and an epidemiological study of childhood cancer in Dover Township, New Jersey, which may also include the high incidence of neuroblastomas in Ocean County, New Jersey.

(2) GRANT TO NEW JERSEY.—The Administrator may make 1 or more grants to the State of New Jersey to carry out paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act $6,000,000 for fiscal years 1998 through 2000.

Mr. STEVENS. This amendment has been cleared by both sides of the aisle. I urge its adoption.

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

The amendment (No. 114) was agreed to.

AMENDMENT NO. 237

(Purpose: To provide additional emergency CDBG funds for disaster areas)

Mr. STEVENS. Mr. President, I send to the desk a new amendment and I 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. DORGAN, for himself, Mr. CONRAD, Mr. GRAMS, Mr. DASCHLE, Mr. WELLSTONE, and Mr. JOHNSON, proposes an amendment numbered 237.

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

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

The amendment is as follows:

On page 30, line 11, strike ''$100,000,000'' and insert ''$500,000,000''.

On page 31, line 4, insert after the colon the following: ''*Provided further*, the Secretary of Housing and Urban Development shall publish a notice in the federal register governing

the use of community development block grant funds in conjunction with any program administered by the Director of the Federal Emergency Management Agency for buyouts for structures in disaster areas: *Provided further*, that for any funds under this head used for buyouts in conjunction with any program administered by the Director of the Federal Emergency Management Agency, each state or unit of general local government requesting funds from the Secretary of Housing and Urban Development for buyouts shall submit a plan to the Secretary which must be approved by the Secretary as consistent with the requirements of this program: *Provided further*, the Secretary of Housing and Urban Development and the Director of the Federal Emergency Management Agency shall submit quarterly reports to the House and Senate Committees on Appropriations on all disbursement and use of funds for or associated with buyouts:''.

On page 31, line 13, strike ''$3,500,000,000'' and insert ''$3,100,000,000''.

On page 31, line 17, strike ''$2,500,000,000'' and insert ''$2,100,000,000''.

Mr. GRAMS. Mr. President, I rise in strong support of the amendment by Senators CONRAD, DORGAN, GRAMS, WELLSTONE, DASCHLE, and JOHNSON. This is an amendment that is strongly supported and promoted by all six Senators in the three States devastated by the flooding of the Red River as well as the Minnesota River. It will increase the funds available in the bill for community development block grants from $100 to $500 million from funds offset from FEMA.

While I appreciate the $100 million request by the President for CDBG funds, included in the supplemental, it was evident to me as I surveyed the damage in my own State, that $100 million for all 23 States covered in this bill, was not enough. Therefore, I am grateful to my colleagues, Senators BOND, MIKULSKI, STEVENS, and BYRD for supporting this additional request, since I am well aware of how difficult it is for the committee to find the needed offsets.

I am grateful also to the efforts of Lynn Stauss, the mayor of East Grand Forks, MN, who traveled to Washington to communicate the needs of his city to Senate leaders yesterday. Mayor Stauss had particular concerns that the $100 million in the bill, combined with limited FEMA funds, would not be enough to help the flood communities complete the mitigation process involved with actually moving homes and businesses off the flood plain. It seems reasonable to increase CDBG funding in the bill to allow these devastated communities to start the relocation process with the certainty they need to sign construction contracts and start the rebuilding before the Minnesota winter complicates that process. Further, one of FEMA's goals is to move people off the flood plain to minimize future flood losses. This funding will facilitate that process.

I am pleased that the committee has made a commitment to address our funding needs through the supplemental conference committee as well as additional funding needs in the 1998 appropriations cycle and future supplementals. Since we are still paying for the 1993 floods in Minnesota, I am aware that the rebuilding effort is long-term, and I appreciate the concern and commitment of my colleagues on the Appropriations Committee to help us recover.

Again, on behalf of Minnesota flood victims, I thank my colleagues on the committee, and all of my Senate colleagues for their support of this amendment.

Mr. STEVENS. Mr. President, this does not increase the amount under the bill but transfers money from one account to another to take care of the CDBG problem outlined by the Senators from the States of the disaster area in the upper Midwest.

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

The amendment (No. 237) was agreed to.

AMENDMENT NO. 80

(Purpose: To provide rules for the issuance of take-reduction plan regulations)

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 Ms. SNOWE, for herself, and Mr. KERRY, proposes an amendment numbered 80.

Mr. STEVENS. Mr. President, I ask unanimous consent further reading 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. . DISENTANGLEMENT OF MARINE MAMMALS.

Section 101(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(c)) is amended by inserting a comma and ''to free a marine mammal from entanglement in fishing gear or debris,'' after ''self-defense''.

AMENDMENT NO. 80, AS MODIFIED

Mr. STEVENS. On behalf of Senators SNOWE, KERRY, GREGG, COLLINS, KENNEDY, SMITH, and BREAUX, I send to the desk a revision, a modification of that amendment, and I ask unanimous consent it be considered in place of the amendment originally offered.

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

The amendment, as modified, is as follows:

At the appropriate place insert the following:

SEC. . Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding at the end thereof the following:

''(d) GOOD SAMARITAN EXEMPTION.—It shall not be a violation of this Act to take a marine mammal if—

''(1) such taking is imminently necessary to avoid serious injury, additional injury, or death to a marine mammal entangled in fishing gear or debris;

''(2) reasonable care is taken to ensure the safe release of the marine mammal, taking into consideration the equipment, expertise, and conditions at hand;

''(3) reasonable care is exercised to prevent any further injury to the marine mammal; and

''(4) such taking is reported to the Secretary within 48 hours.''

Ms. SNOWE. Mr. President, the amendment that I am introducing today provides that the disentanglement of a marine mammal from fishing gear or debris does not violate the Marine Mammal Protection Act. This amendment is co-sponsored by Senators KERRY, GREGG, COLLINS, KENNEDY, SMITH, and BREAUX.

I would also like to thank the chairman of the Appropriations Committee, Senator STEVENS, for his efforts in helping us craft this amendment. Senator STEVENS has been a leader on marine mammal issues since the act was first enacted in 1972, and we value his expertise.

As a nation, we have taken great steps toward protecting marine mammals. The Marine Mammal Protection Act is an international model for minimizing adverse human impacts on marine mammal populations. Under the Act, the term ''take'' means ''to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal''. Takings are expressly prohibited without an exemption approved by the National Marine Fisheries Service, consistent with the MMPA. The takings language is clear. It is meant to prevent unnecessary injury to marine mammal populations. But unfortunately, as the law currently stands, the takings provision could be used to hold liable a person involved in attempting to rescue a marine mammal from entanglement.

Perhaps nowhere else is this problem more critical than in my own State of Maine, where NMFS has recently proposed a rule to reduce the takings of large Atlantic whales. Many of the stakeholders who have been involved in the debate over this rule believe that improved disentanglement of whales is a crucial part of any take reduction plan. In fact, while the NMFS's rule, which is badly flawed, relies heavily on untested and unproven fishing gear modifications, many knowledgeable people believe that enhanced disentanglement is the most effective known method of reducing serious injury or mortality.

However, fishermen and others will be very reluctant to participate in disentanglement efforts unless they have an ironclad guarantee that they would not be held liable for a taking. Thus, without a change in the law, the success of disentanglement programs would be severely limited.

The Snowe-Kerry amendment provides that change, encouraging fishermen and others to help rescue a marine mammal by removing the threat of prosecution. And we need the help of our fishermen. The fishing community provides our eyes and ears on the sea, working across areas far larger than

any single agency could hope to monitor. With the participation and support of fishermen, we can add to our understanding of marine mammal populations and reduce the incidence of serious injury.

Mr. President, this amendment enjoys bipartisan support and is not controversial. I urge my colleagues to support the amendment.

Mr. KERRY. Mr. President, the amendment offered today by Senator SNOWE and me represents an important and urgently needed step in our efforts to protect marine mammals. The provision amends the Marine Mammal Protection Act [MMPA] to encourage life-saving and well-intentioned efforts to free marine mammals from entanglement in fishing gear and marine debris.

Under existing law, fishermen and others who come to the assistance of a marine mammal that has become entangled in fishing lines or debris technically are in violation of the MMPA's moratorium on the taking, or incidental killing, of a marine mammal. This situation is a true example of the old axiom that no good deed goes unpunished. However, Federal officials have recognized that while such incidents may violate the letter of the law, they are entirely consistent with the goals and objectives of the MMPA to protect marine mammals and reduce injuries. Consequently, the Federal Government has exercised discretion and has never prosecuted individuals for such rescue efforts. This amendment simply codifies the existing practice of allowing good Samaritans to free entangled marine mammals without fear of prosecution under the MMPA. I think it is an idea that is long overdue and to which both conservationists and fishermen can agree.

The MMPA revision authorized by this amendment is particularly important for our ongoing efforts to forge partnerships with New England fishermen in the protection of endangered right whales. I know that Massachusetts lobstermen and fishermen are concerned about threats to these magnificent whales. This amendment should provide them needed reassurances that they will be protected in their efforts to reduce whale entanglement, injuries, and deaths.

I recognize that this is just one step in developing a comprehensive solution to the problem of interactions in New England waters between endangered whales and fishermen. We still must deal with substantial and well-justified concerns raised by New England fishermen about the effect of recent court decisions and proposed federal regulations on their economic well-being and ability to continue to pursue their traditional livelihood as we seek measures to enable the preservation and rebuilding of the seriously depleted right whale population.

As a New Englander and the ranking member of the Subcommittee on Oceans and Fisheries, I look forward to working with the distinguished chairwoman, Senator SNOWE, other members of the New England delegation, the fishing industry, conservation groups, and the Clinton administration to ensure that the final regulations are fair and balanced. Toward that goal, I will convene a meeting in Boston next week with other members of the Massachusetts delegation to hear from fishermen, whale conservationists, and the administration. While significant work remains to be done, I am confident that together we can resolve the current uncertainties and develop a solution that preserves both whales and fishermen.

Mr. COLLINS. Mr. President, I rise today to express my support for the amendment offered by my colleague and friend from Maine, Senator SNOWE.

As many of you may know, the Maine lobster industry and many other fishing industries along the Atlantic coast have been threatened with extinction by a seriously flawed proposal from the National Marine Fisheries Service. That proposal was designed supposedly to protect the endangered right whale and other large whales from getting entangled in commercial fishing gear.

Yet few Maine lobstermen have ever seen a right whale, let alone entangled one. Records show that about 20 right whales have been sighted within 12 miles of the Maine coast in the last quarter-century, and only one has become entangled in that period—a whale that, it is critical to note, was released unharmed. Clearly, the proposed rules affect Maine in a way that is drastically disproportionate to the threat to right whales in our State.

But though entanglements in or near Maine waters are exceedingly rare, they do occur more frequently in other waters. And when an entanglement does occur, we should make certain that there is in place a system that encourages the fisherman to do all he can to help that whale. This amendment would remove a significant barrier to that, and create an environment where a fisherman is more likely to take the appropriate steps to help the entangled whale.

This amendment would simply protect a fisherman who comes across a whale entangled in fishing gear or debris, reports the entanglement, and either begins to disentangle the whale himself or stays with the whale to await help from a trained disentangling team, from being prosecuted or fined for doing so.

Currently, there is a disincentive for a fisherman to help or even report a whale that has become entangled in fishing gear: the fear of being held liable if that whale suffers a serious injury or dies as a result of the entanglement. Several large whales are among our most endangered species. It seems to me that it is in our best interest—and surely the whale's best interest—to encourage, rather than discourage, fishermen to do all they can to protect this species from being eradicated.

This amendment would provide a measure of protection for the fisherman who, through no fault of his own, comes across an entangled large whale. That fisherman could feel confident in reporting the entanglement to the appropriate officials, staying with the whale until a disentanglement team arrived, and helping in the disentanglement, all without fear of being slapped with a fine when he or she returned to shore.

We all want to protect whales, particularly right whales, and do all we can to restore this troubled species. The Snowe amendment takes a step in the right direction by specifically permitting a fisherman to report and stay with a whale that is entangled, without fear of reprisal. I am pleased to support it and I encourage my colleagues to do the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 80), as modifed.

The amendment (No. 80), as modified, was agreed to.

AMENDMENT NO. 175

(Purpose: Second degree amendment to amendment #161. Provides permissive transfer authority of up to $20,000,000 from the Federal Emergency Management Agency Disaster Relief Account to the Disaster Assistance Direct Loan Program Account)

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. CONRAD, proposes an amendment numbered 175.

Mr. STEVENS. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is 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''.

AMENDMENT NO. 175, AS MODIFIED

Mr. STEVENS. I send to the desk a modification of the amendment of Senator CONRAD and I ask for its immediate consideration.

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

The amendment, as modified, is as follows:

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 requirements as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended''.

Mr. STEVENS. Mr. President, I say to the Senate this amendment is modified with a technical correction. It authorizes FEMA to transfer up to $20 million to the Disaster Assistance Direct Loan Program. These are needed to provide operating assistance to local school districts whose students have been displaced as a result of flooding.

I urge its immediate adoption and ask it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 175), as modified, was agreed to.

AMENDMENT NO. 238

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 Mrs. MURRAY, for herself and Mr. GORTON, proposes an amendment numbered 238.

Mr. STEVENS. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

On page 17 of the bill, line 5, after ''Administration'' insert the following:

OPERATIONS, RESEARCH, AND FACILITIES

Within amounts available for ''Operations, Research and Facilities'' for Satellite Observing Systems, not to exceed $7,000,000 is available until expended to continue the salmon fishing permit buyback program implemented under the Northwest Economic Air Package to provide disaster assistance pursuant to section 312 of the Magnuson-Stevens Fishery Conservation and Management Act: *Provided,* That the entire amount shall be available only to the extent that an official budget request for $7,000,000 million, 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: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of such Act.

Mrs. MURRAY. Mr. President, I want to thank my colleagues, Senator STEVENS, Senator BYRD, Senator GREGG, Senator HOLLINGS, and Senator GORTON for their assistance and support in addressing this critical program for salmon fishers in the Pacific Northwest. This amendment continues to provide disaster relief for salmon fishers through a salmon fishing permit buyback program. This buy-back program has proven to be a tremendously effective way to help fishers and fish.

Over the last few years, the State of Washington has implemented a salmon fishing permit buy-back program to address the substantial reduction in salmon harvest opportunities that have confronted salmon fishers in recent years. In 1994, when stocks crashed as a result of poor ocean conditions and other factors, the National Oceanic and Atmospheric Administration, in response to the requests of the Governors of Washington, Oregon, and California, declared a fishery resource disaster and provided funding to implement relief programs. Funding for these programs was continued in 1995.

The three programs implemented were a habitat jobs program, a data collection jobs program, and a salmon fishing permit buy-back program in Washington State. These programs provided desperately needed relief to fishers devastated by the collapse of fishing opportunities. While the jobs programs continue, the buy-back program, after two-rounds of buy-backs, has run out of funding. However, the fishery resource disaster continues. Poor ocean conditions and habitat losses have hammered these salmon stocks. The recent floods in the Pacific Northwest have compounded these problems by washing out natural spawning beds, cutting off pristine stream stretches with landslides, and destroying hatchery brood stocks.

With the shortest and most severely restricted salmon fishing seasons ever proposed for this summer, this buyback program is needed more than ever. While the previous buy-backs have only addressed the Columbia River and Coastal Washington fisheries, this program must be expanded to include Puget Sound fisheries as well. Whatcom and Skagit County have declared fishery resource disasters as a result of last year's harvest. The gillnetters, reef netters, and purse seiners of the Sound need relief as well as the gillnetters and trollers on the Columbia and the coast.

The $7 million for buy-back included in this amendment will provide much needed assistance to the fishing communities of Washington State. The buy-back program will provide financial help to those who chose to be bought out, reduce competition for those who stay in, and help fish by reducing pressure on dwindling fish stocks. I appreciate the support of my colleagues.

Mr. HOLLINGS. Mr. President, I am pleased that we have been able to work out an agreement that supports the amendment by Senator MURRAY and Senator GORTON. This amendment provides $7 million in emergency assistance to deal with the impact on northwest fisheries.

Senator MURRAY has worked tirelessly on this issue. She has refused to take no for an answer. These northwest fishermen should know they have a champion here in Washington DC who really understands their industry. I know that from my work on this Appropriations Committee and from my service on the authorization committee that oversees the National Marine Fisheries Service.

There are no free emergencies any more with this crowd. This particular amendment takes advantage of satellite procurement savings that can be achieved because of the particulars of how NOAA reimburses NASA. So it is fully offset.

I truly appreciate the willingness of our chairman, Senator STEVENS, and our subcommittee chairman, Senator GREGG, to work out a compromise that allows this assistance move forward.

Mr. President, I urge adoption of the amendment.

Mr. STEVENS. Mr. President, this amendment makes available $7 million, with an offset, to take care of the problem regarding the salmon on the Columbia. I ask it be agreed to.

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

The amendment (No. 238) was agreed to.

AMENDMENT NO. 151

(Purpose: To permit the use of certain child care funds to assist the residents of areas affected by the flooding of the Red River of the North and its tributaries in meeting emergency demands for child care services)

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. DORGAN, proposes an amendment numbered 151.

Mr. STEVENS. Mr. President, I ask unanimous consent further reading 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. . EMERGENCY USE OF CHILD CARE FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning on April 30, 1997 and ending on July 30, 1997, the Governors of the States described in paragraph (1) of subsection (b) may, subject to subsection (c), use amounts received for the provision of child care assistance or services under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 et seq.) and under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide emergency child care services to individuals described in paragraph (2) of subsection (b).

(b) ELIGIBILITY.—

(1) OF STATES.—A State described in this paragraph is a State in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), has determined that a major disaster exists, or that an area within the State is determined to be eligible for disaster relief under other Federal law by reason of damage related to flooding in 1997.

(2) OF INDIVIDUALS.—An individual described in this subsection is an individual who—

(A) resides within any area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to flooding in 1997; and

(B) is involved in unpaid work activities (including the cleaning, repair, restoration, and rebuilding of homes, businesses, and schools) resulting from the flood emergency described in subparagraph (A).

(c) LIMITATIONS.—

(1) REQUIREMENTS.—With respect to assistance provided to individuals under this section, the quality, certification and licensure, health and safety, nondiscrimination, and other requirements applicable under the Federal programs referred to in subsection (a) shall apply to child care provided or obtained under this section.

92) AMOUNT OF FUNDS.—The total amount utilized by each of the States under subsection (a) during the period referred to in such subsection shall not exceed the total amount of such assistance that, notwithstanding the enactment of this section, would otherwise have been expended by each such State in the affected region during such period.

(d) PRIORITY.—In making assistance available under this section, the Governors described in subsection (a) shall give priority to eligible individuals who do not have access to income, assets, or resources as a direct result of the flooding referred to in subsection (b)(2)(A).

Mr. STEVENS. Mr. President, this amendment makes available certain child care funds to assist the residents of areas affected by the flooding of the Red River of the North and other areas flooding in the area. It has been cleared on both sides. I ask it be agreed to.

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

The amendment (No. 151) was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent to yield to the Senator from New Jersey for such time as he needs.

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

Mr. TORRICELLI. Mr. President, I thank the Senator from Alaska [Mr. STEVENS]; the Senator from Vermont [Mr. JEFFORDS]; and the Senator from Massachusetts [Mr. KENNEDY], for their assistance in what is, for the State of New Jersey, a very important matter.

Mr. President, while the people of the Dakotas were realizing an extraordinary emergency of massive proportions, which the entire Nation was witnessing, the people of Ocean County, NJ, were witnessing an equally devastating, though not nearly so noticed, tragedy in their lives. Extraordinarily high rates of childhood cancer, brain cancers, and neurological cancers were occurring in only a few individual communities in Ocean County, NJ.

I am extremely proud that the Department of Health of the State of New Jersey and, in the Federal Government, the Centers for Disease Control responded immediately in undertaking studies to find possible environmental causes for these high rates of cancer. Today, with the help of Senators BOND, STEVENS, KENNEDY, and JEFFORDS, we are responding in this emergency supplemental appropriations bill. We are authorizing the continuation of the study to try to find the reasons for these childhood cancers.

I am very grateful for this Federal response. This legislation assures that these studies will continue to their conclusion, possibly, and hopefully finding the reasons for these tragedies. For this, I am very grateful to my colleagues, Mr. President. I wanted to express my thanks.

Mr. STEVENS. Mr. President, I yield a minute to the Senator from Minnesota.

Mr. GRAMS. Mr. President, as we know, the eyes of thousands of residents of Minnesota and North Dakota and South Dakota have been watching this debate today. I want to thank the chairman, Senator STEVENS of Alaska, and all the others who have worked on this, like my colleague from Minnesota and the Senators from the Dakotas, for helping to provide flexible funding for the flooding disaster that ravaged our State and the Dakotas. We look to our colleagues in the House now to ensure that this additional money and community development block grants are preserved and the dollars make it into the hands of those who need it in these communities.

I wanted to take a moment to say thank you very much, Mr. President, for all their hard work and for all the hard work on the floor. I know the eyes and ears of Minnesotans and South Dakota and North Dakota residents have been watching and they thank you as well.

Mr. STEVENS. I thank the Senator.

SECTION 417

Mr. CONRAD. Mr. President, as Chairman BOND knows, last week I discussed the impact of recent floods along the Red River Valley on education communities in North Dakota, South Dakota, and Minnesota, specifically on local school districts that have enrolled displaced students from the Grand Forks and other communities. I mentioned that 11,000 elementary and secondary students from Grand Forks, ND, were displaced and attending class in more than 30 school districts across the State. More than 20,000 students are displaced in Minnesota.

At the time, I outlined the concerns of local school districts who were hit with unanticipated educational operating expenses as a result of enrolling displaced students in communities surrounding Grand Forks. After discussing the availability of emergency assistance with officials of the Federal Emergency Management Agency [FEMA], I was advised that while FEMA had authority to assist communities with the repair of educational facilities, the agency did not have authority under section 403, Essential Assistance, to assist a local district with emergency education operating expenses, for example, additional staffing, instructional materials.

In response to the concerns expressed by the North Dakota Department of Public Instruction, and local school districts, I introduced legislation on May 1, 1997, to authorize FEMA under section 403 to provide emergency education operations assistance to elementary and secondary schools.

Since the introduction of this legislation, I have been informed by FEMA officials, that following a review of authorized programs, FEMA will use authority under section 417, Community Disaster Loans, to provide a local school district with emergency education operating expenses. Under the Community Disaster Loans Program, the President is authorized to make loans to a local government agency which has suffered substantial loss of tax and other revenues as a result of a major disaster.

Mr. President, I know the chairman has been very understanding of the concerns of local school districts in the Upper Midwest, and have been working to respond to the concerns of local North Dakota communities. As you have been involved in discussions with FEMA officials regarding these emergency disaster funds, is it your understanding that FEMA may exercise existing authority under section 417 to provide funds for unanticipated emergency education operating needs of local school districts? These funds would be used to provide services for displaced students including emergency staffing and instructional materials.

Mr. BOND. Section 417 authorizes loans to local governments to carry on existing local government functions of a municipal operation character or to expand such functions to meet disaster-related needs. My understanding is that this would include emergency education operating needs.

EMERGENCY DRINKING WATER NEEDS

Mr. DASCHLE. I would like to engage my colleagues on the Senate Agriculture Appropriations Subcommittee in a colloquy.

Mr. COCHRAN. I would be happy to engage in a colloquy with my colleague from South Dakota.

Mr. BUMPERS. I am pleased to do so, as well.

Mr. DASCHLE. As a result of the flooding and the extremely high water levels on Lake Oahe this year, its banks are sloughing, causing the intake pipes for the Gettysburg drinking water system to crack and break, endangering the water supply for the city.

The best solution to this problem is to connect the city to the Mid-Dakota Rural Water System. The city is scheduled to be connected to the Mid-Dakota RWS in 1998 or 1999, at a cost of $1.5 million. If this money were made available this year, we could ensure that the residents of Gettysburg will have a safe stable supply of drinking water, despite these flooding-related problems.

It is my understanding that the Appropriations Committee has provided $6.5 million in the emergency supplemental spending bill for the Rural Utilities Service to address problems such as this. I very much appreciate the committee's willingness to add these funds to the bill. It is my hope and expectation that some of those funds could be used to help Gettysburg connect to the Mid-Dakota project this year.

Mr. BUMPERS. It is my expectation that the funds that were included for the Rural Utilities Service in the emergency funding bill will be used for a variety of disaster-related purposes, including providing assistance to communities, such as Gettysburg, to address emergency drinking water needs. It appears to me, based on your description of the problem, that the city of Gettysburg could qualify for some of these funds.

Mr. COCHRAN. That is my understanding as well. Addressing the emergency drinking water needs of rural communities is one of the purposes of this funding.

Mr. STEVENS. The Senator from Texas seeks to offer an amendment.

How much time does the Senator want?

Mrs. HUTCHISON. Five minutes is all right.

AMENDMENT NO. 62

(Purpose: To provide for enrollment flexibility)

Mrs. HUTCHISON. 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 Texas [Mrs. HUTCHISON] for herself and Mr. GRAMM proposes an amendment numbered 62.

Mrs. HUTCHISON. 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. . ENROLLMENT FLEXIBILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, any State plan (including any subsequent technical, clerical, and clarifying corrections submitted by the State) relating to the integration of eligibility determinations and enrollment procedures for Federally-funded public health and human services programs administered by the Department of Health and Human Services and the Department of Agriculture through the use of automated data processing equipment or services which was submitted by a State to the Secretary of Health and Human Services and to the Secretary of Agriculture prior to October 18, 1996, and which provides for a request for offers described in subsection (b), is deemed approved and is eligible for Federal financial participation in accordance with the provisions of law applicable to the procurement, development, and operation of such equipment or services.

(b) REQUEST FOR OFFERS DESCRIBED.—A request for offers described in this subsection is a public solicitation for proposals to integrate the eligibility determination functions for various Federally and State funded programs within a State that utilize financial and categorical eligibility criteria through the development and operation of automated data processing systems and services.

Mrs. HUTCHISON. Mr. President, 6 months ago, the State of Texas started the process of asking for a request for offers, permission from the Federal Government to consolidate services in its welfare system. It would allow a welfare recipient to come into one place to get AFDC, food stamps, Medicaid, or disaster assistance. It would allow the State of Texas to run its own welfare system. Now, Mr. President, that is exactly what Congress asked the States to do. We said we are going to give you block grants, we want you to be more efficient, we want you to save money. The State of Texas is complying. In fact, Mr. President, Massachusetts is doing much the same as the State of Texas is now trying to do. Wisconsin is doing it, and Arizona is looking at it. It really is the beginning of what we have asked the States to do, and that is to become more efficient and do a better job for the recipients of welfare.

The State of Texas has been waiting for 6 months and has gotten no answer from this administration. My amendment would grant the request for offers that Texas has put forward so that they can, in fact, consolidate their services and go out for bids to do it more efficiently.

Our Governor has said he believes the State of Texas is losing $10 million a month while this request is pending. There is precedent in Congress to grant waivers such as this. Washington State and New York State were granted child support waivers.

Mr. President, Congress has spoken. We have asked the States to do a job. The State of Texas is trying to comply, and others States are following along, and I am sorry to say that this administration is impeding the progress. They are thwarting the will of Congress. Mr. President, we must take action. We must take action so that the will of Congress can be done, which is to save welfare dollars and give the best service possible to welfare recipients. The will of Congress must go forward. I hope the President is not playing a game with the State of Texas. I hope the President is not waiting until this bill is finished and on his desk to turn down this request, because, in fact, Texas has met all of the requirements of the Federal Government.

I have spoken to Secretary Donna Shalala about this, and I have talked to other people in the White House. I have done everything I can do to speed up this process. My colleague, Senator GRAMM, who cosponsors this amendment, has also made the calls and written the letters to ask that this request be granted.

Mr. President, this is the wave of the future. Texas is trying to save the taxpayer dollars of our States and, at the same time, save the taxpayer dollars of all Americans. This will not cost anything; this will save money. I know that everyone is ready to vote on this bill. It is very important to my State that we grant this request for offers so that Texas can fulfill its mission, which is to give the best service in the most efficient way, and that is exactly what we asked them to do.

I urge adoption of my amendment.

Mr. WELLSTONE. Mr. President, parliamentary inquiry. Is the pending amendment germane?

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane.

Mr. WELLSTONE. Mr. President, I make a point of order that the amendment is not in order because it is not germane post-cloture.

The PRESIDING OFFICER. The point of order is sustained.

Mrs. HUTCHISON. Mr. President, I will not appeal the ruling of the Chair, but I believe that Congress has to step up to the line and do what is right by the States. We have asked them to do more; they are trying to comply. Texas will not be the last one to come forward. I am going to pursue this legislatively if the President of the United States does not grant this request for offers, which meets all of the standards Congress has put forward. I will be back, Senator GRAMM will be back, and there will be other States that will be affected by this. I hope that the Senate will be able to help us when we are able to put a germane amendment on a bill. Thank you.

Mr. WELLSTONE. Mr. President, I say to the Senator from Texas, we will be ready for debate, and it will be a substantive debate.

I thank the Chair.

Mr. STEVENS. Mr. President, I want to take a moment to thank the floor staff, particularly the Parliamentarian, the people who really represent the Senate. The public sees them and

hardly knows who they are, unfortunately, because we don't address each other by name on the floor.

We had 109 first-degree amendments and 75 second-degree amendments. We have handled a series of other amendments that were not presented, but we have done it by unanimous consent. We have gone through this bill. It is a disaster bill of monstrous proportions, and it is very vitally needed.

Unfortunately, we cannot pass it yet because of the tradition of the Senate awaiting passage by the House of appropriations bills. It is a tradition that we have honored and I seek to honor it again now.

I thank all of those who have helped us.

I want to put in the RECORD at this point the names of the people who have been on the staff of the Appropriations Committee on both sides, who worked on this bill and enabled us to get where we are now.

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

[Names of Majority Staff in roman; Names of Minority Staff in italics]

Staff Director, Steven J. Cortese, Deputy Staff Director, Lisa Sutherland, Assistant Staff Director, Christine Ciccone, Chief Clerk, Dona Pate, *James H. English, Terry Sauvain*.

FULL COMMITTEE

Senior Counsel, Al McDermott, Communications Director, John Raffetto,

Professional Staff Members: John J. Conway, Robert W. Putnam. Mary Beth Nethercutt.

Security Manager:, Justin Weddle, Staff Assistant: Jane Kenny, Doug Shaftel, *Mary Dewald, C. Richard D'Amato*.

SUBCOMMITTEES

Agriculture, Rural Development, and Related Agencies, Rebecca Davies, Martha Poindexter, C. Rachelle Graves-Bell, *Galen Fountain, Carole Geagley*.

Commerce, Justice, State, the Judiciary: Jim Morhard, Kevin Linskey, Paddy Link, Dana Quam, *Scott Gudes, Emelie East, Karen Swanson Wolf*.

Defense: Steven J. Cortese, Sid Ashworth, Susan Hogan, Jay Kimmitt, Gary Reese, Mary C. Marshall, John J. Young, Mazie R. Mattson, *Charles J. Houy, C. Richard D'Amato, Emelie East*.

District of Columbia, Mary Beth Nethercutt, *Terry Sauvain, Liz Blevins*.

Energy and Water Development: Alex W. Flint, W. David Gwaltney, Lashawnda Leftwich, *Greg Daines, Liz Blevins*.

Foreign Operations, Export Financing, and Related Programs, Robin Cleveland, Will Smith, *Tim Rieser, Emelie East*.

Interior and Related Agencies: Bruce Evans, Ginny James, Anne McInerney, Kevin Johnson, *Sue E. Masica, Carole Geagley*.

Labor, HHS, Education: Craig A. Higgins, Bettilou Taylor, Dale Cabaniss, Lula Edwards, *Marsha Simon, Carole Geagley*.

Legislative, Christine Ciccone, *James H. English*.

Military Construction: Sid Ashworth, Mazie R. Mattson, *C. Richard D'Amato, Emelie East*.

Transportation: Wally Burnett, Reid Cavnar, Joyce C. Rose, *Peter Rogoff, Carole Geagley*.

Treasury and General Government: Pat Raymond, Tammy Perrin, Lula Edwards, *Barbara A. Retzlaff, Liz Blevins*.

VA, HUD: Jon Kamarck, Carolyn E. Apostolou, Lashawnda Leftwich, *Andy Givins, Liz Blevins*.

Editorial and Printing: Richard L. Larson, Robert M. Swartz, Bernard F. Babik, Carole C. Lane.

Mr. STEVENS. Mr. President, I now move that the bill advance to third reading 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.

Mr. STEVENS. Mr. President, before the vote, I yield to my friend from West Virginia.

Mr. BYRD. Mr. President, I will be brief. This is the first appropriations bill that Senator STEVENS has managed since he assumed the chairmanship of the committee. On behalf of all Senators, I want to congratulate him on the skill and expertise which he has demonstrated in the handling of this bill. It is a complex and difficult bill. It is an exceedingly important bill. Although I shall vote against it for other reasons, I feel it incumbent upon me, especially, to call attention to his excellent management of this bill. I would have expected that out of him, as I have watched him over the years. He is an outstanding member of the Appropriations Committee and takes his responsibilities very seriously there. As always, he is so gentlemanly and considerate of the needs of other Senators with respect to their representations of their respective States. I thank him for his dedication and, once again, I salute him and congratulate him on the fine example he has shown. It is an example which I hope we all will attempt to emulate.

Mr. STEVENS. The words of the Senator are very kind. If I have any ability to work on the floor, it is because I have watched masters work before me.

I ask for the vote.

The PRESIDING OFFICER. The question is on the motion offered by the Senator from Alaska that the bill be read the third time.

The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 78, nays 22, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—78

Abraham	Burns	Dorgan
Akaka	Campbell	Enzi
Allard	Chafee	Feinstein
Ashcroft	Cleland	Ford
Baucus	Coats	Frist
Bennett	Cochran	Glenn
Biden	Collins	Gorton
Bingaman	Conrad	Grams
Bond	Coverdell	Grassley
Boxer	Craig	Harkin
Breaux	D'Amato	Hatch
Brownback	Daschle	Hollings
Bryan	DeWine	Hutchinson
Bumpers	Domenici	Hutchison
Inhofe	Mack	Shelby
Inouye	McCain	Smith (OR)
Jeffords	McConnell	Snowe
Johnson	Moynihan	Specter
Kempthorne	Murkowski	Stevens
Kennedy	Murray	Thomas
Kerrey	Reed	Thompson
Kerry	Reid	Thurmond
Landrieu	Robb	Torricelli
Leahy	Roberts	Warner
Lott	Rockefeller	Wellstone
Lugar	Roth	Wyden

NAYS—22

Byrd	Hagel	Moseley-Braun
Dodd	Helms	Nickles
Durbin	Kohl	Santorum
Faircloth	Kyl	Sarbanes
Feingold	Lautenberg	Sessions
Graham	Levin	Smith (NH)
Gramm	Lieberman	
Gregg	Mikulski	

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, for the information of all Senators, in light of this vote on the supplemental appropriations bill, there will be no further votes this evening.

The Senate will be in session tomorrow for general debate on the comptime-flextime bill. However, no votes will occur during Friday's session of the Senate.

The Senate will be in session on Monday to consider the IDEA, the individual disabilities education bill, hopefully, under a time agreement that we are still working on. I urge that all my colleagues agree to be brief on the time agreement that we can reach so that we can complete this very important legislation that has very broad based bipartisan support. If that agreement can be reached, any votes ordered then will be stacked on Tuesday at the request of a number of Senators. I fear that if the Senate cannot consider this bill on Monday, that events then will cause—because of the budget and other bills that we do have to consider, including the Chemical Forces in Europe Treaty, it would be pushed off until after the Memorial Day recess and everybody would like to get the IDEA bill done.

On Tuesday, the Senate will begin formal consideration of the flextime-comptime bill.

UNANIMOUS-CONSENT AGREEMENT

I now ask unanimous consent that we begin consideration of S. 4 at 10 a.m. on Tuesday, May 13.

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

Mr. LOTT. I thank my colleagues for their cooperation. I now ask there be a period for the transaction—Mr. President I withhold.

Does the Senator have further business?

Mr. STEVENS. I have other business on this bill, if I may.

Mr. LOTT. I will withhold that request at this time, and I yield the floor for the time being, Mr. President.

AMENDMENT NO. 239

(Purpose: To provide relief to agricultural producers who granted easements to, or owned or operated land condemned by, the Secretary of the Army for flooding losses caused by water retention at the dam site at Lake Redrock, Iowa, to the extent that the actual losses exceed the estimates of the Secretary)

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment to S. 672 that I send to the desk be adopted.

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

Is there objection?

Mr. BYRD. I have no objection to reporting of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GRASSLEY, proposes an amendment numbered 239.

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. . RELIEF TO AGRICULTURAL PRODUCERS FOR FLOODING LOSS CAUSED BY DAM ON LAKE REDROCK, IOWA.

(a) ELIGIBILITY.—To be eligible for assistance under this section, an agricultural producer must—

(1)(A) be an owner or operator of land who granted an easement to the Federal Government for flooding losses to the land caused by water retention at the dam site at Lake Redrock, Iowa; or

(B) have been an owner or operator of land that was condemned by the Federal Government because of flooding of the land caused by water retention at the dam site at Lake Redrock, Iowa; and

(2) have incurred losses that exceed the estimates of the Secretary of the Army provided to the producer as part of the granting of the easement or as part of the condemnation.

(b) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Army shall compensate an eligible producer described in subsection (a) for flooding losses to the land of the producer described in subsection (a)(2) in an amount determined by the Federal Crop Insurance Corporation.

(2) REDUCTION.—If the Secretary maintains a water retention rate at the same site at Lake Redrock, Iowa, of—

(A) less than 769 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 10 percent;

(B) not less than 769 feet and not more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 7 percent; and

(C) more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 3 percent.

(c) CROP YEARS.—This section shall apply to flooding loses to the land of a producer described in subsection (a)(2) that are incurred during the 1997 and subsequent crop years.

Mr. STEVENS. Mr. President, I do ask that we consider this amendment at this time, and I further ask that upon its adoption it be placed in the bill that's just been passed as this action was completed prior to voting upon advancing this bill to third reading.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD addressed the chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Will the distinguished manager of the bill explain why this amendment is being called up following the final action on the bill?

Mr. STEVENS. Mr. President, by mistake this bill was deemed to have been objected to, and upon review after the bill, S. 672, was advanced to third reading, it was determined that the objection had not in fact been placed by the Senator that was purported to have placed an objection. It has been cleared on both sides, and it is matter now of trying to correct it and get this amendment of Senator GRASSLEY back to where it should have been adopted prior to the advancing of this bill to third reading.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska. I have no objection to the action requested.

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

The question is on agreeing to the amendment.

The amendment (No. 239) was agreed to.

Mr. STEVENS. Mr. President, I ask that this bill, S. 672, be postponed and set aside until the House bill arrives and this unanimous consent agreement may be fulfilled.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill has been set aside.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Has a quorum been put in place, Mr. President?

The PRESIDING OFFICER. No quorum call has been placed.

MORNING BUSINESS

Mr. LOTT. Then, Mr. President, I thank my colleagues for their cooperation on the agreement we just reached on S. 4, and I now ask there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each, with the exception of Senator BYRD, who will speak on Mother's Day.

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

LOUISIANA CONTESTED ELECTION

Mr. WARNER. Mr. President, I would like to report to the Senate that the Committee on Rules and Administration is about to embark on a bipartisan investigation into allegations that fraud, irregularities, and other errors, affected the outcome of the 1996 election for U.S. Senator from Louisiana—the first such Senate investigation into vote fraud since the early 1950's.

A review of the basis for this investigation and the developments to date is an obligation I have as chairman.

On November 5, 1996, Ms. MARY LANDRIEU and Mr. Louis ''Woody'' Jenkins competed in a very close election in which Ms. LANDRIEU was declared the victor by Louisiana State officials, by a margin of 5,788 votes out of approximately 1.7 million total votes cast. This margin represented a percentage difference of only 0.34 percent, one of the closest contested elections in U.S. Senate history.

On December 5, 1996, Mr. Jenkins filed a petition with the U.S. Senate asking that the election be overturned because of vote fraud and irregularities which he believed affected the outcome of the election. Along with an amended petition, Mr. Jenkins filed supporting evidence with the Senate on December 17.

Senator LANDRIEU filed a response to the petition on January 17, 1997. On February 7, 1997, Mr. Jenkins then submitted an answer to Senator LANDRIEU's filing.

In accordance with Senate precedent, Ms. LANDRIEU was seated ''without prejudice'' as the Senator from Louisiana on January 7, 1997, with all of the privileges and authority of a U.S. Senator. Majority Leader LOTT quoted former Majority Leader Robert Taft in defining the term ''without prejudice'' when Senator LOTT spoke on the floor on January 7:

[T]he oath is taken without prejudice to the right of anyone contesting the seat to proceed with the contest and without prejudice to the right of anyone protesting or asking expulsion from the Senate to proceed.

The U.S. Constitution provides that the Senate is—and I quote from article I, section 5—''the Judge of the Elections, Returns, and Qualifications of its own Members. * * *'' The U.S. Supreme Court has reviewed this Constitutional provision on several occasions and held in the 1928 case of *Reed et al.* v. *The County Comm'rs of Delaware County, Penn.* [277 U.S. 376, 388 (1928)]:

[The Senate] is the judge of elections, returns and qualifications of its members. . . It is fully empowered, and may determine such matters without the aid of the House of Representatives or the Executive or Judicial Department.

In discussing the responsibilities of the Senate, Senator Robert C. BYRD, who has been a member of the Committee on Rules and Administration since 1963, stated on the floor of the Senate on January 15, 1975, as part of the debate on the New Hampshire contested election:

. . . The Constitution of the United States places in this body the responsibility of being the sole judge of the elections, returns, and qualifications of its own members. Article 1, section 5, does not say that the Senate may be the judge; it says the Senate *shall* be the judge.

. . . The Constitution vested in this body not only the power but the *duty* to judge, when there is a challenged election result involving the office of U.S. Senator. [Congressional RECORD Vol. 121, Part 1, page 440. (emphases added).]

And indeed, the Senate has taken this constitutional responsibility very seriously, handling approximately 100 contested cases over its 208-year history. Under the current Senate Rules, responsibility for developing the facts and recommendations for the full Senate in contested elections lies with the Committee on Rules and Administration.

Following the precedent of the Huffington versus Feinstein contest in 1995, I and ranking member, Mr. FORD, retained two outside counsel who are experts in the field of election law: Mr. William C. Canfield III, and Mr. Robert F. Bauer. These are the same two attorneys who assisted the committee in the Huffington contest.

Senator FORD and I requested that these experts review the pleadings and provided the following guidance:

We request a written analysis of the sufficiency of the petition, based on the precedents and rules of the Senate, with specific reference to any documentation submitted by Mr. Jenkins or Ms. Landrieu relevant to the petition. The opinion should focus on the question of whether the petition is subject to dismissal without further review, or requires additional review or investigation, and, if so, the scope and structure of such review or investigation.

On April 8, 1997, these two counsel submitted a joint report which, in summary, recommended that the committee conduct ''a preliminary, limited investigation into the sufficiency of claims in three areas, and the dismissal of claims in four areas.'' The areas counsel recommended further review of were: vote buying, multiple voting, and fraudulent registration.

Mr. Canfield and Mr. Bauer then appeared before the committee, in open session, on April 10 to describe their review and recommendations, and to answer questions from the members of the Rules Committee.

On April 15, 1997, again in open session, Mr. Jenkins and attorneys for Senator LANDRIEU made presentations to the committee which laid out their respective views of the contest, the allegations made and evidence presented, and the standards of pleading and proof required to warrant further committee action.

As I stated at those hearings, I believe the counsel's report is a valuable contribution to the committee's evaluation of the contest. Nevertheless, it is important to remember that these lawyers were not asked to conduct an investigation, and they did not do so. Rather, they reviewed and analyzed only the petition and facts submitted by both Mr. Jenkins and Senator LANDRIEU.

When the committee met on April 17, 1997, to determine a further course of action, I advised my colleagues that I agreed with our counsel that an investigation was warranted. Indeed, I believed that Senate precedent dictated that an investigation be conducted. It was also my opinion that the committee's investigation should:

First, not be limited to specific areas which might preclude investigation of other potential sources of evidence; and

Second, should involve the use of attorneys with investigative experience to conduct an initial investigation in Louisiana within approximately a 45-day period.

In furtherance of these objectives, the committee met on April 17, and I offered a committee motion to authorize such an investigation. After several amendments, the committee authorized the chairman, in consultation with the ranking member to conduct an investigation,

* * * into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the State of Louisiana in 1996.

Since the committee hearing of April 17, I have worked with Senator FORD toward jointly selecting—as required by 2 U.S.C. 72a(I)(3)—the consultants that would assist the committee in the conduct of its investigation. The contracts hiring these consultants were signed by me and Senator FORD on May 7.

The investigative team will be headed by Richard Cullen, a former U.S. Attorney in Virginia, and George Terwilliger, also a former U.S. Attorney and later Deputy Attorney General of the United States, both with Republican affiliations, of the law firm McGuire Woods Battle & Boothe. They will be assisted by several of their firm's colleagues, including Jim Dyke, former top official for Vice President Walter Mondale and Gov. Doug Wilder, Bill Broddaus, former Democratic Attorney General of Virginia, and Frank Atkinson, former counsel to Gov. George Allen, comprising a well-experienced, bipartisan team who will take direction from me.

Participating fully in the investigation—pursuant to a protocol establishing the basic procedures under which all counsel will conduct the investigation—will be a second team of attorneys selected by Senator FORD and headed by Robert Bauer and John Hume of the law firm Perkins Coie, with Democrat affiliations.

This protocol, which was jointly drafted by the two teams, includes procedures for subpoenaing witnesses and documents, and conducting interviews and taking depositions. It establishes confidentiality procedures to protect the integrity of the investigation.

As Senator FORD and I worked toward the selection of our consultants and a joint investigation, I also spoke with the Governor of Louisiana, Mike Foster, who has assured the fullest cooperation with the Senate's investigation. And, committee staff is coordinating with the Federal Bureau of Investigation and the General Accounting Office seeking a detail of personnel to assist the committee.

The Senate's investigation in Louisiana is about to begin. Records will shortly be requested from the State, and the teams of counsel will go down to Louisiana next week to establish a local headquarters and make initial coordination with appropriate State and local officials, and prepare for witness interviews.

Mr. President, in the course of one's career as a Senator there are responsibilities you must perform. I did not seek this task, but I will truly and faithfully discharge a duty I have been given as chairman of the Rules Committee.

I have but one goal: to see that my work is performed in keeping with the tradition of the Senate in past cases and to give the full Committee my honest judgement of the established facts, and so that the Committee might give to the Senate its honest judgement of these facts, respecting the Senate's duty under article 1, Section 5 of the Constitution of the United States.

It is my intention that this investigation will determine the existence, or absence, of that body of credible fact that would justify the Senate in making a determination that fraud or irregularities or other errors, in the aggregate, did or did not, affect the outcome of the 1996 election for U.S. Senator in the State of Louisiana—thereby fulling the Senate's constitutional duty of judging the results of that election.

COMMENDING GIRL SCOUT GOLD AWARD RECIPIENTS

Mr. FORD. Mr. President, I want to draw special attention today to five young women from northern Kentucky. These five young women from the Licking Valley Girl Scout Council are recipients of the Girl Scout Gold Award—the highest achievement a Girl Scout can earn. Each one has demonstrated outstanding achievements in the area of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A. serves over 3.5 million girls and has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. Recipients of the award have not only earned patches for the Senior Girl Scout Leadership Award, the Senior Girl Scout Challenge, and the Career Exploration Pin, but also designed and implemented a Girl Scout Gold Award project.

But perhaps most important, these five Gold Award recipients have made a commitment to community that should not go unrecognized.

Kelly Buten, Mary Jane Hendrickson, Alyssa Hensley, Mandy Radle, and Becky THOMAS have put an extraordinary amount of work into earning

these awards, and in the process have received the community's and the Commonwealth's respect and admiration for their dedication and commitment. Their projects included teaching beginning violin classes to local elementary school children, organizing a fundraising breakfast for local elementary schools and holding a children's Christmas party.

For 85 years, the Girl Scouts have provided an informal educational program to inspire girls with the highest ideals of character, conduct, patriotism, and service so they will become resourceful, responsible citizens. The Licking Valley Girl Scouts alone serve over 5,000 girl and adult members.

Mr. President, I know my colleagues share my enthusiasm and admiration for the Girl Scouts' commitment to excellence. And, I know you will agree with my belief that this award is just the beginning of a long list of accomplishments and successes from these five Girl Scouts.

AMERICAN INTERESTS IN THE CASPIAN SEA REGION

Mr. BYRD. Mr. President, American involvement and interests in the Caspian Sea Region, have been increasing recently. While this region is new on the political map of American policymakers, in that the newly-sovereign nations there were formerly Republics under the rule of the Soviet Union, they represent very substantial new opportunities for the United States.

From the point of view of energy reserves, the tremendous hydrocarbon resources which are available for development in the region are of world-class potential. The extent of the resources which apparently exist, particularly in Kazakstan, Azerbaijan, and Turkmenistan could well serve as a long-term alternative to Western dependence on vulnerable supplies of Persian gulf oil. The proper development of the energy resources of the Caspian Sea region should also provide an invaluable impetus to the economic development of all the nations of the region. As a result of this growing potential, the Foreign Operations Appropriations Act for FY 1997 included a provision that I proposed for the Administration to develop a plan of action for the United States government to assist and accelerate the earliest possible development and shipment of oil from the Caspian Sea region to the United States and other Western markets.

Mr. President, the Secretary of State has forwarded to the Congress, on April 15, 1997, the study which was required by the Appropriations Committee, and I am pleased to include the Summary, as well as recommended legislative and executive actions proposed by the report. It is a good report and should be of assistance to the Congress as it deliberates how to provide incentives for the United States to help promote the development of this new source of Western energy supplies, and to promote the future stability of the nations of the Caspian region, which is so necessary in order that our companies can operate effectively with the governments of those nations in developing these energy resources.

Mr. President, the full report is available from the Department of State, which originated it. I would, however, like to point out that the interagency group which developed the recommendations puts great emphasis on the need for the Congress to review the prohibition on direct bilateral assistance to Azerbaijan which is contained in Section 907 of the Freedom Support Act. The report indicates that Section 907 has the effect of limiting the influence of the United States in Azerbaijan, including the ability of the United States government to ''provide financial support, such as risk insurance and grants for pipeline studies, to companies that are involved with the Azerbaijani government,'' thereby giving advantage to other governments who have no such limitations placed on their ability to assist their companies in the competition for access and opportunities in Azerbaijan. Revisiting the necessity of retaining, revising, or eliminating Section 907, would allow our institutions, such as the Trade and Development Agency, the Department of Commerce's Foreign Commercial Service, and the Overseas Private Investment Corporation, to assist U.S. companies to compete against foreign corporations, which presently enjoy the support of their own governments in the competition for business and opportunities in Azerbaijan. The report also encourages high-level political and business visits to and from the region, and in this regard I would encourage the President to invite the President of Azerbaijan, Mr. Heydar Aliyev, to make an official visit to Washington. Furthermore, the report encourages the United States to continue to play a mediation role among the countries of the Caspian region, when they are involved in disputes. This is particularly important today with regard to the dispute between Armenia and Azerbaijan, which has inhibited joint development of energy and other projects, and has caused the dislocation and suffering of up to a million refugees in the region. As the report concludes, from a U.S. policy standpoint, ''Caspian energy development is not a zero sum game—all can benefit from the region's rapid economic development, including Russia.''

Mr. President, the Senate will soon be taking up the Treaty on Conventional Armed Forces in Europe (CFE) Revisions of the Flank Agreement. I find it disturbing that some of the governments most directly affected by this agreement, particularly the governments of Georgia, the Ukraine, and Azerbaijan have refused to sign the agreement. I have received a letter from the ambassador from Azerbaijan on May 5, 1997, Mr. Hafiz Pashayev, in which he expresses his concern over what he describes as an imbalance of forces in the flank area, which includes his country, and says that the agreement poses a security concern for Azerbaijan. In this regard, he points out that there are credible reports of the provision of massive Russian arms shipments to Armenia, which could well have the effect of further destabilizing the situation in the caucasus. It is important to note that the chairman of the Defense Committee of the Duma, the lower house of the Russian parliament, Mr. Lev Rokhlin, is reported, by Russian newspaper Nezavisimaya gazeta, to have revealed that elements of the Russian government or armed forces, from 1993–96, shipped some $1 billion in arms to Armenia, including 32 R–17's, or Scud missiles and associated launchers, 82 T–72 tanks, 50 armored combat vehicles, various howitzers, grenade launchers, and other missiles and armaments. This, of course, has alarmed American oil companies located within range of these missiles in Azerbaijan, and the ambassador says in his letter that there is concern in his country that these military shipments have caused an imbalance in forces in the so-called ''flank'' area, and pose a ''security concern for Azerbaijan.''

The Russian Government, or elements of it, appears to have used its armed forces in recent years in Georgia, in Azerbaijan, certainly in Chechnya, and perhaps other states in the region to exert influence and pressure on those governments. I note that Russia has maintained military bases in both Georgia and Armenia, and I have been informed that Russian officials have brought pressure on the government of Azerbaijan to allow Russian forces to establish a base in that nation. The government of Azerbaijan has, wisely I believe, resisted these pressures and retains its sovereignty without the presence of Russian forces on its soil. Administration officials testified last week, on April 29, 1997, before the Senate Foreign Relations Committee, in connection with the CFE Flank agreement, and have pointed out that it is the policy of the United States not to support the stationing of foreign troops such as Russian forces on the territory of any other states unless that is achieved by means of free negotiations and with full respect for the sovereignty of the states involved. We need to be careful that we do not in any way appear to countenance the imposition of Russian forces or equipment on any nation through heavy-handed tactics, tactics which might push the states of the Caspian region into positions that they would not otherwise freely assent to. Thus, it is certainly of legitimate concern that key states of the Caspian region have not agreed to the terms of the terms of the revisions of the CFE Treaty. This is a matter which I am sure the knowledgeable Senators on the Foreign Relations Committee will be discussing when that Treaty comes to the Senate floor

for consideration, and I look forward to that discussion.

I ask unanimous consent that the letter from the Ambassador from Azerbaijan and the letter of transmittal with the accompanying report be printed in the RECORD.

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

EMBASSY OF THE
REPUBLIC OF AZERBAIJAN,
Washington, DC, May 5, 1997.

Hon. ROBERT BYRD,
U.S. Senate
Washington, DC.

DEAR SENATOR BYRD: During Senate consideration of the CFE Treaty, I hope, members of the Senate will address concerns of the Government of Azerbaijan regarding this Treaty.

Specifically we are concerned about of an imbalance forces in ''flank'' area, which could pose security concern for Azerbaijan.

I would also remind you about the one billion an illegal arms shipments from unofficial sources in Russia to Armenia, which has already created a strategic imbalance for my country.

Sincerely,

HAFIZ M. PASHAYEV,
Ambassador.

U.S. DEPARTMENT OF STATE,
Washington, DC, April 15, 1997.

Hon. ROBERT BYRD,
Committee on Appropriations,
U.S. Senate.

DEAR SENATOR BYRD: On behalf of the Secretary of State, I am transmitting to you a report as requested by the Joint Explanatory Statement of the Committee of Conference accompanying the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as enacted in P.L. 104–208, that contains a plan for action for the United States Government to assist and accelerate the earliest possible development and shipment of oil from the Caspian Sea region to the United States and other Western markets.

Please do not hesitate to contact us if you have questions on this issue or on any other matter.

Enclosure: Report on the Caspian Region Energy Development.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

CASPIAN REGION ENERGY DEVELOPMENT REPORT, AS REQUIRED BY H.R. 3610

SUMMARY

This report to congress addresses the request of the FY 97 statement of managers accompanying the FY 97 Foreign Operations bill as incorporated in Public Law (104–208).

The Caspian Basin region is made up of the five littoral states of the Caspian Seas (Azerbaijan, Iran, Kazakstan, Russia, and Turkmenistan). With potential reserves of as much as 200 billion barrels of oil, the Caspian region could become the most important new player in world oil markets over the next decade. The United States supports the development of secure, prosperous, and independent energy-exporting states at peace with each other and their neighbors in the region. We want to see these countries fully integrated into the global economy. As the newly independent countries of the Caspian region work to enhance their sovereignty and to create stability within their own borders and in the region, energy resource development has emerged as a critical factor and means to these ends. The speed and depth of macroeconomic reforms and democratization of these states will provide the foundation for a favorable climate to attract foreign investment and will determine their future economic prosperity as well as the extent of their integration into the world economy. Resolution of regional conflicts in Nagorno-Karabakh, Abkhazia, and Chechnya is also critical for successful and comprehensive energy development in the region.

As a consumer nation, the United States is interested in enhancing and diversifying global energy supplies. It is the Clinton Administration's policy to promote rapid development of Caspian energy resources through multiple pipelines and diversified infrastructure networks to reinforce Western energy security, and provide regional consumers alternatives to Iranian energy. It is our judgment that the scale of Caspian basin energy resources not only justifies—but will demand—multiple transportation options for moving production out into world markets. Multiple pipelines will prompt competition, will ensure reliable, more efficient operations, and will promote commercial viability.

The United States has a policy that focuses on expanding and strengthening the web of relations with the region's newly independent states across bilateral, regional and multilateral levels; supporting the development and diversification of regional infrastructural networks and transportation corridors to tie the region securely to the West and providing alternatives to Iran; and constructively engaging these states in a dialogue on Caspian energy development, particularly through trade and investment.

We are encouraging these countries to adopt open, fair, and transparent investment regimes which will create favorable climates for U.S. companies to participate directly in the development of the region's energy resources. We are confident that their participation will bring strong partners and environmentally sound technology and practices to the countries in the region. The Clinton Administration has an active dialogue with the private sector and has developed working relations with the countries in the region to reduce or remove barriers to investment by U.S. companies. However, U.S. companies are disadvantaged in some crucial respects, preeminently by the burden that Section 907 of the FREEDOM Support Act places on companies working in Azerbaijan. Furthermore, foreign companies benefit significantly from unrestricted political and financial support from their governments.

In addition, the division of development rights to the significant oil and gas deposits beneath the Caspian Sea remains a critical issue for the five littoral states. The U.S. Government has encouraged the littoral states to adopt a legal regime in the Caspian Sea which includes the division of seabed resources through clearly established property rights and unrestricted transportation.

Another U.S. policy goal is to continue to isolate the Iranian regime until such time as its unacceptable practices, including support for international terrorism, cease. Iran's economic isolation imposed by U.S. sanctions is leading Teheran to look for new opportunities as well as new markets in the region. This presents a particular challenge as the USG works to balance its commercial interests in the region with its foreign policy goals.

An interagency working group for Caspian energy chaired by the National Security Council meets regularly to discuss U.S. policy toward the Caspian Basin. The Administration believes that significant progress is being made on these goals but suggests the following steps which can further advance U.S. interests in the region:

(1) Repeal Section 907 of the FREEDOM Support Act which restricts the provisions of USG assistance to the Government of Azerbaijan and limits U.S. influence and assistance in Azerbaijan;

(2) Take the necessary legislative and administrative actions to make TDA, OPIC, and EXIM programs available to our companies in the Caucasus, Central Asia, Afghanistan, and Pakistan;

(3) Encourage high-level visits to and from the region;

(4) Continue active U.S. support for international and regional efforts to achieve balanced and lasting political settlement of conflicts in Nagorno-Karabakh, Abkhazia, and elsewhere in the region. Be prepared to contribute a fair share to reconstruction and development costs of warn-torn zones following achievement of peace agreements;

(5) Make available USG resources to support a UN-led peace process in Afghanistan if/when the Afghan parties agree on terms for these elements;

(6) Encourage installation of upgraded navigation systems in the Bosporus;

(7) Encourage the development of new markets in the Black Sea region;

(8) Structure assistance to the region to encourage economic reform and the development of appropriate investment climates in the region.

RECOMMENDED LEGISLATIVE AND EXECUTIVE ACTIONS

1. Repeal Section 907 of the FREEDOM Support Act (FSA) which limits U.S. influence and assistance in Azerbaijan.

Section 907 of the FSA, enacted in 1992, provides that U.S. assistance ''may not be provided to the Government of Azerbaijan until the President determines, and so reports to Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.'' Unfortunately, this statutory restriction on assistance to the Government of Azerbaijan limits our ability to advance U.S. interests in Azerbaijan. The Clinton Administration has from the start opposed this restriction on assistance to the Government of Azerbaijan. Section 907 hinders U.S. policy objectives, including the provision of humanitarian aid, support for democratic and economic development, support for the Nagorno-Karabakh peace process, and promotion of U.S. investment opportunities in Azerbaijan. Section 907 restrictions have placed American firms at a disadvantage because they limit the ability of the U.S. Government to provide financial support, such as risk insurance and grants for pipeline studies to companies that are involved with the Azerbaijani government of its institutions, including the State Oil Company of Azerbaijan (SOCAR), on projects that involve substantial Azerbaijani government ownership or control. Section 907 prevents the U.S. from offering many kinds of technical assistance and exchange programs offered to other governments throughout the NIS and which are needed to help create an attractive business climate and commercial infrastructure. When the European Union, Japan, or International Financial Institutions step in to fill this void, the U.S. loses influence and U.S. businesses lose opportunities. This also creates hostility towards the U.S. and U.S. businesses. As foreign competition for oil and gas resources in the region increases, American companies—particularly smaller firms—will lose out and may be unable to compete with other, government-supported, foreign companies in Azerbaijan due to the restrictions Section 907 places on U.S. Government-funded support for American investment involving Government of Azerbaijan owned or controlled enterprises in Azerbaijan.

2. Take the necessary legislative and administrative actions to make TDA, OPIC and EXIM programs available to our companies in the Caucasus, Central Asia, Afghanistan and Pakistan.

Since U.S. companies will frequently not be participating as majority owners in pipeline and consortia agreement, we need to find creative ways in which we can assure their access to these programs within existing requirements on U.S. content and equity participation. Our competitors, as noted below, are already operating in the area with government-backed credit lines. Repealing Section 907 of the FREEDOM Support Act would make it easier for these programs to operate effectively throughout the Caspian region. We recognize that opening these programs in individual countries is contingent upon decisions from respective Boards of Directors taking into account legal strictures and country risk assessment.

3. Encourage high-level visits to and from the region.

Many observers point to high-level visible government support as major factor in the successful involvement of British, French, and Japanese firms throughout the Caspian region—support which gives these companies a significant competitive edge against American companies. This support typically takes two forms—high level, high visibility trade missions and export credits. The Caspian Basin is new to many political and business leaders in the U.S. High-level congressional, administration, and business travel to the region—for example cabinet-level participation in the oil and gas shows in Baku, Ashgabat, and Almaty, and in support of companies' bids for contracts—would be particularly useful. These visits should be reinforced by invitations to decision-makers from the region to come to the U.S.

4. Continue active U.S. support for international and regional efforts to achieve balanced and lasting political settlement of conflicts in Nagorno-Karabakh, Abkhazia, and elsewhere in the region (e.g. Chechnya, Tajikistan). Be prepared to contribute a fair share to reconstruction and development costs of war-torn zones following achievement of peace agreements.

5. Make available USG resources to support a UN-led peace process in Afghanistan if/when the Afghan parties agree on terms for these elements.

A lasting Afghanistan peace settlement is not only in the interests of the Afghan people but would promote regional stability and development. U.S. companies are eager to participate in exporting Caspian energy via Afghanistan.

6. Encourage installation of upgraded navigation systems in the Bosporus.

This issue should be kept separate from consideration of a main export pipeline through Turkey: it stands on its own merits. As noted earlier, the capacity of the Bosporus to carry Caspian oil safely and efficiently will eventually be exceeded. The present system is inadequate and needs replacement regardless of the additional volume of oil which transits this area. Turkish concerns for the safety of the 13 million people who live along the straits are valid and we should work through the International Maritime Organization (IMO) to set reasonable standards for safe and secure transit through the Straits. The adoption of more advanced technology would further improve the flow of traffic in the Straits and increase safety for shippers and reduce the risk of an environmentally devastating oil spill. Currently, while there are some aids to navigation, there is no continuous tracking of ships. The USG should continue to urge and work with the Turkish government to install a state-of-the-art Vessel Tracking System (VTS) for the Turkish Straits, preferably from an American supplier, which would provide complete radar coverage throughout the Straits and would have the ability to communicate with ships by radio. The U.S. Coast Guard is currently working on installing 17 such systems across the United States. The Coast Guard estimates that complete coverage of the Straits would cost $60 million to install, and up to $1 million annually to operate. The Turkish government has prepared a tender to install a world class VTS three times. The USG should support efforts to secure international financing for such a system.

7. Encourage the development of new markets in the Black Sea Region.

All current oil export routes from the Caspian Basin terminate at the Black Sea. Given the limitations on the volume of oil which can be exported through the Bosporus as outlined above, alternatives to the Straits must be identified and developed. One possibility is to develop the oil, gas, and power markets in the Black Sea Region and to develop the infrastructure to transport Caspian energy to other markets. Additional sources of energy for the countries of this region and increased transit fees would stimulate economic development, reduce existing monopolies over supplies, and provide lucrative marekts for the producing countries.

8. Structure assistance to the region to encourage economic reform and the development of appropriate investment climates in the region.

Continued USG support through technical assistance is essential in assisting these countries to establish strong market economies and encourage the emergence of a financially vibrant energy sector. Transparent legal and regulatory environment, and restructured and privatized energy sectors in these countries will ensure the commercial viability of new investments and expand opportunities for U.S. industry. To a great extent, the Clinton Administration's ability to tailor assistance strategies to address U.S. interests is hampered by restrictions on how assistance money can be spent. Besides the restrictions imposed by Section 907 of the FSA on USG funded assistance to the Government of Azerbaijan, Congressional earmarks limit assistance flexibility and often channel money away from projects and programs which might further U.S. interests more rapidly. We recommend that earmarks and other restrictions be kept as low as possible, if not completely eliminated.

TRIBUTE TO THOMAS SALMON

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Tom Salmon, president of the University of Vermont, who will be retiring later this month.

Tom and I have worked together for nearly three decades. First as young lawyers in our hometown of Rutland, VT, and then in the general assembly. While he went on to serve as Governor for two terms, I went to Washington to serve in Congress. Although we represented different political parties, we shared a love for Vermont which enabled us to work together and put politics aside.

More recently, during Tom Salmon's tenure as president of the University of Vermont, we have had the opportunity to work closely again. His commitment to improving the quality of education has been outstanding, and I have watched with admiration as the university has flourished under his guidance. His capacity to make tough decisions while also connecting with students at the university has contributed to his success. No one could ever question Tom Salmon's dedication after hearing about the time he had to excuse himself from an important meeting of the Governor's council of economic advisors because it conflicted with his graduate school seminar. This has been a job that Tom has loved, and one that he has done well.

As I think back over the years, one thing is very clear, Tom Salmon is a man who cares about the State of Vermont and its citizens. Be it as Governor, teacher, chairman of the board, or adviser, his outstanding ability always shines through making him one of Vermont's most successful leaders.

COMMENDATION FOR LINDA ESPINOSA

Mr. CAMPBELL. Mr. President, I would like to take the time today to commend an amazing young woman from my home State of Colorado.

Linda Espinosa is a very special person. Not only has she been named the valedictorian of her school in Colorado Springs, but she is also one of only six people each year to be awarded the Junior Achievement Award by Amway Corp. This achievement is even more significant because the award is given to outstanding individuals who have excelled in a particular area, despite suffering from hardship or disability. Linda's triumph has been overcoming deafness to lead her class at the Colorado School for the Deaf and Blind.

I admire Linda's determination and scholarship, and ask my colleagues to join me in recognizing her accomplishment. I wish Linda the best of luck in her future endeavors. We can all learn a lesson in perseverance from this courageous young woman.

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

SUMMARY OF A REPORT OF THE SENATE DELEGATION VISIT TO ASIA

Mr. DASCHLE. Mr. President, I ask unanimous consent to insert in today's RECORD a summary of a longer report on a November 1996 trip taken by a congressional delegation consisting of Senators GLENN, LEAHY, DORGAN, KEMPTHORNE, and myself. The delegation traveled to Vietnam, China, Hong Kong, and Taiwan, meeting with senior government officials in each location. The summary discusses the highlights of the trip. The full report is also available. As the trip report summary highlights, members of the delegation raised important U.S. national priorities in each country and gained valuable insight into the leaders' views.

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

REPORT OF THE SENATE DELEGATION VISIT TO ASIA, NOVEMBER 8–17, 1996

SUMMARY AND FINDINGS

A delegation from the United States Senate, consisting of Democratic Leader Tom Daschle (D–SD), Senator John Glenn (D–OH), Senator Patrick Leahy (D–VT), Senator Byron Dorgan (D–ND) and Senator Dirk Kempthorne (R–ID), met with leading officials in Vietnam, China, Hong Kong and Taiwan during a trip to that region from November 8–17, 1996. The delegation's mission was to explore firsthand U.S. policy issues in this part of the world where the United States has important national security, humanitarian and economic interests.

In each country, the delegation discussed various aspects of U.S. policy with high level government officials. In meetings in Vietnam, they raised a variety of important U.S. policy interests, beginning with the high priority the United States places on resolving remaining cases of U.S. service members reported missing in action (MIA). They also discussed the need for a comprehensive trade agreement and the issues that must be addressed before one can be completed. They raised a number of other issues, including urging greater cooperation on Agent Orange research issues; pressing the need or improvements in Vietnam's human rights practices; requesting that the U.S. Embassy in Hanoi be relocated to a more central location in the city closer to most of the organizations with which it works; and encouraging the Vietnamese to resolve remaining immigration issues and remove existing obstacles to trade.

In these meetings, the Vietnamese expressed a willingness to work with the U.S. to resolve problems in U.S.-Vietnamese bilateral relations. They clearly understood the importance of the MIA issue and pledged cooperation. They appeared to welcome the trade that has taken place in the absence of a comprehensive trade agreement and looked forward to expanding trade with such an agreement. The Vietnamese acknowledged that they had a way to go in modifying their laws and practices to enter fully the international marketplace. In addition, they were eager to have the National Assembly, their legislative branch, host a congressional delegation for the first time. They expressed strong interest in expanding contracts between our respective legislative branches in the future.

The Chinese leaders with whom the delegation met appeared very interested in moving U.S.-Chinese relations in a more positive direction. The delegation had a good exchange of views with the Chinese in a number of areas, including expressing the importance to the United States of human rights practices; the need for improvements in China's trade policies to open its markets and increase opportunities for U.S. exports; and the need for additional attention in the area of nuclear proliferation. They heard varying levels of acknowledgment of U.S. positions and willingness to work with us.

The delegation also discussed with the Chinese the upcoming July 1, 1997 transition in which Hong Kong reverts to Chinese sovereignty. The delegation indicated that it is very important to the U.S. that the transition go smoothly, and the Chinese said that they wished to see that outcome as well. The delegation also met with a wide range of Hong Kong residents to assess their views on the transition. Some were quite optimistic, as were the U.S. businesses with whom the delegation met. Others were more cautious and pointed out the potential for conflict.

The delegation had a number of discussions with leaders in China and Taiwan about the relations between Taiwan and the Mainland. Both sides indicated that tensions had diminished since the U.S. sent carriers to the Taiwan Straits shortly before Taiwan's March 1996 election. However, the delegation observed a wide gulf between each side's interpretation of the relations between them and the prospects for reunification.

TOM DASCHLE,
JOHN GLENN,
PATRICK LEAHY,
BYRON DORGAN,
DIRK KEMPTHORNE.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 7, 1997, the Federal debt stood at $5,336,081,916,565.07 (five trillion, three hundred thirty-six billion, eighty-one million, nine hundred sixteen thousand, five hundred sixty-five dollars and seven cents).

One year ago, May 7, 1996, the Federal debt stood at $5,093,910,000,000 (five trillion, ninety-three billion, nine hundred ten million).

Five years ago, May 7, 1992, the federal debt stood at $3,883,035,000,000 (three trillion, eight hundred eighty-three billion, thirty-five million).

Ten years ago, May 7, 1987, the Federal debt stood at $2,272,537,000,000 (two trillion, two hundred seventy-two billion, five hundred thirty-seven million).

Fifteen years ago, May 7, 1982, the Federal debt stood at $1,057,931,000,000 (one trillion, fifty-seven billion, nine hundred thirty-one million) which reflects a debt increase of more than $4 trillion—$4,278,150,916,565.07 (four trillion, two hundred seventy-eight billion, one hundred fifty million, nine hundred sixteen thousand, five hundred sixty-five dollars and seven cents) during the past 15 years.

Mr. LOTT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

WE CAN SAY WE WERE PART OF SOMETHING

Mr. DASCHLE. Mr. President, the tragic days of the Dirty Thirties are still remembered by many in my State. As an unbreakable drought settled over our region, the fields dried and the crops withered. Hot, dry winds whipped the dust into dark clouds that blew over the land and settled in great drifts on the ground. It was a desperate time for our State. Destitute and facing foreclosure, many South Dakotans had no choice but to abandon the farms in which they had invested countless years of labor. These losses rippled through our economy with a devastating effect, stripping businesses of their livelihood and farmworkers of their jobs. As the lines of the unemployed grew, so did a feeling of hopelessness among our people.

It was in the midst of this terrible Depression that one of our Nation's greatest Presidents, Franklin Delano Roosevelt, offered hope to the people of South Dakota. Through the Civilian Conservation Corps and the Works Progress Administration [WPA], he provided jobs for South Dakotans, and gave us back the dignity that comes with earning your keep. Roosevelt's mark can still be seen across the State, where the thousands of people he put to work left stadiums, sewer systems, and miles of highways and sidewalks as their legacy.

In Milbank, a quiet, friendly town in the northeast corner of my State, the WPA-built municipal water system still ingeniously delivers water from springs outside of town without the work of a single pump. And only recently was the stretch of Highway 12 that runs through Milbank, built by WPA workers and nearly six decades old, finally repaved.

After all Franklin Roosevelt gave to South Dakota and the people of Milbank, I am pleased to say that we have had the rare and wonderful opportunity to give something back to him. Mr. President, last week the long-awaited memorial to Franklin Roosevelt was unveiled. Over 800 feet long, its rough-hewn granite walls form outdoor rooms that honor each of Roosevelt's four terms as President.

I am proud to say that the stone for this memorial was quarried by workers in Milbank. Nearly 60 years after Roosevelt put the citizens of Milbank to work in the WPA, they have again been hard at work for him, cutting and hammering the granite for our memorial to the man who led our Nation through its worst depression and most terrible war.

Quarrying this granite has been a source of deep inspiration and pride for the workers of the Cold Springs Granite Co., which owns the quarry. Often working in the bitter cold, their fierce dedication ensured that the 4,500 hundred tons of stone they cut reached Washington safely and on schedule.

This was no mean feat—to meet the needs of the memorial, the 3-billion-year-old layer of granite that runs beneath Milbank was cut in pieces weighing up to 100 tons. These monstrous stones then had to be carefully raised, without cracking or falling, from the base of a pit 140 feet beneath the ground. Once they reached the surface, the stones were sent by flatbed truck to Cold Springs, MN, where workers shaped them according to the models of Lawrence Halprin, the designer of the monument. According to workers like Frank Hermans, who has worked in the quarry his entire adult life, the job gave him and his coworkers the chance to leave their mark in history. ''We can say we were part of something,'' he said. ''Not many get the chance to say that.''

I know I speak for my colleagues as I say thank you to the workers of Milbank for their dedication and hours of labor. Their efforts have helped the Nation to honor a man who gave us hope when we were hopeless and the determination to fight when our freedom was threatened.

Mr. President, the Washington Post recently printed an outstanding article on quarrying of the memorial's granite. I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, May 2, 1997]

BY PROUD TOIL, STONE IS HEWN INTO HISTORY

(By Peter Finn)

MILBANK, S.D.—The wind chill was 70 below one Saturday last November when the six quarrymen working in a deep gouge in the earth here had to move one last piece of granite. It was a 65-ton clossus.

The rock had been quarried loose a month earlier, but the permit to transport it on state roads to a factory in Cold Spring, Minn., for cutting and shaping stated that it had to go that day, bonechilling temperatures not withstanding.

''We had the warn clothes on,'' said Frank Hermans, the quarry foreman. ''But your face hurt. It was a cold one.''

It took three excruciating hours to bring the granite up from the 140-foot-deep quarry, making sure it did not fall or crack. Hermans, his face chapped and burnished, felt a fierce satisfaction as he watched it leave on a flatbed truck.

''We can say we were part of something,'' said the 46-year-old, who has worked down in ''the hole,'' as he calls it, since he was a teenager. ''Not many get to say that.''

Now, six months later, that piece of granite is a base stone in one of four fountains at the Franklin Delano Roosevelt Memorial, which will be dedicated today on a 7½-acre site by the Tidal Basin.

The memorial's dominant feature is its granite spine, an 800-foot-long meandering wall that forms four outdoor rooms, each representing one of FDR's presidential terms. The 12-foot-high wall defines the memorial sculpture and fountains, embracing and guiding the visitor through Roosevelt's time, the years of the Great Depression and World War II.

''As the stone gets rougher and rougher, the emotion builds up,'' said landscpe architect Lawrence Halprin, the memorial's designer. With the progression of the wall into the room representing World War II, the stone's face becomes increasingly irregular. ''I'm choreographing experiences.''

From the quarry here on the dull Dakota flatlands to Washington, where today's dignitary-studded dedication will take place, the hands of many people gave physical life to Halprin's artistry. Working hands. Hands that hammered and gouged and chiseled the stone. Hands that blistered and calloused and ached. Hands that bled passion as well as sweat.

The schedule wore on the workers. One got shots of cortisone in his shoulder to keep working. Another, who was responsible for coordinating all the stonework, literally lost his hair last year under the strain of meeting deadlines. When it grew back this year, it had turned white.

''This was very personal for us,'' said LaVern Maile, 55, a stonecutter at Cold Spring Granite Co., which owns the quarry and cut the stone for the memorial—enough to build an 80-story building.

''It was a monster of a job,'' he said. ''I don't think any of us realized until we were halfway into it just how big it was. And probably that was just as well.''

The Millbank quarry, once a natural outcropping of stone valued for its reddish hue, is now a vast tear that extends 1,000 feet long and 650 feet across as it falls in terraces to its deepest point of 140 feet. Surveys estimate that the granite runs for 12 miles under this desolate plain. Each year this slice of earth yields 463,000 tons of stone for malls, banks, office buildings and grave markers.

Here, in the swirl of red and gray dust kicked up daily by heavy machinery and the boom of explosives cracking rock, Halprin first laid hands on his creation. He chose this granite 22 years ago because the rock closely resembled the stone FDR had selected for additions to the family estate at Hyde Park, N.Y.

The granite is called carnelian, a derivative of the Latin word for flesh. It is 2 billion years old, dating from the pre-Cambrian era, the period before there was abundant life on Earth. The granite formed when molten rocks deep in the earth's crust solidified and either rose to the surface or were exposed by erosion.

Halprin says the wall, too, will endure. He promises it will still be standing 3,000 years from now.

The architect drew and made models of every stone he wanted in the memorial—their lengths, shapes, protrusions, recesses, smoothness and roughness. ''I could see every stone in my mind,'' said Halprin, comparing the process to the way a composer documents musical arrangements.

If Halprin was the composer and conductor, a select group of Minnesota stonecutters was his orchestra.

Stonecutter Wally Leither, 55, carried drawings of each block as he prowled the quarry looking for granite that matched Halprin's specifications.

Usually, granite is blasted loose with explosives, but because Halprin's demands were so specific and explosives leave long rivets on the outside of the stone, Leither had to cut most of the blocks for the memorial by hand.

Using jackhammers, he drilled holes into the stone every four inches, shaping a piece of stone. Two pieces of steel were placed in the shallow holes, and an iron wedge was hammered between them.

''We'd let it sit like that overnight, and the stone would crack with the pressure,'' said Leither, whose graying mustache doesn't quite hide a persistent smile. ''It was slow work.''

Stone was first cut for the memorial in 1991 after Congress appropriated the $42.5 million in public funds needed to build it. (An additional $5.5 million came in private donations.) Over the last six years, 15,000 tons of stone was chipped from the earth in South Dakota and trucked two hours east to Minnesota to the Cold Spring Granite Co., where 4,500 tons of it was cut and shaped. The contract for quarrying and preparing the granite was $6.35 million, according to the National Park Service.

Halprin visited the quarry frequently, sometimes becoming seized with excitement when he saw a particular stone and adjusting his design to incorporate it if Leither told him the men could get it out just as Halprin imagined it would look.

''I've never seen anyone look at stone quite like him,'' said Don Noll, 57, the West Coast Salesman for Cold Spring Granite, who accompanied Halprin on some of his trips to South Dakota. ''Each stone has a personality with him. Where I saw nothing except a chunk of rock, he saw part of a fountain. He'd stand in front of stone and say, 'Do you see it? Do you see it?' And I'd say, 'See what, Larry? What do you see?' ''

Some uses of the granite came about by happenstance.

In 1978, at the New Jersey studio of George Segal, one of four sculptors who worked on the memorial, Halprin and the others were discussing how to depict World War II in stone. But their ideas seemed uninspired. As they stood over a stone model of the wall, someone waved his hand in agitation, knocking down a section and creating a pile of rubble.

''Suddenly we all realized we had captured the destructive image that expressed what we needed,'' Halprin recalled.

The Cold Spring Granite Co.'s fabrication plant in Minnesota is a sea of thundering industry: furnaces that blast granite at 1,800 degrees to give it a thermal finish, 10-foot-high wire saws that pulsate rhythmically as they slice the stone, and huge polishing units that smooth the granite. High above the shop floor, cranes straddle the width of the factory, lifting slabs of granite some weighing several tons, with suction cups.

That machinery cut and finished the granite paving stones that visitors to the memorial will walk on, as well as the smooth blocks on which carver John Benson sandblasted some of FDR's words.

But no machine could give the wall stone the roughness that the landscape architect desired.

Leither and Maile and three other stonecutters, Mervile Sabrowsky, 56, Dean Hemmech, 39, and Kraig Kussatz, 38, began work on the rock faces the public would view. They started with 16-pound hammer sets, then moved to smaller and smaller chisels until the stone began to resemble Halprin's drawings.

''It looks easy, but if you take too much, you ruin the granite,'' Leither said. ''Sometimes we had to compromise with Larry. He wanted it a certain way, and we had to say we can't take that much off.''

Over the last three years, the pace has been furious. The team of four stonecutters tried to work on at least nine blocks a day, always starting three and finishing three each shift.

Some of the larger stones could not fit in the factory, so the cutters had to work outside, standing on massive chunks of stone and hammering away. One stone was reduced from 92 tons to 40 tons before it was sent to Washington.

Part of the wall's effect is the sense that one huge block is stacked atop another. In fact, in much of the wall the granite is no more than 10 inches thick, the back having been sheared away. Behind it, in a two-inch space, stainless steel anchors hook the granite slabs to an unseen concrete wall that runs inside the memorial, ensuring that the granite cannot fall.

Neither Maile nor Leither has any specific memories of FDR; each was a young child when the President died in 1945. ''My day was strong Democratic,'' Maile said. ''He talked about him. He enjoyed him.''

Through the FDR Memorial, however, Maile and Leither, along with hundreds of other Cold Spring Granite employees, felt the excitement of leaving a little stamp on history, a mark not easily made in the anonymity of small-town factory work.

''Someday I know that my grandchildren or my great-grandchildren will see this memorial,'' Maile said, ''and in the stone they'll see a little piece of me.''

When the last block left the factory late last year, Maile said he felt like retiring.

''We'll never work on something like this again. It's part of history,'' he said. ''And we were all giving 100 percent and a little bit more. When the last piece went out, it was a

letdown in some ways. We did nothing else for years.''

Construction on the memorial site began in October 1994. It took 210 flatbed truck trips to transport the 4,000 wall stones and 27,239 paving stones from Cold Spring to Washington, the last arriving late last year.

The peninsula on which the memorial sits was formed from mud dredged from the Tidal Basin in the late 1800s and early 1900s. Tests indicated it could not support the 4,500-ton memorial, so about 900 steel pilings were driven down 100 feet to the solid ground under the settled mud. Concrete beams were then built over the pilings.

''It's like it is built on a bridge,'' Halprin said.

The four sections of the wall were built one by one over the last 30 months, with cranes hoisting the granite stones into position so they could be hooked to the concrete wall behind. The William V. Walsh Construction Co. of Rockville with the primary contractor on site.

Halprin and the workers at Cold Spring had built mock-ups of the wall in Minnesota to see how corners, buttresses and ground connections could best be assembled when the stone reached Washington. Those mock-ups also gave Benson, the inscription designer and carver, an opportunity for some trial runs on the heavily pillowed granite.

He chose a form of Roman inscription that was refined in his studio in Newport, R.I., but the actual carving was done on the erected memorial. Benson traced the letters, some 16 inches tall, onto the granite with water-based paint. Once he saw how the rough surface distorted the appearance of the letters, he repainted them before carving the quotations, using a chisel driven by a pneumatic hammer.

Benson, whose stone-carving business is the oldest in the country, dating to 1705, said he cut at a rate of about two letters a day.

''You don't make mistakes,'' he said. ''You can't make a mistake. The wall was up.''

The stonecutters from Cold Spring also worked on site in the last four months, making last-minute cuts at Halprin's direction.

''That was awful scary,'' Leither said. ''Mess up and the whole wall has to come down.''

On one of the last pieces the cutters worked on—a bench—Maile gave the 16-pound hammer to Halprin so he could pitch away a piece of stone.

''I couldn't let it pass without him taking one swing,'' Maile said.

Halprin kept the piece of stone as a souvenir.

Leither and Maile, along with 30 other people from Cold Spring, will be at the dedication today.

''When we said those stones, all finished, it'll be almost like a family reunion,'' Leither said. ''We gave birth to them out in Millbank, nurtured them in Cold Spring and sent them off like grown children to Washington, D.C.''

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

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

JACK SWIGERT STATUE PLACEMENT IN NATIONAL STATUARY HALL

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 25, which was received from the House.

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

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 25) providing for acceptance of a statue of Jack Swigert, presented by the State of Colorado, for placement in National Statuary Hall.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I am proud to announce on behalf of the State of Colorado that today the Senate will have the opportunity to approve House Resolution 25 to allow the placement of the statue of Jack Swigert in National Statuary Hall.

Coloradans chose astronaut Jack Swigert as the second State statue to be placed in the U.S. Capitol. He was elected to the U.S. House of Representatives in 1982 representing the Sixth Congressional District. Unfortunately, his successful campaign was beset by his battle with bone-marrow cancer. The cancer spread quickly but he insisted on traveling from Colorado to Washington despite his failing health. The Representative-elect died only days before the swearing in ceremony.

Mr. Swigert is well known as one of the astronauts on the famous *Apollo 13* mission. The details of the mission are familiar to many; the suspenseful story of the astronauts' journey was recently depicted in a major movie. The ship and crew of *Apollo* suffered several complications and disasters, including an oxygen tank explosion that threatened the lives of the crew. It was the relentless determination and competence demonstrated by Jack Swigert and the other crew members that made it possible for the return of the spacecraft to Earth.

Jack Swigert was born in Denver. He began flying while he was in high school and dedicated himself to becoming a pilot. After graduating from the University of Colorado at Boulder he joined the Air Force and served as a pilot during the Korean war. His strong desire to become an astronaut inspired him to return to school after twice being rejected by NASA's space program. He was admitted to the program at NASA on his third try.

The statue of Jack Swigert will join the statue commemorating Colorado native Dr. Florence Rena Sabin. Dr. Sabin broke many barriers for women in the field of medicine. She entered medical school in 1893 and pursued a career in medical teaching and research. At a time when women were not considered eligible for the medical teaching profession, she became the first woman to attain the position of full professor at Johns Hopkins University in Baltimore. She also was the first woman to be invited to join the Rockefeller Institute.

Upon returning to Colorado, Dr. Sabin was appointed to a subcommittee on public health and helped to draft legislation reorganizing the State health department. At the age of 76, Dr. Sabin took on the duties of manager of the Department of Health and Welfare of Denver and continued to implement public health legislation.

The passage of House Concurrent Resolution 25 will mark the triumphant end to a 10-year effort to honor Mr. Swigert. The striking statue, which was cast by the Lundeen brothers in my hometown of Loveland, CO, will be provided entirely by private funding.

Jack Swigert's close friends remember him for his humbling tenacity and courage. I remain in awe of his achievements and spirit, and I am pleased that this statue will join Dr. Sabin in representing the State of Colorado to everyone who visits the Capitol.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, today I join my colleague from Colorado, Senator WAYNE ALLARD, in supporting adoption of House Concurrent Resolution 25, which authorizes the placement of the statue of Jack Swigert in Statuary Hall of the U.S. Capitol. This important resolution was submitted by our colleague, Congressman DAN SCHAEFER, in the House of Representatives, who is the dean of our delegation.

The inclusion of this statue would not be possible without the efforts of many Coloradans, who I would like to thank for their dedicated efforts. Among these groups, the Arapahoe County Republican Men's Club stands out for its large contribution. Club members lobbied the state legislature and donated substantial amounts of money in an effort to commission the statue.

Also a key supporter of this effort was Veterans of Foreign Wars Chapter 11229. This chapter was commissioned solely for the purpose of persuading the state legislature to create the statue of Mr. Swigert and put the initiative on the ballot. Mr. Swigert was a lifelong member of VFW Post #1, which is the oldest VFW in the nation, founded after the Spanish-American War.

Among the many individuals who worked on this honor, Mr. Hal Schroyer, who lives north of Denver, should be mentioned for 10 years of work on this project.

Mr. Swigert was an extraordinary individual, even before his flight in the Apollo 13 spacecraft, made famous by the movie in 1996 that my colleague mentioned.

Jack learned to fly at age 16, while attending Denver East High School, and was on the move ever since. Jack served in the Air Force in Korea, where he flew jet fighters. Even after his plane crashed into a radar unit on a Korean airstrip, Jack continued to fly. After leaving the service, he was a test pilot to 10 years. He kept busy, earning two master's degrees as a followup to his 1953 mechanical engineering degree.

What Jack is best remembered for though, is his fateful aborted trip to the moon in 1970, as part of the *Apollo 13* mission. Jack joined the crew at the last minute, after his colleague, Thomas Mattingly, was exposed to German Measles and could not make the trip. He had no idea just how exciting this trip would become when he started. After an oxygen tank exploded, the three-member crew used all their knowledge and ingenuity to bring the disabled ship home safely. Because of their quick thinking and grace under extreme pressure, all three members, Jack Haise, James Lovell and Jack Swigert returned safely to Earth.

Following his service with NASA, Swigert put his extensive aeronautical expertise to use as the executive director of the House Committee on Science and Technology. He held the position until 1977, when he decided to run for the U.S. Senate. He was defeated by his friend William Armstrong in the primary and returned to private industry as the vice president for two prominent Denver companies.

In 1982, Jack made a successful bid for a House seat, even after learning that he had cancer. Jack's courageous battle was an effort to prove that, to use his words, ''technology and commitment can overcome any challenge.'' Unfortunately, Jack did not win his battle with bone cancer, and, in December 1982, a month after winning the election, Jack passed away.

Jack Swigert will be remembered and honored with this statue we dedicate to him as a true American hero. And, his statue will represent Colorado with honor and distinction here in the U.S. Capitol for years to come. To my knowledge, this will be the first space age statue to be included. With my colleague from Colorado, I urge my colleagues to support passage of this important resolution.

I yield the floor.

Mr. ALLARD. Mr. President, I ask unanimous consent that H. Con. Res. 25 be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 25) was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

MR. KEMPTHORNE. I thank the Chair.

(The remarks of Mr. KEMPTHORNE, Mr. CRAIG and Mr. TORRICELLI, pertaining to the introduction of S. 730 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194(a), as amended by Public Law 101–595, appoints the following Senators to the Board of Visitors of the U.S. Coast Guard Academy:

The Senator from Arizona [Mr. MCCAIN], ex officio, as chairman, from the Committee on Commerce, Science, and Transportation;

The Senator from Missouri [Mr. ASHCROFT], from the Committee on Commerce, Science, and Transportation;

The Senator from South Carolina [Mr. HOLLINGS], from the Committee on Commerce, Science, and Transportation; and

The Senator from Washington [Mrs. MURRAY], at large.

The Chair, on behalf of the Vice President, pursuant to title 46, section 1295(b), of the United States Code, as amended by Public Law 101–595, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy:

The Senator from Arizona [Mr. MCCAIN], ex officio, as chairman, from the Committee on Commerce, Science, and Transportation;

The Senator from Maine [Ms. SNOWE], from the Committee on Commerce, Science, and Transportation;

The Senator from Louisiana [Mr. BREAUX], from the Committee on Commerce, Science, and Transportation; and

The Senator from Hawaii [Mr. INOUYE], at large.

MESSAGES FROM THE HOUSE

At 3:41 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 25. Concurrent Resolution providing for acceptance of a statue of Jack Swigert, presented by the State of Colorado, for placement in National Statuary Hall.

The message also announced that the Speaker appoints the following Members on the part of the House to the Advisory Commission on Intergovernmental Relations: Mr. SHAYS and Mr. SNOWBARGER.

The message further announced that the Speaker appoints the following Member on the part of the House to the Congressional Award Board: Mrs. CUBIN.

The message also announced that the Speaker appoints the following individual on the part of the House to the Advisory Committee on the Records of Congress: Dr. Joseph Cooper of Baltimore, Maryland.

At 6:02 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. 3. An act to combat violent youth crime and increase accountability for juvenile criminal offenses.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3. An act to combat violent youth crime and increase accountability for juvenile criminal offenses; to the Committee on the Judiciary.

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–1807. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, a report entitled ''Minority Small Business and Capital Ownership Development''; to the Committee on Small Business.

EC–1808. A communication from the General Counsel of the Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Classification, Downgrading, Declassification and Safeguarding of National Security Information,'' (RIN0348-AB34) received on May 2, 1997; to the Select Committee on Intelligence.

EC–1809. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, a rule relative to filing of disclosure, received on May 5, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1810. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, a rule relative to trader reports, received on May 5, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1811. A communication from the General Counsel of the Treasury, transmitting, a draft of proposed legislation to authorize debt buybacks and sales for debt swaps of certain outstanding concessional obligations; to the Committee on Agriculture, Nutrition, Forestry.

EC–1812. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to karnal bunt regulated areas, received on May 6, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1813. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to pink bollworn regulated areas, received on May 6, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1814. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to zoological park quarantive, received on May 6, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1815. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to genetically engineered organisms, received on May 6, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1816. A communication from the General Counsel of the Department of Defense,

transmitting a draft of proposed legislation to authorize the transfer of fourteen naval vessels to certain foreign countries; to the Committee on Armed Services.

EC–1817. A communication from the Under Secretary of Defense, transmitting a notice relative to the Defense Manpower Requirements Report; to the Committee on Armed Services.

EC–1818. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report for calendar year 1997; to the Committee on Armed Services.

EC–1819. A communication from the General Counsel of the Treasury, transmitting a draft of proposed legislation to authorize debt buybacks and sales for debt swaps of certain outstanding concessional obligations; to the Committee on Foreign Relations.

EC–1820. A communication from the General Counsel of the Treasury, transmitting a draft of proposed legislation to authorize debt relief for poor countries; to the Committee on Foreign Relations.

EC–1821. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the Broadcasting Board of Governors annual report for calendar year 1996; to the Committee on Foreign Relations.

EC–1822. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96-03; to the Committee on Appropriations.

EC–1823. A communication from the General Counsel of the Department of Defense, transmitting two drafts of proposed legislation to ease current restrictions which preclude the procurement of certain items; to the Committee on Appropriations.

EC–1824. A communication from the Attorney General of the United States, transmitting, pursuant to law, the 1996 annual report on the Federal Prison Industries, Inc.; to the Committee on Governmental Affairs.

EC–1825. A communication from the Secretary of the Commission of Fine Arts, transmitting a notice relative to internal controls and financial systems in effect; to the Committee on Governmental Affairs.

EC–1826. A communication from the Office of the Independent Counsel, transmitting, pursuant to law, the report on audit and investigative activities for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–1827. A communication from the Director of the Office of Personnel Management, transmitting a report relative to political recommendations for federal jobs; to the Committee on Governmental Affairs.

EC–1828. A communication from the Executive Officer of the National Science Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1829. A communication from the Chairman, Cost Accounting Standards Board, Executive Office of the President, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Governmental Affairs.

EC–1830. A communication from the Secretary of the Commission of Fine Arts, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–1831. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for March 1997; to the Committee on Governmental Affairs.

EC–1832. A communication from the Acting Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1833. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on accounting for U.S. assistance under the Cooperative Threat Reduction Program for calendar year 1996; to the Committee on Governmental Affairs.

EC–1834. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''University of the District of Columbia Report of Revenues and Expenditures for the Graduate Program for Academic Years 94–95 and 95–96''; to the Committee on Governmental Affairs.

EC–1835. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule relative to summer employment, (RIN3206-AG21) received on April 21, 1997; to the Committee on Governmental Affairs.

EC–1836. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled ''Administration and General Provisions'' (RIN3206–AH66) received on April 25, 1997; to the Committee on Governmental Affairs.

EC–1837. A communication from the Executive Director of the U.S. National Commission on Libraries and Information Science, transmitting, pursuant to law, the report under the Inspector General and Federal Managers' Financial Integrity Acts for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1838. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation relative to the U.S. Secret Service Uniformed Division; to the Committee on Governmental Affairs.

EC–1839. A committee from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the Procurement List received on April 24, 1997; to the Committee on Governmental Affairs.

EC–1840. A communication from the General Counsel of the District of Columba Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a notice relative to the report entitled ''A Crisis in Management''; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 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.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. 342. A bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

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.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 670. A bill to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States.

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amended preamble:

S. Con. Res. 6. A concurrent resolution expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 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.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Joel I. Klein, of the District of Columbia, to be an assistant attorney general.

By Mr. HELMS, from the Committee on Foreign Relations:

Stuart E. Eizenstat, of Maryland, to be an Under Secretary of State.

Thomas R. Pickering, of New Jersey, to be an Under Secretary of State.

Karen Shepherd, of Utah, to be U.S. director of the European Bank for Reconstruction and Development, to which position she was appointed during the last recess of the Senate.

Jeffrey Davidow, of Virginia, a career member of the Senior Foreign Service, class of minister-counselor, to be a member of the Board of Directors of the Inter-American Foundation, for a term expiring September 20, 2002.

Letitia Chambers, of the District of Columbia, to be a representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

Prezell R. Robinson, of North Carolina, to be an alternate representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

James Catherwood Hormel, of California, to be an alternate representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

(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.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably five nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORD of February 13, April 8, and April 25, 1997, and ask unanimous consent, to save the expense of reprinting

on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officer of Class One, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Kathleen Therese Austin, of the District of Columbia

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

John Wesley Harrison, of Virginia
Carol R. Kalin, of New York
Karen Eastman Klemp, of Illinois
Ronna Sharp Pazdral, of California
Robert Walter Pons, of New Jersey

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

Brian D. Goggin, of Virginia

DEPARTMENT OF STATE

Gregory Jon Adamson, of California
Cherrie Sarah Daniels, of Texas
Martha J. Haas, of Texas
Paul Horowitz, of Oregon
John Kevin Madden, of Arkansas
Deborah Rutledge Mennuti, of Texas
Manish Kumar Mishra, of Pennsylvania
William E. Moeller, III, of Florida
William E. Shea, of Florida
Marco Aurelio Ribeir Sims, of the District of Columbia
Mark L. Strege, of Florida
Joni Alicia Treviss, of Massachusetts
David H.L. Van Cleve, of California

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

James Robert Addison, of Virginia
Amy Marie Allen, of Arizona
Emily Jane Allt, of Connecticut
Gregory R. Alston, of Virginia
Margaret Jane Armstrong, of Virginia
William H. Avery, of Florida
Charles R. Banks, of Virginia
Stephen B. Banks, of Virginia
Stephen A. Barneby, of Nevada
William G. Basil, of Maryland
Stephan Berwick, of Virginia
Mark W. Blair, of Virginia
Joshua Blau, of California
Christopher J. Bort, of Maryland
Bridget A. Brink, of Michigan
Jennifer Chintana Bullock, of Pennsylvania
David W. Carey, of Virginia
Paul M. Carter, Jr., of Maryland
Joseph F. Chernesky, of Virginia
Rachel M. Coll, of Virginia
Colin Thomas Robert Crosby, of Ohio
Robert Clinton DeWitt, of Texas
Ali Diba, of Virginia
Joseph A. Dogonniuck, of Virginia
Fred D. Enochs, of Florida
Naomi Catherine Fellows, of California
Barbara J. Fleshman, of Virginia
Mary Anne Flauta Francisco, of Virginia
Robert R. Gabor, of California
Jeffrey E. Galvin, of Colorado
Katherine Gamboa, of Virginia
Roger Z. George, of Virginia
Lisa M. Grasso, of Virginia
Gregory S. Groth, of California
Edward G. Grulich, of Texas
Douglas E. Haas, of Virginia
Mark W. Jackson, of Virginia
Kipling Van Kahler, of Texas
Craig K. Kakuda, of Virginia
Yuri Kim, of Guam
Jennifer A. Koella, of Virginia
Henry P. Kohn, Jr., of Virginia
Paula J. Labuda, of Virginia
John T. Lancia, of Pennsylvania
Jennifer M. Lee, of Virginia
Glenn A. Little, of Virginia
Gregory Michael Marchese, of California
William M. Marshall III, of Virginia
Robert B. Mooney, of California
Kevin L. O'Donovan, of Virginia
Ann A. Omerzo, of Pennsylvania
Robert Anthony Pitre, of Washington
Jennifer L. Savage, of Virginia
Brandon P. Scheid, of Virginia
Carmen A. Seltzer, of Virginia
Russell Schiebel, of Texas
Micaela A. Schweitzer, of the District of Columbia
Stefano G. J. Serafini, of the District of Columbia
Robert E. Setlow, of Washington
Andrew Shaw, of New York
Scott A. Shaw, of Illinois
David William Simons, of Colorado
James Douglas Smith III, of Virginia
Matthew Alexander Spivak, of California
Daisy D. Springs, of Virginia
Cheryl S. Steele, of Massachusetts
Hector J. Tavera, of the District of Columbia
Martina Anna Tkadlec, of Texas
Bonnie J. Toeper, of Virginia
Bryant P. Trick, of California
Mark E. Twambly, of Virginia
Patrick Timothy Wall, of Alabama
Mark A. Weaver, of Washington
Michael Edward Widener, of Virginia
Christine Williams, of Virginia
Thomas A. Witecki, of Virginia
William H. S. Wright, of Virginia
Ronda S. Zander, of Maryland

The following-named career members of the Senior Foreign Service of the United States Information Agency for promotion in the Senior Foreign Service to the classes indicated:

Career member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Kenton W. Keith, of California

Career members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

George Frederic Beasley, of Maryland
John P. Dwyer, of Connecticut
Harriet Lee Elam, of Maryland
Mary Eleanor Gawronski, of New York
David P. Good, of New York
Terrence H. Kneebone, of Utah
John K. Menzies, of California

The following-named career members of the Foreign Service of the United States Information Agency for promotion into the Senior Foreign Service as indicated:

Career members of the Senior Foreign Service of the United States of America, Class of Counselor:

John H. Brown, of the District of Columbia
Guy Burton, of New Jersey
Helena Kane Finn, of New York
Stedman D. Howard, of Florida
Gerald E. Huchel, of Virginia
Mark B. Krischik, of Florida
Nicholas Robertson, of California
Charles N. Silver, of Virginia
Marcelle M. Wahba, of California
Laurence D. Wohlers, of Washington
Mary Carlin Yates, of the District of Columbia

The following-named career member of the Foreign Service for promotion into the Senior Foreign Service, and for appointment as Consular Officer and Secretary in the Diplomatic Service, as indicated:

Career member of the Senior Foreign Service of the United States of America, Class of Counselor:

Terrence W. Sullivan, of New York

The following-named career members of the Senior Foreign Service of the Department of Agriculture for the promotion in the Senior Foreign Service to the classes indicated:

Career member of the Senior Foreign Service of the United States of America, Class of Career Minister.

Daniel B. Conable, of New York

Career members of the Senior Foreign Service of the United States of America, Class of Career Minister-Counselor:

William L. Brant II, of Oklahoma
Warren J. Child, of Maryland
Mattie R. Sharpless of the District of Columbia

The following-named career members of the Senior Foreign Service of the Department of Agriculture for the promotion in the Senior Foreign Service to the class indicated:

Career members of the Senior Foreign Service of the United States of America. Class of Counselor:

Norval E. Francis, of Virginia
Francis J. Tarrant, of Virginia

The following-named career members of the Senior Foreign Service of the Department of Commerce for promotion in the Senior Foreign Service to the classes indicated:

Career member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Kenneth P. Moorefield of Maryland

Career members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Jonathan M. Bensky, of Washington
John Peters, of Florida

The following-named career members of the Foreign Service for promotion into the Senior Foreign Service, as indicated:

Career members of the Senior Foreign Service of the United States of America, Class of Counselor:

Thomas Lee Boam, of Utah
Stephen K. Craven, of Florida
Lawrence I. Eisenberg, of Florida
Edgar D. Fulton, of Virginia
Samuel H. Kidder, of Washington
Bobette K. Orr, of Arizona
James Wilson, of Pennsylvania

The following-named career members of the Foreign Service of the United States Information Agency for promotion into the Senior Foreign Service to the class indicated, and for appointment as Consular Officer and Secretary in the Diplomatic Service, as indicated:

Career member of the Senior Foreign Service of the United States of America, Class of Counselor:

Susan B. Aramayo, of Maryland
Joy Boss, of Texas
Robert S. Morris, of California

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of February 13, April 8, and April 25, 1997, at the end of the Senate proceedings.)

By Mr. Thurmond, from the Committee on Armed Services:

The following-named officers for promotion in the Regular Air Force of The United States to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Gary A. Ambrose, 0000.
Col. Frank J. Anderson, Jr., 0000.
Col. Thomas L. Baptiste, 0000.
Col. Barry W. Barksdale, 0000.
Col. Leroy Barnidge, Jr., 0000.
Col. Randall K. Bigum, 0000.
Col. Richard B. Bundy, 0000.
Col. Sharla J. Cook, 0000.
Col. Tommy F. Crawford, 0000.
Col. Charles E. Croom, Jr., 0000.
Col. Richard W. Davis, 0000.
Col. Robert R. Dierker, 0000.
Col. Jerry M. Drennen, 0000.
Col. Carol C. Elliot, 0000.
Col. Paul W. Essex, 0000.
Col. Michael N. Farage, 0000.
Col. Randall C. Gelwix, 0000.
Col. James A. Hawkins, 0000.
Col. Gary W. Heckman, 0000.
Col. Hiram L. Jones, 0000.
Col. Joseph E. Kelley, 0000.
Col. Christopher A. Kelly, 0000.
Col. Jeffrey B. Kohler, 0000.
Col. Edward L. LaFountaine, 0000.
Col. William J. Lake, 0000.
Col. Dan L. Locker, 0000.
Col. Teddie M. McFarland, 0000.
Col. Michael C. McMahan, 0000.
Col. Duncan J. McNabb, 0000.
Col. Richard A. Mentemeyer, 0000.
Col. James W. Morehouse, 0000.
Col. Paul D. Nielsen, 0000.
Col. Thomas A. Oriordan, 0000.
Col. Bentley B. Rayburn, 0000.
Col. Regner C. Rider, 0000.
Col. Gary L. Salisbury, 0000.
Col. Klaus O. Schafer, 0000.
Col. Charles N. Simpson, 0000.
Col. Andrew W. Smoak, 0000.
Col. John M. Speigel, 0000.
Col. Randall F. Starbuck, 0000.
Col. Scott P. Van Cleef, 0000.
Col. Glenn C. Waltman, 0000.
Col. Craig P. Weston, 0000.
Col. Michael P. Wiedemer, 0000.
Col. Michael W. Wooley, 0000.
Col. Bruce A. Wright, 0000.

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be major general

Brig. Gen. William F. Allen, 0000.
Brig. Gen. Craig Bambrough, 0000.
Brig. Gen. Peter A. Gannon, 0000.
Brig. Gen. Francis R. Jordan, Jr., 0000.

To be brigadier general

Col. James P. Collins, 0000.
Col. William S. Crupe, 0000.
Col. Alan V. Davis, 0000.
Col. John F. Depue, 0000.
Col. Bertie S. Dueitt, 0000.
Col. Calvin D. Jaeger, 0000.
Col. John S. Kasper, 0000.
Col. Richard M. O'Meara, 0000.
Col. James C. Price, 0000.
Col. Richard O. Wightman, 0000.

The following-named officer for appointment in the U.S. Army to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Gregory A. Rountree, 9047.

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably one nomination list in the Navy which was printed in full in the Congressional Record of February 25, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that this nomination lie at the Secretary's desk for the information of Senators:

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of February 25, 1997, at the end of the Senate proceedings.)

The following-named officers for regular appointment to the grades indicated in the U.S. Navy under title 10, United States Code, section 531:

To be captain

Michael J Bailey, 0000
Jeffrey F Brookman, 0000
James L Buck, 0000
Dana C Covey, 0000
David W Ferguson, 0000
David Leivers, 0000

To be commander

Daniel C Alder, 0000
Monte L Bible, 0000
John T Biddulph, 0000
Jeffrey M Bikle, 0000
David A Bradshaw, 0000
Harpreet S Brar, 0000
Frank J Carlson, 0000
John R Carney, 0000
Ronald F Centner, 0000
Gerald A Cohen, 0000
Walter J Coyle, 0000
James M Craven, 0000
Michael J Curren, 0000
David L Daugherty, 0000
Marlene Demaio, 0000
Raymond J Emanuel, 0000
Wesley W Emmons, 0000
William Erndehazy, 0000
Andrew L Findley, 0000
Scott D Flinn, 0000
Frederick O Foote, 0000
Michael J Francis, 0000
Michael W Gallagher, 0000
John H Greinwald, Jr, 0000
Thomas M Gudewicz, 0000
Albert S Hammond, III, 0000
Terry A Harrison, 0000
John P Heffernan, 0000
Byron Hendrick, 0000
Robert E Hersh, 0000
Hal E Hill, 0000
Walter R Holloway, 0000
Mark J Integlia, 0000
Jerome C Kienzle, 0000
Kerry J King, 0000
Kenneth D Klions, 0000
Eric R Lovell, 0000
John D Lund, 0000
Andrew T Maher, 0000
Randall C Mapes, 0000
Robert D Matthews, 0000
Martin McCaffrey, 0000
Francis X McGuigan, 0000
James J Melley, 0000
Vernon D Morgan, 0000
Gary L Munn, 0000
James D Murray, 0000
Meenakshi A Nandedkar, 0000
William F Nelson, 0000
Patrick T Noonan, 0000
Joseph R Notaro, 0000
Lachlan D Noyes, 0000
Paul J OBrien, 0000
Christopher A Ohl, 0000
John C Olsen, 0000
Howard A Oriba, 0000
Jennifer B Ota, 0000
Robert K Parkinson, 0000
John S Parrish, 0000
Paul Pearigen, 0000
Peter J Peff, 0000
Wendell S Phillips, 0000
David N Rickey, 0000
Eric H Schindler, 0000
James M Sheehy, 0000
Wyatt S Smith, 0000
Ricky L Snyder, 0000
Henry E Sprance, 0000
Douglas M Stevens, 0000
Thomas A Tallman, 0000
Thomas K Tandy, III, 0000
Jon K Thiringer, 0000
Anthony M Trapani, 0000
Patricia L Verhulst, 0000
Maryann P Wall, 0000
Diane J B Watabayashi, 0000
Joseph R Wax, 0000
Jerry W White, 0000
Edward A Wood, 0000
Jacob N Young, 0000

To be lieutenant commander

Clete D Anselm, 0000
Elicia Bakerrogers, 0000
Simon J Bartlett, 0000
Kenneth R Bingman, Jr, 0000
Dawn A Blackmon, 0000
Janet M Bradley, 0000
Arthur M Brown, 0000
Jon J Brzek, 0000
David B Byres, 0000
Lea B Cadle, 0000
Lucio Cisneros, Jr, 0000
Sean P Clark, 0000
Gary W Clore, 0000
Walker L A Combs, 0000
Elizabeth B Cotten, 0000
Donna M Crowley, 0000
Gregory J Danhoff, 0000
Nancy J Dober, 0000
Sandra L Doucette, 0000
Paul X Dougherty, 0000
David A. Farmer, 0000
Luis Fernandez, 0000
Wayne R. Freiberg, 0000
Paul N. Fujimura, 0000
Michael P. Garvey, 0000
Barbara A. Gies, 0000
Gregory D. Gjurich, 0000
Carolyn G. Goergen, 0000
Virginia P. Haviland, 0000
John S. Hickman, 0000
Susan E. Holt, 0000
Loretta A. Howerton, 0000
Steven R. Huff, 0000
Aaron Jefferson, Jr, 0000
Tommie L. Jennings, 0000
David P. Johnson, 0000
Phillip A. Kanicki, 0000
Maurice S. Kaprow, 0000
William M. Kennedy, 0000
Jamie M. Kersten, 0000
Alan F. Kukulies, 0000
Teresa A. Langen, 0000
Alison C. Lefebvre, 0000
Kim L. Lefebvre, 0000
Margaret A. Lluy, 0000
Steven L. Lorcher, 0000
Michelle L. McKenzie, 0000
Bruce D. Mentzer, 0000
Christine T. Miller, 0000
Craig G. Muehler, 0000
John J. Nesius, 0000
Cathy J. Olson, 0000
Carol A. Papineau, 0000
Joseph R. Petersen, 0000
Nicholas Petrillo, 0000
Herman G. Platt, 0000
Shirley K. Price, 0000
Sabrina L. Putney, 0000
Ann Rajewski, 0000

Abraham I. Ramirez, 0000
Douglas E. Rosander, 0000
Gilbert Seda, 0000
Charles H. Shaw, 0000
Amanda G. Sierra, 0000
Sandra S. Skyles, 0000
John C. Smajdek, 0000
Betsy J. Smith, 0000
Scott A. Smith, 0000
Vanessa D. Smith, 0000
Joseph M. Snowberger, 0000
Dovie S. Soloe, 0000
Amy L. Spearman, 0000
Richard G. Steffey, Jr., 0000
Dana G. Stuartmagda, 0000
Milan S. Sturgis, 0000
Scott C. Swanson, 0000
Atticus T. Taylor, 0000
Benjamin F. Taylor, 0000
Mary W. Tinnea, 0000
Nelida R. Toledo, 0000
Karen D. Torres, 0000
Dick W. Turner, 0000
Barbara J. Votypka, 0000
Christine M. Ward, 0000
Terese M. Warner, 0000
Matthew L. Warnke, 0000
Jan P. Werson, 0000
Michelle S. Williams, 0000
Wayne E. Wiseman, 0000
Stan A. Young,0000

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. ASHCROFT, Mr. WYDEN, and Mr. CAMPBELL):

S. 718. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 719. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. INOUYE, Mr. FRIST, and Mr. GRAHAM):

S. 720. A bill to amend titles XVIII and XIX of the Social Security Act to expand and make permanent the availability of cost-effective, comprehensive acute and long-term care services to frail elderly persons through Programs of All-inclusive Care for the Elderly (PACE) under the medicare and medicaid programs; to the Committee on Finance.

By Mr. TORRICELLI:

S. 721. A bill to require the Federal Trade Commission to conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers; to the Committee on Commerce, Science, and Transportation.

By Mr. THOMAS:

S. 722. A bill to benefit consumers by promoting competition in the electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KERRY):

S. 723. A bill to increase the safety of the American people by preventing dangerous military firearms in the control of foreign governments from being imported into the United States, and for other purposes; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. ROCKEFELLER, Mr. LOTT, Mr. BREAUX, Mr. HATCH, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. D'AMATO, Mr. GRAMM, Mr. MACK, Mr. LIEBERMAN, Mr. COCHRAN, Mr. BROWNBACK, Mr. ENZI, and Mr. HUTCHINSON):

S. 724. A bill to amend the Internal Revenue Code of 1986 to provide coporate alternative minimum tax reform; to the Committee on Finance.

By Mr. CAMPBELL:

S. 725. A bill to direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself, Mr. GRAHAM, Mrs. BOXER, Ms. SNOWE, Mr. REID, Mr. JOHNSON, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Mr. HARKIN, Mr. D'AMATO, Mr. SPECTER, Mrs. MURRAY, and Mr. MACK):

S. 726. A bill to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Ms. MIKULSKI, Mr. WELLSTONE, Mr. JOHNSON, and Mrs. MURRAY):

S. 727. 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 annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. MACK, Mr. D'AMATO, Mr. REID, and Mr. JOHNSON):

S. 728. A bill to amend title IV of the Public Health Service Act to establish a Cancer Research Trust Fund for the conduct of biomedical research; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. HOLLINGS, Ms. LANDRIEU, Mr. ROBERTS, and Mr. BROWNBACK):

S. 729. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide new portability, participation, solvency, and other health insurance protections and freedoms for workers in a mobile workforce, to increase the purchasing power of employees and employers by removing barriers to the voluntary formation of association health plans, to increase health plan competition providing more affordable choice of coverage, to expand access to health insurance coverage for employees of small employers through open markets, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KEMPTHORNE (for himself, Mr. CRAIG, Mr. TORRICELLI, Mr. THOMAS, and Mr. ENZI):

S. 730. A bill to make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll; to the Committee on Veterans' Affairs.

By Mr. BUMPERS:

S. 731. A bill to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself, Mr. HELMS, Mr. DEWINE, Ms. SNOWE, Ms. COLLINS, Mr. ROBERTS, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. SANTORUM, Mr. THOMAS, Mr. WARNER, Mr. DODD, Mr. COCHRAN, and Mr. MURKOWSKI):

S. 732. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK:

S. Con. Res. 26. A concurrent resolution to permit the use of the rotunda of the Capitol for a congressional ceremony honoring Mother Teresa; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. ASHCROFT, Mr. WYDEN and Mr. CAMPBELL):

S. 718. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE CRIME CONTROL AND COMMUNITY PROTECTION ACT OF 1997

Mr. DOMENICI. Mr. President, I rise today, with the Senator from Missouri, Senator ASHCROFT, and the Senator from Oregon, Senator WYDEN, to introduce the Juvenile Crime Control and Community Protection Act of 1997. I don't think there is anything that is worrying the American people more than what is happening to the criminal justice system in their cities, their counties, and their States.

Senator ASHCROFT, a former attorney general from Missouri, knows a lot about these matters on a firsthand basis from having been there. I am hopeful he will arrive before the time expires to speak to one aspect of the bill, which we are introducing, and then I will, as soon as I can, yield to Senator WYDEN for some of his observations.

Last year, I had field hearings in New Mexico to hear the concerns and problems faced by all of the people affected by juvenile crime. We heard from the police, prosecutors, judges, social workers and, most important, Mr. President, as you well know, the victims who reside in our communities.

The sentiments expressed at these hearings are the same ones felt by people all over this country: One, some juveniles are out of control and the juvenile justice system cannot cope with them; second, other children do not have enough constructive things to do to keep them from sliding into delinquency; third, the current system does little, if anything, to protect the public from senseless youth violence; and fourth, the current system has failed its victims.

I want to tell my colleagues about an 18-year-old girl from New Mexico named Renee Garcia who was stabbed and left paralyzed by a 15-year old gang member. The stabbing was part of that

gang's initiation ritual. The gang member later received only a sentence of 4 years in a juvenile facility. This is what Renee Garcia had to say about the current justice system as it applied to her and her family:

> The outdated laws which exist in our legal system today are nothing but a joke to juveniles. Our laws were meant for juveniles who were committing [small] crimes like truancy and breaking curfews. They are not designed to deal with violent crimes that juveniles are committing today.

Renee has made quite a recovery from her attack, and we are quite pleased that she is doing reasonably well in our community and in our State.

The time has come, in my opinion, for the U.S. Government to be a better partner in a major American effort to improve the criminal juvenile justice system across this land. For many, it is well known, we have an adult juvenile system that developed over a long period of time, but we have a juvenile justice system that sort of evolved willy-nilly. It has never reached the stature of the adult system. There are vagaries and much has been left to judges who are asked to respond to the young criminals in a way completely different than if they were adults.

Some statutes were passed that made this response mandatory, and those statutes still exist today. Still today, in many States, you do not disclose to the public the name and detailed information about juvenile criminals who are committing adult crimes. Their fingerprints and their records are not part of law enforcement's ability to cope with repeated crime, committed over and over, from one State to another by some of these same teenage criminals.

The Federal Government, in my opinion, should get involved. As we do this, however, we should expect the States to get tough on youth sentencing. We should reward States for enacting law enforcement and prosecutorial policies designed to take violent juvenile criminals off the streets.

This bill makes some fundamental changes to the crime-fighting partnership which exists between the States and the Federal Government. It contains two important ideas: One, strict law enforcement and prosecution policies for the most violent offenders. We cannot tell the States they must do that, but in this bill, we set up a very significant grant program, part of which goes to States that do certain minimal things to improve their system. If they do not, they do not get that money. It goes to States that choose to modernize their system in accordance with a series of options that we have found are clearly necessary today.

This approach is going to help States fight crime as well as prevent juveniles from entering the juvenile justice system in the first place. It makes important fundamental changes to the Federal juvenile justice system, and I am going to leave an explanation of how we change our Federal juvenile justice system and modernize it to the Senator from Missouri. It would be a shame if we tell the States to do things better, but we leave the prosecutions in the Federal juvenile justice system alone.

The bill adopts an approach that I suggested last year as part of a juvenile justice bill. It authorizes—we do not have it appropriated yet—but we authorize $500 million to provide the States with two separate grant programs: One, with virtually no strings attached, based on a current State formula grant program; the second is a new incentive grant for States that enact what we call ''best practices'' to combat and prevent juvenile violence.

This bill authorizes $300 million, divided into two $150 million pots, for a new grant program, the purpose of which is to encourage States to get tough and enact reforms to their juvenile justice systems.

I am not going to proceed with each one, but I will just read off the suggested reforms that will comprise ''getting tough'' and ''best practices'':

Victims' rights, including the right to be notified of the sentencing and release of the offender;

Mandatory victim restitution;

Public access to juvenile records;

Parental responsibility laws for acts committed by juveniles released to their parents' custody;

Zero tolerance for deadbeat juvenile parents, a requirement that juveniles released from custody attend school or vocational training and support their children;

Zero tolerance for truancy;

Character counts training, or similar programs adopted and enacted among the States;

And mentoring.

These programs are a combination of reforms which will positively impact victims, get tough on juvenile offenders, and provide states with resources to implement prevention programs to keep juveniles out of trouble in the first place.

The bill also increases from around $68 million to $200 million the amount available to states under the current OJJDP grant program. It also eliminates many of the strings placed on states as a condition of receiving those grants.

In my home state of New Mexico, juvenile arrests increased 84 percent from 1986 to last year.

In 1996, 36,927 juveniles were referred to the state juvenile parole and probation office. Some 39 percent of those referred have a history of 10 or more referrals to the system.

While the Justice Department has said that the overall juvenile crime rate in the United States dropped last year, states like New Mexico continue to see yearly increases in the number of juveniles arrested, prosecuted and incarcerated.

I mention these numbers because they have led to a growing problem in my home State, a problem which this bill will help fix.

More juvenile arrests create the need for more space to house juvenile criminals. But, because of burdensome federal ''sight and sound separation'' rules, New Mexico has been unable to implement a safe, reasonable solution to alleviate overcrowding at its juvenile facilities.

Instead, the state has been forced to consider sending juvenile prisoners to Iowa and Texas to avoid violating the federal rules and losing their funding. That is unacceptable and this bill will fix that.

Mr. President, I am pleased to work with the Senator from Missouri on this important legislation. I know that many of my colleagues share my concerns about the need to update our juvenile justice system. I hope that they will examine our bill and lend their support.

I am going to stop here. I ask unanimous consent that the entire bill and a summary of the bill be printed in the RECORD, and that it be appropriately referred. It will bear the signatures today of Senator ASHCROFT, Senator WYDEN, and Senator CAMPBELL as cosponsors.

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

S. 718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Juvenile Crime Control and Community Protection Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or

circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—REFORM OF EXISTING PROGRAMS

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) FINDINGS.—Congress finds that—

''(1) the Nation's juvenile justice system is in trouble, including dangerously overcrowded facilities, overworked field staff, and a growing number of children who are breaking the law;

''(2) a redesigned juvenile corrections program for the next century should be based on 4 principles, including—

''(A) protecting the community;

''(B) accountability for offenders and their families;

''(C) restitution for victims and the community; and

''(D) community-based prevention;

''(3) existing programs have not adequately responded to the particular problems of juvenile delinquents in the 1990's;

''(4) State and local communities, which experience directly the devastating failure of the juvenile justice system, do not have sufficient resources to deal comprehensively with the problems of juvenile crime and delinquency;

''(5) limited State and local resources are being unnecessarily wasted complying with overly technical Federal requirements for 'sight and sound' separation currently in effect under the 1974 Act, while prohibiting the commingling of adults and juvenile populations would achieve this important purpose without imposing an undue burden on State and local governments;

''(6) limited State and local resources are being unnecessarily wasted complying with the overly restrictive Federal mandate that no juveniles be detained or confined in any jail or lockup for adults, which mandate is particularly burdensome for rural communities;

''(7) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the area of sentencing;

''(8) local school districts lack information necessary to track serious violent juvenile offenders, information that is essential to promoting safety in public schools;

''(9) the term 'prevention' should mean both ensuring that families have a greater chance to raise their children so that those children do not engage in criminal or delinquent activities, and preventing children who have engaged in such activities from becoming permanently entrenched in the juvenile justice system;

''(10) in 1994, there were more than 330,000 juvenile arrests for violent crimes, and between 1985 and 1994, the number of juvenile criminal homicide cases increased by 144 percent, and the number of juvenile weapons cases increased by 156 percent;

''(11) in 1994, males age 14 through 24 constituted only 8 percent of the population, but accounted for more than 25 percent of all homicide victims and nearly half of all convicted murderers;

''(12) in a survey of 250 judges, 93 percent of those judges stated that juvenile offenders should be fingerprinted, 85 percent stated that juvenile criminal records should be made available to adult authorities, and 40 percent stated that the minimum age for facing murder charges should be 14 or 15;

''(13) studies indicate that good parenting skills, including normative development, monitoring, and discipline, clearly affect whether children will become delinquent, and adequate supervision of free-time activities, whereabouts, and peer interaction is critical to ensure that children do not drift into delinquency;

''(14) school officials lack the information necessary to ensure that school environments are safe and conducive to learning;

''(15) in the 1970's, less than half of our Nation's cities reported gang activity, while 2 decades later, a nationwide survey reported a total of 23,388 gangs and 664,906 gang members on the streets of United States cities in 1995;

''(16) the high incidence of delinquency in the United States results in an enormous annual cost and an immeasurable loss of human life, personal security, and wasted human resources; and

''(17) juvenile delinquency constitutes a growing threat to the national welfare, requiring immediate and comprehensive action by the Federal Government to reduce and eliminate the threat.''; and

(2) in subsection (b)—

(A) by striking ''further''; and

(B) by striking ''Federal Government'' and inserting ''Federal, State, and local governments''.

(b) PURPOSES.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''SEC. 102. PURPOSES.

''The purposes of this title and title II are—

''(1) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

''(2) to give greater flexibility to schools to design academic programs and educational services for juvenile delinquents expelled or suspended for disciplinary reasons;

''(3) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

''(4) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability, and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system to the public;

''(5) to assist teachers and school officials in ensuring school safety by improving their access to information concerning juvenile offenders attending or intending to enroll in their schools or school-related activities;

''(6) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and in transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

''(7) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

''(8) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

''(9) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.''.

SEC. 102. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by inserting ''punishment,'' after ''control,'';

(2) in paragraph (22)(iii), by striking ''and'' at the end;

(3) in paragraph (23), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(24) the term 'serious violent crime' means—

''(A) murder or nonnegligent manslaughter, or robbery;

''(B) aggravated assault committed with the use of a dangerous or deadly weapon, forcible rape, kidnaping, felony aggravated battery, assault with intent to commit a serious violent crime, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance; or

''(C) a serious drug offense;

''(25) the term 'serious drug offense' means an act or acts which, if committed by an adult subject to Federal criminal jurisdiction, would be punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); and

''(26) the term 'serious habitual offender' means a juvenile who—

''(A) has been adjudicated delinquent and subsequently arrested for a capital offense, life offense, first degree aggravated sexual offense, or serious drug offense;

''(B) has had not fewer than 5 arrests, with 3 arrests chargeable as felonies if committed by an adult and not fewer than 3 arrests occurring within the most recent 12-month period;

''(C) has had not fewer than 10 arrests, with 2 arrests chargeable as felonies if committed by an adult and not fewer than 3 arrests occurring within the most recent 12-month period; or

''(D) has had not fewer than 10 arrests, with 8 or more arrests for misdemeanor crimes involving theft, assault, battery, narcotics possession or distribution, or possession of weapons, and not fewer than 3 arrests occurring within the most recent 12-month period.''.

SEC. 103. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1)—

(A) by striking ''shall develop'' and inserting the following: ''shall—

''(A) develop'';

(B) by inserting ''punishment,'' before ''diversion''; and

(C) in the first sentence, by striking ''States'' and all that follows through the end of the paragraph and inserting the following: ''States; and

''(B) annually submit the plan required by subparagraph (A) to the Congress.'';

(2) in subsection (b)—

(A) in paragraph (1), by adding ''and'' at the end; and

(B) by striking paragraphs (2) through (7) and inserting the following:

''(2) reduce duplication among Federal juvenile delinquency programs and activities conducted by Federal departments and agencies.'';

(3) by redesignating subsection (h) as subsection (f); and

(4) by striking subsection (i).

SEC. 104. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended to read as follows:

''SEC. 207. ANNUAL REPORT.

''Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of

Representatives, the President pro tempore of the Senate, and the Governor of each State, a report that contains the following with respect to such fiscal year:

''(1) SUMMARY AND ANALYSIS.—A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the number of repeat juvenile offenders, the number of juveniles using weapons, the number of juvenile and adult victims of juvenile crime and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

''(A) the types of offenses with which the juveniles are charged, data on serious violent crimes committed by juveniles, and data on serious habitual offenders;

''(B) the race and gender of the juveniles and their victims;

''(C) the ages of the juveniles and their victims;

''(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

''(E) the number of juveniles who died while in custody and the circumstances under which they died;

''(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school;

''(G) the number of juveniles who are substance abusers; and

''(H) information on juveniles fathering or giving birth to children out of wedlock, and whether such juveniles have assumed financial responsibility for their children.

''(2) ACTIVITIES FUNDED.—A description of the activities for which funds are expended under this part.

''(3) STATE COMPLIANCE.—A description based on the most recent data available of the extent to which each State complies with section 223 and with the plan submitted under that section by the State for that fiscal year.

''(4) SUMMARY AND EXPLANATION.—A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

''(5) EXEMPLARY PROGRAMS AND PRACTICES.—A description of selected exemplary delinquency prevention programs and accountability-based youth violence reduction practices.''.

SEC. 105. BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.

(a) SECTION 221.—Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''The Administrator'';

(B) by inserting '', including charitable and religious organizations,'' after ''and private agencies'';

(C) by inserting before the period at the end the following: '', including—

''(A) initiatives for holding juveniles accountable for any act for which they are adjudicated delinquent;

''(B) increasing public awareness of juvenile proceedings;

''(C) improving the content, accuracy, availability, and usefulness of juvenile court and law enforcement records (including fingerprints and photographs); and

''(D) education programs such as funding for extended hours for libraries and recreational programs which benefit all juveniles''; and

(D) by adding at the end the following:

''(2)(A) State and local governments receiving grants under paragraph (1) may contract with religious organizations or allow religious organizations to accept grants under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

''(B) A State or local government exercising its authority to contract with private agencies or to allow private agencies to accept grants under paragraph (1) shall ensure that religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept grants under any program described in this title so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Neither the Federal Government nor a State or local government receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts grants, on the basis that the organization has a religious character.

''(C)(i) A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

''(ii) Neither the Federal Government nor a State or local government shall require a religious organization—

''(I) to alter its form of internal governance; or

''(II) to remove religious art, icons, scripture, or other symbols,

in order to be eligible to contract to provide assistance, or to accept grants funded under a program described in this title.

''(D) A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

''(E) If a juvenile has an objection to the religious character of the organization or institution from which the juvenile receives, or would receive, assistance funded under any program described in this title, the State in which the juvenile resides shall provide such juvenile (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider that is accessible to the juvenile and the value of which is not less than the value of assistance which the juvenile would have received from such organization.

''(F) Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

''(G)(i) Except as provided in clause (ii), any religious organization contracting to provide assistance funded under any program described in this title shall be subject to the same regulations as other contractors to account in accord with generally accepted accounting principles for the use of such funds provided under such programs.

''(ii) If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

''(H) Any party that seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate Federal district court against the official or government agency that allegedly commits such violation.

''(I) No State or local government may use funds provided under this title to fund sectarian worship, proselytization, or prayer, or for any purpose other than the provision of social services under this title.''; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) Of amounts made available to carry out this part in any fiscal year, $10,000,000 or 1 percent (whichever is greater) may be used by the Administrator—

''(A) to establish and maintain a clearinghouse to disseminate to the States information on juvenile delinquency prevention, treatment, and control; and

''(B) to provide training and technical assistance to States to improve the administration of the juvenile justice system.''.

(b) SECTION 223.—Section 223(a)(10) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)) is amended—

(1) by striking ''or through'' and inserting ''through''; and

(2) by inserting ''or through grants and contracts with religious organizations in accordance with section 221(b)(2)(B)'' after ''agencies,''.

SEC. 106. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) by striking the second sentence;

(B) by striking paragraph (3) and inserting the following:

''(3) provide for an advisory group, which—

''(A) shall—

''(i)(I) consist of such number of members deemed necessary to carry out the responsibilities of the group and appointed by the chief executive officer of the State; and

''(II) consist of a majority of members (including the chairperson) who are not full-time employees of the Federal Government, or a State or local government;

''(ii) include members who have training, experience, or special knowledge concerning—

''(I) the prevention and treatment of juvenile delinquency;

''(II) the administration of juvenile justice, including law enforcement; and

''(III) the representation of the interests of the victims of violent juvenile crime and their families; and

''(iii) include as members at least 1 locally elected official representing general purpose local government;

''(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

''(C) shall be afforded an opportunity to review and comment, not later than 30 days after the submission to the advisory group, on all juvenile justice and delinquency prevention grants submitted to the State agency designated under paragraph (1);

''(D) shall, consistent with this title—

''(i) advise the State agency designated under paragraph (1) and its supervisory board; and

''(ii) submit to the chief executive officer and the legislature of the State not less frequently than annually recommendations regarding State compliance with this subsection; and

''(E) may, consistent with this title—

''(i) advise on State supervisory board and local criminal justice advisory board composition;

''(ii) review progress and accomplishments of projects funded under the State plan; and

''(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system;'';

(C) in paragraph (10)—

(i) in subparagraph (N), by striking ''and'' at the end;

(ii) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(P) programs implementing the practices described in paragraphs (6) through (12) and (17) and (18) of section 242(b);'';

(D) by striking paragraph (13) and inserting the following:

''(13) provide assurances that, in each secure facility located in the State (including any jail or lockup for adults), there is no commingling in the same cell or community room of, or any other regular, sustained, physical contact between—

''(A) any juvenile detained or confined for any period of time in that facility; and

''(B) any adult offender detained or confined for any period of time in that facility.'';

(E) by striking paragraphs (8), (9), (12), (14), (15), (17), (18), (19), (24), and (25);

(F) by redesignating paragraphs (10), (11), (13), (16), (20), (21), (22), and (23) as paragraphs (8) through (15), respectively;

(G) in paragraph (14), as redesignated, by adding ''and'' at the end; and

(H) in paragraph (15), as redesignated, by striking the semicolon at the end and inserting a period; and

(2) by striking subsections (c) and (d).

SEC. 107. REPEALS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in title II—

(A) by striking parts C, E, F, G, and H;

(B) by striking part I, as added by section 2(i)(1)(C) of Public Law 102–586; and

(C) by amending the heading of part I, as redesignated by section 2(i)(1)(A) of Public Law 102–586, to read as follows:

''PART E—GENERAL AND ADMINISTRATIVE PROVISIONS''; and

(2) by striking title V, as added by section 5(a) of Public Law 102–586.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

SEC. 201. INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part B the following:

''PART C—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

''SEC. 241. AUTHORIZATION OF GRANTS.

''The Administrator shall provide juvenile delinquent accountability grants under section 242 to eligible States to carry out this title.

''SEC. 242. ACCOUNTABILITY-BASED INCENTIVE GRANTS.

''(a) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application at such time, in such form, and containing such assurances and information as the Administrator may require by rule, including assurances that the State has in effect (or will have in effect not later than 1 year after the date on which the State submits such application) laws, or has implemented (or will implement not later than 1 year after the date on which the State submits such application)—

''(1) policies and programs that ensure that all juveniles who commit an act after attaining 14 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution, unless on a case-by-case basis, as a matter of law or prosecutorial discretion, the transfer of such juveniles for disposition in the juvenile system is determined to be in the interest of justice, except that the age of the juvenile alone shall not be determinative of whether such transfer is in the interest of justice;

''(2) graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, ensuring that the sanction is of increasing severity based on the nature of the act, and escalating the sanction with each subsequent delinquent or criminal act; and

''(3) a system of records relating to any adjudication of juveniles less than 15 years of age who are adjudicated delinquent for conduct that if committed by an adult would constitute a serious violent crime, which records are—

''(A) equivalent to the records that would be kept of adults arrested for such conduct, including fingerprints and photographs;

''(B) submitted to the Federal Bureau of Investigation in the same manner in which adult records are submitted;

''(C) retained for a period of time that is equal to the period of time that records are retained for adults; and

''(D) available to law enforcement agencies, prosecutors, the courts, and school officials.

''(b) STANDARDS FOR HANDLING AND DISCLOSING INFORMATION.—School officials referred to in subsection (a)(3)(D) shall be subject to the same standards and penalties to which law enforcement and juvenile justice system employees are subject under Federal and State law for handling and disclosing information referred to in that paragraph.

''(c) ADDITIONAL AMOUNT BASED ON ACCOUNTABILITY-BASED YOUTH VIOLENCE REDUCTION PRACTICES.—A State that receives a grant under subsection (a) is eligible to receive an additional amount of funds added to such grant if such State demonstrates that the State has in effect, or will have in effect, not later than 1 year after the deadline established by the Administrator for the submission of applications under subsection (a) for the fiscal year at issue, not fewer than 5 of the following practices:

''(1) VICTIMS' RIGHTS.—Increased victims' rights, including—

''(A) the right to be treated with fairness and with respect for the dignity and privacy of the victim;

''(B) the right to be reasonably protected from the accused offender;

''(C) the right to be notified of court proceedings; and

''(D) the right to information about the conviction, sentencing, imprisonment, and release of the offender.

''(2) RESTITUTION.—Mandatory victim and community restitution, including statewide programs to reach restitution collection levels of not less than 80 percent.

''(3) ACCESS TO PROCEEDINGS.—Public access to juvenile court delinquency proceedings.

''(4) PARENTAL RESPONSIBILITY.—Juvenile nighttime curfews and parental civil liability for serious acts committed by juveniles released to the custody of their parents by the court.

''(5) ZERO TOLERANCE FOR DEADBEAT JUVENILE PARENTS.—A requirement as conditions of parole that—

''(A) any juvenile offender who is a parent demonstrates parental responsibility by working and paying child support; and

''(B) the juvenile attends and successfully completes school or pursues vocational training.

''(6) SERIOUS HABITUAL OFFENDERS COMPREHENSIVE ACTION PROGRAM (SHOCAP).—

''(A) IN GENERAL.—Implementation of a serious habitual offender comprehensive action program which is a multidisciplinary interagency case management and information sharing system that enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts.

''(B) MULTIDISCIPLINARY AGENCIES.—Establishment by units of local government in the State under a program referred to in subparagraph (A), of a multidisciplinary agency comprised of representatives from—

''(i) law enforcement organizations;

''(ii) school districts;

''(iii) State's attorneys offices;

''(iv) court services;

''(v) State and county children and family services; and

''(vi) any additional organizations, groups, or agencies deemed appropriate to accomplish the purposes described in subparagraph (A), including—

''(I) juvenile detention centers;

''(II) mental and medical health agencies; and

''(III) the community at large.

''(C) IDENTIFICATION OF SERIOUS HABITUAL OFFENDERS.—Each multidisciplinary agency established under subparagraph (B) shall adopt, by a majority of its members, criteria to identify individuals who are serious habitual offenders.

''(D) INTERAGENCY INFORMATION SHARING AGREEMENT.—

''(i) IN GENERAL.—Each multidisciplinary agency established under subparagraph (B) shall adopt, by a majority of its members, an interagency information sharing agreement to be signed by the chief executive officer of each organization and agency represented in the multidisciplinary agency.

''(ii) DISCLOSURE OF INFORMATION.—The interagency information sharing agreement shall require that—

''(I) all records pertaining to serious habitual offenders shall be kept confidential to the extent required by State law;

''(II) information in the records may be made available to other staff from member organizations and agencies as authorized by the multidisciplinary agency for the purposes of promoting case management, community supervision, conduct control, and tracking of the serious habitual offender for the application and coordination of appropriate services; and

''(III) access to the information in the records shall be limited to individuals who provide direct services to the serious habitual offender or who provide community conduct control and supervision to the serious habitual offender.

''(7) COMMUNITY-WIDE PARTNERSHIPS.—Community-wide partnerships involving county, municipal government, school districts, appropriate State agencies, and nonprofit organizations to administer a unified approach to juvenile delinquency.

''(8) ZERO TOLERANCE FOR TRUANCY.—Implementation by school districts of programs to curb truancy and implement certain and

swift punishments for truancy, including parental notification of every absence, mandatory Saturday school makeup sessions for truants or weekends in jail for truants and denial of participation or attendance at extracurricular activities by truants.

''(9) ALTERNATIVE SCHOOLING.—A requirement that, as a condition of receiving any State funding provided to school districts in accordance with a formula allocation based on the number of children enrolled in school in the school district, each school district shall establish one or more alternative schools or classrooms for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons and shall require that such juveniles attend the alternative schools or classrooms. Any juvenile who refuses to attend such alternative school or classroom shall be immediately detained pending a hearing. If a student is transferred from a regular school to an alternative school for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons such State funding shall also be transferred to the alternative school.

''(10) JUDICIAL JURISDICTION.—A system under which municipal and magistrate courts have—

''(A) jurisdiction over minor delinquency offenses such as truancy, curfew violations, and vandalism; and

''(B) short term detention authority for habitual minor delinquent behavior.

''(11) ELIMINATION OF CERTAIN INEFFECTIVE PENALTIES.—Elimination of 'counsel and release' or 'refer and release' as a penalty for juveniles with respect to the second or subsequent offense for which the juvenile is referred to a juvenile probation officer.

''(12) REPORT BACK ORDERS.—A system of 'report back' orders when juveniles are placed on probation, so that after a period of time (not to exceed 2 months) the juvenile appears before and advises the judge of the progress of the juvenile in meeting certain goals.

''(13) PENALTIES FOR USE OF FIREARM.—Mandatory penalties for the use of a firearm during a violent crime or a drug felony.

''(14) STREET GANGS.—A prohibition on engaging in criminal conduct as a member of a street gang and imposition of severe penalties for terrorism by criminal street gangs.

''(15) CHARACTER COUNTS.—Establishment of character education and training for juvenile offenders.

''(16) MENTORING.—Establishment of mentoring programs for at-risk youth.

''(17) DRUG COURTS AND COMMUNITY-ORIENTED POLICING STRATEGIES.—Establishment of courts for juveniles charged with drug offenses and community-oriented policing strategies.

''(18) RECORDKEEPING AND FINGERPRINTING.—Programs that provide that, whenever a juvenile who has not achieved his or her 14th birthday is adjudicated delinquent (as defined by Federal or State law in a juvenile delinquency proceeding) for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

''(A) equivalent to the record that would be kept of an adult conviction for such an offense;

''(B) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(C) made available to prosecutors, courts, and law enforcement agencies of any jurisdiction upon request; and

''(D) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, for handling and disclosing such information.

''(19) EVALUATION.—Establishment of a comprehensive process for monitoring and evaluating the effectiveness of State juvenile justice and delinquency prevention programs in reducing juvenile crime and recidivism.

''(20) BOOT CAMPS.—Establishment of State boot camps with an intensive restitution or work and community service requirement as part of a system of graduated sanctions.

''SEC. 243. GRANT AMOUNTS.

''(a) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) ELIGIBILITY.—Of the total amount made available to carry out Part C of this title for each fiscal year, subject to subsection (b), each State shall be eligible to receive the sum of—

''(A) an amount that bears the same relation to one-third of such total as the number of juveniles in the State bears to the number of juveniles in all States;

''(B) an amount that bears the same relation to one-third of such total as the number of juveniles from families with incomes below the poverty line in the State bears to the number of such juveniles in all States; and

''(C) an amount that bears the same relation to one-third of such total as the average annual number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data are available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

''(2) MINIMUM REQUIREMENT.—Each State shall be eligible to receive not less than 3.5 percent of one-third of the total amount appropriated to carry out Part C for each fiscal year, except that the amount for which the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is eligible shall be not less than $100,000 and the amount for which Palau is eligible shall be not less than $15,000.

''(3) UNAVAILABILITY OF INFORMATION.—For purposes of this subsection, if data regarding the measures governing allocation of funds under paragraphs (1) and (2) in any State are unavailable or substantially inaccurate, the Administrator and the State shall utilize the best available comparable data for the purposes of allocation of any funds under this section.

''(b) ALLOCATED AMOUNT.—The amount made available to carry out Part C of this title for any fiscal year shall be allocated among the States as follows:

''(1) 50 percent of the amount for which a State is eligible under subsection (a) shall be allocated to that State if it meets the requirements of section 242(a).

''(2) 50 percent of the amount for which a State is eligible under subsection (a) shall be allocated to that State if it meets the requirements of subsections (a) and (c) of section 242.

''(c) AVAILABILITY.—Any amounts made available under this section to carry out Part C of this title shall remain available until expended.''.

''SEC. 244. ACCOUNTABILITY.

''A State that receives a grant under section 241 shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Administrator, and shall ensure that any funds used to carry out section 241 shall represent the best value for the State at the lowest possible cost and employ the best available technology.

''SEC. 245. LIMITATION ON USE OF FUNDS.

''(a) NONSUPPLANTING REQUIREMENT.—Funds made available under section 241 shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(b) ADMINISTRATIVE AND RELATED COSTS.—Not more than 2 percent of the funds appropriated under section 299(a) for a fiscal year shall be available to the Administrator for such fiscal year for purposes of—

''(1) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this part; and

''(2) technical assistance relating to the use of grants made under section 241, and development and implementation of policies, programs, and practices described in section 242.

''(c) CARRYOVER OF APPROPRIATIONS.—Funds appropriated under section 299(a) shall remain available until expended.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a proposal, as described in an application approved under this part.''.

TITLE III—REFORM OF FEDERAL JUVENILE JUSTICE SYSTEM

SEC. 301. JUVENILE ADJUDICATIONS CONSIDERED IN SENTENCING.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that offenses contained in the juvenile record of an adult defendant shall be considered as adult offenses in sentencing determinations if such juvenile offenses would have constituted a felony had they been committed by the defendant as an adult.

SEC. 302. ACCESS TO JUVENILE RECORDS.

Section 5038(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) inquiries from officials of a school, school district, or any postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed or ordered to enroll.''.

SEC. 303. REFERRAL OF CHILDREN WITH DISABILITIES TO JUVENILE AND CRIMINAL AUTHORITIES.

Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by adding at the end the following:

''(g) REFERRALS TO JUVENILE AND CRIMINAL AUTHORITIES.—

''(1) REPORTING.—Nothing in this part shall be construed to prohibit an agency from reporting a criminal act committed by a child with a disability to the police or a juvenile authority, or to prohibit a State juvenile or judicial authority from exercising the responsibility of the authority with regard to the application of a juvenile or criminal law to a criminal activity committed by a child with a disability.

''(2) FILING PETITIONS.—Nothing in this part shall be construed to require a State educational agency or local educational agency to exhaust the due process procedures under this section or any other part of this Act prior to filing a petition in a juvenile or criminal court with regard to a child with a disability who commits a criminal act at school or a school-related event under the jurisdiction of the State educational agency or local educational agency.''.

SEC. 304. LIMITED DISCLOSURE OF FEDERAL BUREAU OF INVESTIGATION RECORDS.

Section 534(e) of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3)(A) The Director of the Federal Bureau of Investigation, Identification Division, shall provide, upon request, the information received under paragraph (3) of section 242(a) of the Juvenile Justice Delinquency and Prevention Act of 1974, to officials of a school, school district, or postsecondary school where the individual who is the subject of such information seeks, intends, or is instructed or ordered to enroll.

''(B) School officials receiving information under subparagraph (A) shall be subject to the same standards and penalties to which law enforcement and juvenile justice system employees are subject under Federal and State law for handling and disclosing information referred to in subparagraph (A).''.

SEC. 305. AMENDMENTS TO FEDERAL JUVENILE DELINQUENCY ACT.

(a) PROSECUTION OF JUVENILES AS ADULTS.—Section 5032 of title 18, United States Code, is amended by inserting before the first undesignated paragraph the following:

''Notwithstanding any other provision of law, a juvenile defendant 14 years of age or older shall be prosecuted as an adult, and this chapter shall not apply, if such juvenile is charged with an offense that constitutes—

''(A) murder or attempted murder;

''(B) robbery while armed with a dangerous or deadly weapon;

''(C) battery or assault while armed with a dangerous or deadly weapon;

''(D) forcible rape;

''(E) any serious drug offense which, if committed by an adult, would be punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); and

''(F) the third or subsequent occasion, unrelated to any previous occasion, on which such juvenile engages in conduct for which an adult could be imprisoned for a term exceeding 1 year, unless, on a case-by-case basis—

''(i) a court determines that trying such a juvenile as an adult is not in the interest of justice, except that the age of the juvenile alone shall not be determinative of whether or not such action is in the interest of justice;

''(ii) the court records its reasons for making such a determination in writing and makes such record available for inspection by the public; and

''(iii) the court makes a record in writing of the disposition of the juvenile in the juvenile justice system available to the public, notwithstanding any other law requiring such information to be withheld or limited in any way from access by the public.''.

(b) AMENDMENTS CONCERNING RECORDS.—Section 5038 of title 18, United States Code, is amended—

(1) by striking subsections (d) and (f);

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end the following:

''(e)(1) The court shall comply with the requirements of paragraph (2) if—

''(A) a juvenile under 14 years of age has been found guilty of committing an act which, if committed by an adult, would be an offense described in the first undesignated paragraph of section 5032; or

''(B) a juvenile, age 14 or older, is adjudicated delinquent in a juvenile delinquency proceeding for conduct which, if committed by an adult, would constitute a felony.

''(2) The requirements of this paragraph are that—

''(A) a record shall be kept relating to the adjudication that is—

''(i) equivalent to the record that would be kept of an adult conviction for such an offense;

''(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(iii) made available to law enforcement agencies of any jurisdiction;

''(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll; and

''(v) made available, once the juvenile becomes an adult or is tried as an adult, to any court having criminal jurisdiction over such an individual for the purpose of allowing such court to consider the individual's prior juvenile history as a relevant factor in determining appropriate punishment for the individual at the sentencing hearing;

''(B) officials referred to in clause (iv) of subparagraph (A) shall be held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to under Federal and State law for handling and disclosing such information;

''(C) the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division, and shall otherwise be made available to the same extent that fingerprints and photographs of adults are made available; and

''(D) the court in which the adjudication takes place shall transmit to the Federal Bureau of Investigation, Identification Division, information concerning the adjudication, including the name, date of adjudication, court, offenses, and disposition, along with a prominent notation that the matter concerns a juvenile adjudication.

''(3) If a juvenile has been adjudicated to be delinquent on 2 or more separate occasions based on conduct that would be a felony if committed by an adult, the record of the second and all subsequent adjudications shall be kept and made available to the public to the same extent that a record of an adult conviction is open to the public.''.

TITLE IV—GENERAL PROVISIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended by striking subsections (a) through (e) and inserting the following:

''(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—There are authorized to be appropriated for each of fiscal years 1998, 1999, 2000, 2001, and 2002, such sums as may be necessary to carry out part A.

''(b) BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.—There is authorized to be appropriated $200,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, to carry out part B.

''(c) INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.—There is authorized to be appropriated $300,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, to carry out part C.

''(d) SOURCE OF APPROPRIATIONS.—Funds authorized to be appropriated by this section may be appropriated from the Violent Crime Reduction Trust Fund.''.

SUMMARY OF DOMENICI-ASHCROFT-WYDEN ''JUVENILE CRIME CONTROL AND COMMUNITY PROTECTION ACT OF 1997''

Funding—$500 million authorization for juvenile justice grants: $200 million for current OJJDP state formula grants (increase of $113 million from $86.5 million in FY 1997); $300 million for new incentive grants.

To qualify for the first $150 million, states must enact three reforms: (1) mandatory adult prosecution for juveniles age 14 and over who commit serious violent crimes or serious drug felonies; (2) graduated sanctions, so that every bad act receives punishment; and (3) adult recordkeeping, including fingerprints and photographs for juveniles under age 15 who commit serious violent crimes.

To qualify for the next $150 million, states must enact 5 of 20 suggested reforms.

They include:

1) Increased victims' rights, including notification of release or escape of the offender who committed a crime against a particular victim.

2) Victim and community restitution.

3) Public access to juvenile court delinquency proceedings.

4) Nighttime curfews and parental responsibility laws, holding parents civilly liable for the delinquent acts of their children.

5) Zero tolerance for deadbeat juvenile parents—require as a condition of parole that juvenile parents pay child support and attend school or vocational training.

6) SHOCAP—interagency information sharing and monitoring of the most serious juvenile offenders across the state.

7) Zero tolerance for truancy—parental notification of every absence, mandatory make-up sessions, and denial of participation in extra-curriculars for habitual truants.

8) Alternative schools and classrooms for expelled or suspended students.

9) Judicial jurisdiction for local magistrates over minor delinquency offenses and short-term detention authority for habitual delinquent behavior.

10) Elimination of 'counsel and release' as a penalty for second or subsequent offenses.

11) Report-back orders for juveniles on probation—must appear before the sentencing judge and apprise the judge of the juvenile's progress in meeting certain goals.

12) Mandatory penalties for the use of a firearm during a violent crime.

13) Anti-gang legislation.

14) Character Counts—character education and training.

15) Mentoring.

16) Drug courts, special courts or court sessions for juveniles charged with drug offenses.

17) Community-wide partnerships involving all levels of state and local government to administer a unified approach to juvenile justice.

18) Adult recordkeeping for juveniles age 14 and under who commit any felony under state law.

19) Boot camps, which include an intensive restitution and/or community service component.

20) Evaluation and monitoring of the effectiveness of State juvenile justice and delinquency prevention programs reducing crime and recidivism.

Mandates—reforms or eliminates 3 of the most burdensome federal mandates found in the 1974 Juvenile Justice and Delinquency Prevention Act.

Modifies mandatory sight and sound separation of juveniles and adults in secure facilities by prohibiting ''regular, sustained physical contact'' between juveniles and adults in the same facility. States would provide assurances that there will be no commingling or regular physical contact between juveniles and adults in the same cell

or community room. This will reduce costs for rural communities, which often do not have a separate space to house juveniles which meets the current strict sight and sound requirement.

Eliminates two other mandates: (1) prohibition on placing juveniles in any adult jail or lock-up; and (2) prohibition on placing ''status offenders'' in secure facilities.

FEDERAL REFORMS

Adult prosecution. Requires mandatory adult prosecution for juveniles age 14 or over for serious violent crimes and major drug offenses. Also requires mandatory ''three strikes'' adult prosecution for juveniles age 14 and over when a juvenile commits a third offense chargeable as a felony. Judge has discretion under the ''three strikes'' provision to refuse to prosecute the juvenile as a adult if the ''interests of justice'' determine that adult prosecution is inappropriate.

Adult records. Requires equivalent of an adult record for juveniles under age 14 who commit serious violent crimes and for juveniles over age 14 who commit acts chargeable as felonies. Includes fingerprints and photographs.

Access to juvenile records. Allows courts to consider juvenile offenses when making adult sentencing decisions, if juvenile offenses would have been felonies if committed by adults. Gives school officials access to federal juvenile records and FBI files, as long as confidentiality is maintained.

IDEA amendment. Overturns court decision prohibiting school officials from unilaterally reporting to authorities or filing petitions in juvenile or criminal courts with regard to criminal acts at school committed by children covered by the IDEA.

Mr. DOMENICI. Mr. President, I yield to Senator WYDEN at this time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I thank the Senator from New Mexico, and want him to know I very much appreciate the chance to join him and Senator ASHCROFT on this bipartisan bill.

Mr. President, I say to my colleagues, it is very clear that the juvenile justice system today in our country is very much like a revolving door. A young person can commit a violent crime, a series of violent crimes, be apprehended, visit the juvenile justice system—and that is really an appropriate characterization—and be back on the street virtually immediately. In fact, in our newspaper, the Oregonian, it was recently reported that a child committed 52 crimes, 32 of which were felonies, before the juvenile justice system took action to protect the community.

I felt—and I think this is the focus of the legislation that the Senator from New Mexico, the Senator from Missouri and I bring to the floor today—that there should be three principles for the new juvenile justice system for the 21st century.

The first ought to be community protection; the second should be accountability; and the third should be restitution. The principle of accountability is especially important with young people. I even see it with my own small kids, a 7-year-old and a 13-year-old. If they act up, there needs to be some consequences.

I am particularly pleased that the legislation the Senator from New Mexico brings to the floor today puts a special focus on trying to deal with offenses perpetrated by young people that have not yet risen to that level of violent crime and, in effect, try to send a message to young people that there will be consequences.

The last point that I will make, because I know time is short and we have much to do today, is that this legislation is particularly important in such areas as recordkeeping. We have found across the country that it has not even been possible to keep tabs on the violent juveniles, because there are so many gaps in the recordkeeping in the States. Both the Senator from New Mexico and the Senator from Missouri have done yeoman work in this regard.

This is a balanced bill; it is a bipartisan bill. It moves to update the laws dealing with juveniles for the 21st century.

I thank my friend from New Mexico and the Senator from Missouri for allowing me to be part of this bipartisan coalition. They included a number of provisions that are important to our State in the drafting that went on in the last week. I thank the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator CAMPBELL be added as an original cosponsor.

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

Mr. ASHCROFT. Mr. President, I am proud to join with the Senators DOMENICI and WYDEN in introducing the Juvenile Crime Control and Community Protection Act of 1997 to reform the juvenile justice system in order to protect the public and hold juvenile offenders accountable for their actions.

In 1994, juvenile courts handled an estimated 120,200 drug offense cases, a jump of 82 percent from 1991. Violent crime arrests among juveniles in 1995 was 12 percent higher than the level in 1991 and 67 percent above the level in 1986.

This year, Mr. President, it seems as though incidents of juvenile violence are occurring every day and everywhere.

In Alton, IL, two teens were gunned down—one shot twice in the face and the other shot once in the back of the head when he turned to flee—by a 15-year-old of East St. Louis who had driven 30 miles to carry out the shooting.

In Dayton, KY, a 15-year-old killed her 5-month-old son. She was given the maximum sentence—30 days of detention.

In Montgomery County, MD, a 14-year-old girl along with three adults were arrested for two bank robberies in Silver Spring.

In Boston, MA, three schoolgirls—two 14-year-olds and one 15-year-old—were charged with putting knives to the throat or stomach of classmates and stealing their gold jewelry and lunch money.

As these incidents demonstrate, the perpetrators of violence and their victims are getting younger. Similarly, gang activity is getting worse in our inner cities, suburbs, and rural communities. A 1995 nationwide survey of law enforcement agencies reported a total of 23,388 gangs, and 664,906 gang members in their jurisdiction. In comparison, a 1993 survey showed an estimated 4,881 gangs with 249,324 gang members in the United States.

The need for juvenile justice reform is clear, especially in light of the fact that probation was the sentence handed out for 56 percent of the 1992 juvenile court cases in which the juvenile was adjudicated delinquent whether the offense was a felony or misdemeanor in nature.

Mr. President, this bill takes substantial steps toward addressing the problems of violent juvenile offenders and the prevalence of youth gangs. The Federal Government would assist State and local efforts in dealing with the epidemic of juvenile crime by helping target the most violent and problematic offenders.

Mr. President, the Juvenile Crime Control and Community Protection Act of 1997 would provide $1.5 billion over 5 years in incentive grants to encourage and assist States in reforming their juvenile justice systems.

States are encouraged to revise their laws to reflect three much-needed reforms. First, juveniles age 14 or older who commit serious violent crimes—such as murder, forcible rape, aggravated assault, or serious drug offenses—should be tried as the adult criminals they are. By making sure that the punishment fits the seriousness of the crime, this proposal would deter juveniles who currently believe that the law cannot touch them.

Second, the States are encouraged to ensure that records of juveniles under age 15, who are found to be delinquent regarding serious violent crimes and serious drug offenses, are maintained and made available to law enforcement agencies, including the Federal Bureau of Investigation, prosecutors, adult criminal courts, and appropriate school officials.

Finally, the States are encouraged to establish graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act and that the sanctions increase in severity based on the nature of the act. The sanctions should also escalate with each subsequent delinquent or criminal act, and should include mandatory restitution to victims, longer sentences of confinement, or mandatory participation in community service.

For States that enact such reforms, additional grant funds would be made available to implement at least 5 of 18 accountability-based practices including: record-keeping for juvenile criminals age 14 or older who commit offenses equivalent to an adult felony; increasing victims' rights concerning information about the conviction, sentencing, imprisonment, and release of their juvenile attackers; mandatory

restitution to victims of juvenile crimes; public access to juvenile court proceedings; parental responsibility laws; zero tolerance for deadbeat juvenile parents; implementation of a Serious Habitual Offenders Comprehensive Action Program [SHOCAP]—a comprehensive and cooperative information and case management process for police, prosecutors, schools, probation departments, corrections facilities, and social and community aftercare services; establishment of community-wide partnerships involving county, municipal government, school districts, and others to administrator a unified approach to juvenile delinquency; antitruancy initiatives; alternative schooling for juvenile offenders or juveniles who are expelled or suspended from school for disciplinary reasons; tougher penalties for criminal street gang crimes; and the establishment of penalties for juvenile offenders who use a firearm during a violent crime or a drug felony.

The bill would provide $200 million in formula grants, a $130 million increase over the FY1997 level for each fiscal year, FY1998 through FY2002. Under current law, states and localities must comply with several mandates to be eligible for these funds. For example, states must currently ensure that (1) no status offender may be held in secure detention or confinement; (2) juveniles cannot be held in jails and law enforcement lockup in which adults may be detained or confined for any period of time; and (3) complete sight and sound separation of juvenile offenders from adult offenders in secure facilities.

These mandates are costly and burdensome on state and local law enforcement efforts. For example, in February of this year, I visited with law enforcement and juvenile justice officials in Kirksville, MO, a rural community in Northeast Missouri, who told me about a problem that is all too common for rural communities. A deputy juvenile officer said that local law enforcement officers were able to apprehend four Missouri 15-year-olds who had brutally murdered a Iowa farm wife in October of 1994, and were even able to secure confessions to the murder. However, the Kirksville police could not detain the murderers because the Federal law prohibits juveniles from being held in jails in which adults may be detained and Kirksville did not have secure detention facilities.

As a result, the teens had to be detained in other Missouri facilities. Two of the teen had to be transported to Boone County, MO—100 miles from Kirksville—while the other two teens had to be taken to Union, MO, more than 200 miles away.

The legislation introduced today would eliminate this absolute jail and lockup prohibition. If enacted, the Kirksvilles of our country would no longer have to bear additional costs in trying to find a completely separate facility in order to detain violent juvenile offenders.

A thorough reform of juvenile justice systems must also include participation by our charitable and faith-based organizations. Government needs to rebuild civil society by fostering a partnership with charitable and faith-based organizations to promote civic virtues and individual responsibility.

Govenrment needs to look beyond its bureaucratic, one-size-fits-all programs and give assistance to those groups toiling daily in our communities, often publicly unnoticed and virtually unaided by Government.

For example, Teen challenge, which is headquartered in Missouri, receives little or no local, State, or Federal government financial assistance. Teen Challenge is a nonprofit, faith-based organization that works with youth, adults and families. Teen challenge has 16 adolescent programs in several states, including Florida, Indiana, and New Mexico.

Most of the juveniles in the program has drug or alcohol problems. A large number of the adolescents have been physically or sexually abused. Almost all of them had a major problem with rebelling against authority, according to a 1992 survey of Indianapolis Teen Challenge. Thirteen percent were court-ordered placements. This same study indicated that 70 percent of the graduates were abstaining from illegal drug use.

Mr. President, this bill would amend the Juvenile Justice and Delinquency Prevention Act to allow states to conduct with, or make grants to, private, charitable and faith-based organizations to provide programs for at-risk and delinquent juveniles.

Charitable and faith-based organizations have a proven track record of transforming shattered lives by addressing the deeper needs of people, by instilling hope and values which help change behavior and attitudes. Under this bill states would be allowed to enroll these organizations as full-fledged participants in caring for and supporting juveniles who are less fortunate.

The bill also proposes reforms to the federal criminal justice system consistent with those it encourages those states to adopt. The legislation strengthens the federal law by requiring the adult prosecution of any juvenile age 14 or older who is alleged to have committed murder, attempted murder, robbery while armed with a dangerous or deadly weapon, assault or battery while armed with a dangerous weapon, forcible rape or a serious drug offense. Repeat juvenile offenders would also be subject to transfer to adult court, if they have 2 previous adjudications for offenses that would amount to a felony if committed by an adult.

Juvenile criminals found delinquent in U.S. district courts of violent crimes would be fingerprinted and photographed, and then the fingerprints and photograph are sent to the FBI to be made available to the same extent as that of adult felons to law enforcement agencies, school officials, and courts for sentencing purposes.

In addition, the bill would clearly express the intent of Congress with regard to special education students who commit criminal acts at school or school-related events. Earlier this year, the Sixth Circuit Court of Appeals, in *Morgan* v. *Chris L.*, upheld the ruling of a district court that the Knox County Tennessee Public School violated the procedural requirements of the Individuals with Disabilities Education Act (IDEA) by in essence filing criminal charges against a student with a disability. IDEA provides grants to states and creates special due process procedures for children with disabilities.

In this case, a student diagnosed as suffering from attention deficit hyperactivity disorder kicked a water pipe in the school lavatory until it burst—a crime against property—resulting in about $1,000 water damage. The Knox County School District filed a petition in juvenile court against the child. The disabled student's father filed for a due process hearing under the IDEA to review the filing of the petition in juvenile court by the school. The hearing officer ordered the school district to seek dismissal of its juvenile court petition and that decision by the hearing officer was upheld by the Federal District Court and the Sixth Circuit Court of Appeals.

The Court of Appeals concluded that under ''IDEA's procedural safeguards, the school system must adopt its own plan and institute a [multi-disciplinary] team meeting before initiating a juvenile court petition.'' The problem with the circuit court's holding is that the special due process procedures for disabled students take several months, and sometimes a year, to complete. The practical effect of the ruling is that schools, as a matter of law, cannot unilaterally file charges against disabled students unless students' parents consent to such referrals. Schools must keep a student in school—potentially endangering others—and wait until the completion of the due process procedures required by IDEA.

In addition to Tennessee, other States—such as Georgia, Ohio, Minnesota, Illinois, Michigan, Rhode Island, and New Hampshire—allow individuals, including school officials who witness students committing crimes at school, to file petitions in juvenile courts against the students. School officials should not be required to exhaust the IDEA's significant due process procedures before filing criminal juvenile petitions against students with disabilities.

The ramifications of the sixth circuit's ruling have been immediate and troubling for school districts. Citing the ruling of the Chris L holding as authority, a Knox County, TN chancellor recently set aside the juvenile conviction of a high school special education student—because he is deaf in his right ear—who brought a butterfly knife to

school. The chancellor court based its decision on the fact that the school had failed to convene a multidisciplinary team before referring the student with a disability to the juvenile court. The chancellor, when asked about his ruling, reportedly said, ''There's a serious question to whether or not a student under this IDEA program can be charged at all.''

The bill we are introducing today would make it clear to the Tennessee chancellor and other courts that students with disabilities who commit criminal acts on school property are not shielded from immediate referral to juvenile court or law enforcement authorities under IDEA's special due process procedures. We must restore the capacity of schools to create secure environments where all students can learn and achieve their highest potential.

Mr. President, this bill would assist State and local governments in increasing public safety by holding juvenile criminals accountable for their serious and violent crimes, by encouraging accountability through the imposition of meaningful sanctions for delinquent acts, and by improving the extent, accuracy, availability, and usefulness of juvenile criminal records and public accessibility to juvenile court proceedings.

In short, Mr. President, enactment of the Juvenile Crime Control and Community Protection Act of 1997 would be a significant step in the right direction toward addressing America's juvenile crime problem.

Mr. WYDEN. Mr. President, last month, I talked about the importance of the innovative ''Community Justice'' model for juvenile justice being developed in Deschutes County and Multnomah County, OR. Today, Senators DOMENICI and ASHCROFT and I are introducing legislation that incorporates many important pieces of this Oregon model and also represents an effort to bring some new, bipartisan thinking to the issue of juvenile justice.

Oregon's idea is that the juvenile justice system should weave the community into the very fabric of juvenile justice. This entails treating the victim as a customer of the juvenile justice system and realizing that when a crime is committed the whole community is the victim. There is a reciprocal obligation in communities—first, to give children the values and tools to ensure that youth crime is prevented and second, to look for at-risk children and try to form a net of services to keep these children from getting into trouble. However, once a young person steps over the line and commits a crime, part of the reciprocity involves the youth making the community whole through restitution and community service.

I was pleased to work with Senators DOMENICI and ASHCROFT to include some of these Oregon ideas into this bill. In particular, I think that the second tier of incentive grants will help encourage States to come up with ways to integrate the community into the juvenile justice process. In particular, the bill promotes consideration for victims and restitution for all crimes. It will also ensure that this restitution is collected. The legislation encourages States to look at mentorship programs, parent accountability, and ways to bring together service providers to form a network of information sharing to prevent juvenile crime.

One of the key aspects of the Deschutes County model that is so impressive is the coordination between schools, juvenile justice services, child protection services, police, district attorneys, judges, and others. Not only does this build a broad base of support for the juvenile justice system, but it allows these agencies to identify the most at-risk youth early, to see whether efforts to divert them from delinquency are effective and to concentrate resources on them.

When I began working on this issue in 1995, I laid out three principles for a new juvenile justice system: community protection, accountability, and restitution. We need to keep our streets safe, punish criminals, and make sure victims—including the community itself—are repaid. This legislation will encourage States to develop systems based on these principles and to add to the the important ingredient of community involvement in the juvenile justice system.

I thank the Senators from Missouri and New Mexico for their bipartisan effort to develop juvenile justice legislation that takes a balanced approach to juvenile justice.

By Mr. WELLSTONE:

S. 719. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

THE HMONG VETERANS' NATURALIZATION ACT OF 1997

• Mr. WELLSTONE. Mr. President, today, I have introduced the Hmong Veterans' Naturalization Act of 1997.

The purpose of this bill is to help expedite the naturalization of Hmong veterans who served and fought alongside the United States during the United States secret war in Laos. This legislation acknowledges their service and officially recognizes the service of Hmong and other ethnic Lao veterans who sacrificed and loyally fought for America and its principles of freedom, human rights, and democracy.

This legislation continues the tradition of recognizing the service of those who came to the aid of the United States in times of war. Current law permits aliens or noncitizens who served honorably in the U.S. military forces during wartime to be naturalized, regardless of age, period of U.S. residence, or physical presence in the United States. However, expedited naturalization does not apply to Hmong and Lao veterans and their families because of the covert status of their work. This bill would help expedite this process by eliminating the literacy requirement in the naturalization process.

Classified studies conducted by the defense policy think tank RAND have recently been declassified. They show the unique and important role that the Hmong people played during the Vietnam war. The studies reveal that this group, the ''Secret Army,'' specially created by the United States Government, played a critical role in the clandestine military activities in Laos.

Hmong men, women, and children of all ages fought and died alongside U.S. military personnel in units recruited, organized, trained, funded and paid by the U.S. Government. It is estimated that during the United States involvement in Vietnam, 35,000 to 40,000 Hmong veterans and their families' were killed in conflict. 50,000 to 58,000 were wounded in conflict and an additional 2,500 to 3,000 were declared missing.

During the Vietnam conflict, Hmong forces were responsible for risking their lives by crossing enemy lines to rescue downed American pilots. It is estimated that they saved at least 60 American lives and often lost half their troops rescuing one soldier.

When the United States withdrew from Southeast Asia, thousands of Hmong were evacuated by the U.S. Government. However, many were left behind and experienced mass genocide at the hands of Communists. Many fled to neighboring Thailand. During their journey, many were murdered before they reached the Thai border. Even today, despite official denial by the Lao Government, the Communist regime of Laos continues to persecute and discriminate against the Hmong specifically because of their role in the United States secret army.

Edgar Buell, the senior U.S. CIA official who worked with the Hmong secret army, explained their critical role on national television:

''Everyone of them (Hmong) that died, that was an American back home that didn't die, or one that was injured that wasn't injured. Somebody in nearly every Hmong family was either fighting or died from fighting. They became refugees because we (the United States) encouraged them to fight for us. I promised myself: '''Have no fear, we will take care of you.'''

It is now time to live up to earlier promises and take care of this group that so valiantly fought alongside American forces. We can only make good on our word by passing this legislation.

Currently, many of the 45,000 former soldiers and their refugee family members living in the United States cannot become citizens because they lack the sufficient English language skills to pass the naturalization test. The intense and protracted war in Laos and the subsequent exodus of the Hmong veterans into squalid refugee camps did

not permit these veterans the opportunity to attend school and learn English. Also, many suffer from injuries that occurred during the war that make learning difficult and frustrating.

Because of the welfare and immigration reform bill enacted last Congress, aging, elderly, illiterate (in English), semiliterate and wounded soldiers—usually with large families—will suffer greatly because they are now facing the almost impossible task of immediately learning English and finding gainful employment. People like Chanh Chantalangsy are faced with an uncertain future:

Chanh served in the secret army and was seriously wounded in his head, arm, and legs. After being in the hospital for 7 months, he returned to combat, serving in a CIA sponsored unit. Fleeing Laos, he spent 14 years in a refugee camp in Thailand. Realizing that the conditions in his country would not improve, Chanh left the refugee camp and came to the United States. He studied English for 5 years but it became evident that mental and physical injuries prevented him from learning English. In 1993, he was classified disabled and now receives $561 a month in SSI benefits. As of August, he could lose this small benefit.

Given the unique role that the veterans served on behalf of the U.S. national security interests, we should waive the difficult naturalization requirements for this group. We have a responsibility to these people. This responsibility was supported by former CIA Director William Colby when he said to a House subcommittee:

''The basic burden (of fighting in Laos) was born by the Hmong. We certainly encouraged them to fight. We enabled them to fight in many cases, and I think the spirit that they developed was in part a result of our offering of support and our provision of it.''

Mr. President, it is now time to give our support. These people fought for our country for 15 years and came to the United States with an understanding that they would be cared for. One act of Congress, the welfare reform law, wiped out this understanding and threw the Hmong into a state of despair. They neither have the capacity to care for themselves if benefits are terminated, nor the ability to return to their homeland. I implore my colleagues to support one more act of Congress that would fulfill our pledge and our obligation.

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. 719

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 ''Hmong Veterans' Naturalization Act of 1997''.

SEC. 2. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.

The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) shall not apply to the naturalization of any person who—

(1) served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, or

(2) is the spouse or widow of a person described in paragraph (1).

SEC. 3. NATURALIZATION THROUGH SERVICE IN A SPECIAL GUERRILLA UNIT IN LAOS.

(a) IN GENERAL.—The first sentence of subsection (a) and subsection (b) (other than paragraph (3)) of section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) shall apply to an alien who served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, in the same manner as they apply to an alien who has served honorably in an active-duty status in the military forces of the United States during the period of the Vietnam hostilities.

(b) PROOF.—The Immigration and Naturalization Service shall verify an alien's service with a guerrilla unit described in subsection (a) through—

(1) review of refugee processing documentation for the alien,

(2) the affidavit of the alien's superior officer,

(3) original documents,

(4) two affidavits from person who were also serving with such a special guerrilla unit and who personally knew of the alien's service, or

(5) other appropriate proof.

The Service shall liberally construe the provisions of this subsection to take into account the difficulties inherent in proving service in such a guerrilla unit.●

By Mr. GRASSLEY (for himself, Mr. INOUYE, and Mr. FRIST):

S. 720. A bill to amend titles XVIII and XIX of the Social Security Act to expand and make permanent the availability of cost-effective, comprehensive acute and long-term care services to frail elderly persons through Programs of All-inclusive Care for the Elderly (PACE) under the medicare and medicaid programs; to the Committee on Finance.

THE PACE PROVIDER ACT OF 1997

● Mr. GRASSLEY. Mr. President, I am pleased to introduce today, along with Senator INOUYE, the distinguished Senator from Hawaii, the PACE Provider Act of 1997. PACE, the Program of All-Inclusive Care for the Elderly, is a unique system of integrated care for the frail elderly. This Act increases the number of PACE sites authorized to provide comprehensive, community-based services to frail, elderly persons.

As our population ages, we must continue to place a high priority on long-term care services. Giving our seniors alternatives to nursing home care and expanding the choices available, is not only cost effective, but will also improve the quality of life for older Americans.

PACE programs achieve this goal. PACE enables the frail elderly to remain as healthy as possible, at home in their communities. By doing so, elderly individuals maintain their independence, dignity and quality of life.

Each PACE participant receives a comprehensive care package, including all Medicare and Medicaid services, as well as community-based long-term care services. Each individual is cared for by an interdisciplinary team consisting of a primary care physician, nurse, social worker, rehabilitation therapist, home health worker, and others. Because care providers on the PACE team work together, they are able to successfully accommodate the complex medical and social needs of the elderly person in fragile health.

What's more, PACE provides high-quality care at a lower cost to Medicare and Medicaid, relative to their payments in the traditional system. Studies show a 5–15 percent reduction in Medicare and Medicaid spending for individuals in PACE.

The potential savings to Medicare and Medicaid is significant. PACE programs provide services for one of our most vulnerable, and costly, population: frail, elderly adults who are eligible for Medicare and Medicaid. In many cases, these ''dually eligible'' individuals have complex, chronic care needs and require ongoing, long-term care services. The current structure of Medicare and Medicaid does not encourage coordination of these services. The result is fragmented and costly care for our nation's most vulnerable population.

The PACE Provider Act does not alter the criteria for eligibility for PACE participation in any way. Instead, it makes PACE programs more available to individuals already eligible for nursing home care, because of their poor health status. PACE is a preferable, and less costly, alternative. Specifically, this Act increases the number of PACE programs authorized from 15 to 40, with an additional 20 to be added each year, and affords regular ''provider'' status to existing sites.

The PACE Provider Act allows the success of PACE programs to be replicated throughout the country. And, with an emphasis on preventative and supportive services, PACE services can substantially reduce the high-costs associated with emergency room visits and extended nursing home stays often needed by the frail elderly in the traditional Medicare and Medicaid programs.

My sponsorship of this bill grows out of my Aging Committee hearing on April 29, Torn Between Two Systems: Improving Chronic Care in Medicare and Medicaid. The plight of the dual eligibles is unacceptable. This bill is an immediate and positive step in the right direction.

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. 720

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 ''Programs of All-inclusive Care for the Elderly (PACE) Coverage Act of 1997''.

SEC. 2. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

''SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

''(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

''(A) the individual may enroll in the program under this section; and

''(B) so long as the individual is so enrolled and in accordance with regulations—

''(i) the individual shall receive benefits under this title solely through such program, and

''(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

''(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1932, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

''(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

''(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

''(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

''(3) PACE PROVIDER DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

''(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

''(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

''(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

''(i) to entities subject to a demonstration project waiver under subsection (h); and

''(ii) after the date the report under section 5(b) of the Programs of All-inclusive Care for the Elderly (PACE) Coverage Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C) or (D) of paragraph (2) of such section are true.

''(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

''(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

''(A) is 55 years of age or older;

''(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

''(C) resides in the service area of the PACE program; and

''(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

''(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995.

''(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

''(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

''(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

''(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

''(9) TRIAL PERIOD DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

''(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

''(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

''(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

''(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

''(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

''(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

''(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

''(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

''(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

''(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

''(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

''(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

''(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

''(c) ELIGIBILITY DETERMINATIONS.—

''(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

''(A) shall be made under and in accordance with the PACE program agreement, and

''(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

''(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

''(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated not more frequently than annually.

''(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree

of impairment of functional capacity of the individual involved.

''(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6–month period.

''(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

''(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

''(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to an eligible organization under a risk-sharing contract under section 1876. Such payments shall be subject to adjustment in the manner described in section 1876(a)(1)(E).

''(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established under section 1876 for risk-sharing contracts and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

''(e) PACE PROGRAM AGREEMENT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

''(B) NUMERICAL LIMITATION.—

''(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

''(I) 40 as of the date of the enactment of this section, or

''(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

''(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

''(I) is operating under a demonstration project waiver under subsection (h), or

''(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

''(2) SERVICE AREA AND ELIGIBILITY.—

''(A) IN GENERAL.—A PACE program agreement for a PACE program—

''(i) shall designate the service area of the program;

''(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

''(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

''(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

''(v) shall have such additional terms and conditions as the parties may agree to consistent with this section and regulations.

''(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

''(3) DATA COLLECTION.—

''(A) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

''(i) collect data,

''(ii) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records, and

''(iii) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this Act.

''(B) REQUIREMENTS DURING TRIAL PERIOD.—During the first three years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

''(4) OVERSIGHT.—

''(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

''(i) an on-site visit to the program site;

''(ii) comprehensive assessment of a provider's fiscal soundness;

''(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

''(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

''(v) any other elements the Secretary or State agency considers necessary or appropriate.

''(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

''(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

''(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

''(A) IN GENERAL.—Under regulations—

''(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

''(ii) a PACE provider may terminate an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

''(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

''(i) the Secretary or State administering agency determines that—

''(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

''(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

''(ii) the entity has failed to develop and successfully initiate, within 30 days of the receipt of written notice of such a determination, and continue implementation of a plan to correct the deficiencies.

''(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

''(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

''(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

''(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

''(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

''(iii) Terminate such agreement.

''(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1876(i)(6)(B) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1876(i)(6)(A) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

''(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1876(i)(9) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and an eligible organization under section 1876.

''(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall

be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1932.

''(2) USE OF PACE PROTOCOL.—

''(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

''(B) FLEXIBILITY.—The Secretary (in close consultation with State administering agencies) may modify or waive such provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use non-staff physicians accordingly to State licensing law requirements) under this section and section 1932 where such flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the this section, including—

''(i) the focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility;

''(ii) the delivery of comprehensive, integrated acute and long-term care services;

''(iii) the interdisciplinary team approach to care management and service delivery;

''(iv) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals; and

''(v) the assumption by the provider over time of full financial risk.

''(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

''(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of sections 1876 and 1903(m) relating to protection of beneficiaries and program integrity as would apply to eligible organizations under risk-sharing contracts under section 1876 and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

''(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

''(i) take into account the differences between populations served and benefits provided under this section and under sections 1876 and 1903(m);

''(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

''(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

''(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

''(1) Section 1812, insofar as it limits coverage of institutional services.

''(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

''(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

''(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

''(5) Sections 1862(a)(1) and 1862(a)(9), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

''(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

''(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

''(2) SIMILAR TERMS AND CONDITIONS.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

''(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

''(i) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.''.

SEC. 3. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a))—

(A) by striking ''and'' at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26); and

(C) by inserting after paragraph (24) the following new paragraph:

''(25) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and'';

(2) by redesignating section 1932 as section 1933, and

(3) by inserting after section 1931 the following new section:

''SEC. 1932. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

''(a) OPTION.—

''(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section.

''(2) BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM.—In the case of an individual enrolled with a PACE program pursuant to such an election—

''(A) the individual shall receive benefits under the plan solely through such program, and

''(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

''(3) APPLICATION OF DEFINITIONS.—The definitions of terms under section 1894(a) shall apply under this section in the same manner as they apply under section 1894.

''(b) APPLICATION OF MEDICARE TERMS AND CONDITIONS.—Except as provided in this section, the terms and conditions for the operation and participation of PACE program eligible individuals in PACE programs offered by PACE providers under PACE program agreements under section 1894 shall apply for purposes of this section.

''(c) ADJUSTMENT IN PAYMENT AMOUNTS.—In the case of individuals enrolled in a PACE program under this section, the amount of payment under this section shall not be the amount calculated under section 1894(d), but shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

''(d) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

''(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

''(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

''(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

''(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

''(e) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking ''(25)'' and inserting ''(26)''.

(2) Section 1924(a)(5) of such Act (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking ''FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS'' and inserting ''UNDER PACE PROGRAMS'', and

(B) by striking ''from any organization'' and all that follows and inserting ''under a PACE demonstration waiver program (as defined in subsection (a)(7) of section 1894) or under a PACE program under section 1932.''.

(3) Section 1903(f)(4)(C) of such Act (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting ''or who is a PACE program eligible individual enrolled in a PACE program under section 1932,'' after ''section 1902(a)(10)(A),''.

SEC. 4. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this Act in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus

Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: '', except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking '', including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk''; and

(ii) in subparagraph (C), by adding at the end the following: ''In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.''.

(3) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(4) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals under subsection (c), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act), and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this Act.

SEC. 5. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this Act

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.— Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers.●

● Mr. FRIST. Mr. President, I join my colleagues in introducing the PACE Provider Act of 1997. I am pleased to support this very worthy program, aimed at increasing community based long term care options for seniors which was initiated and pursued by Senator Dole over the past several years.

This bill amends present law by increasing the number of high quality, comprehensive, community based services available to seniors who would otherwise be forced into nursing homes.

Frail older people, particularly those 85 years and older are the fastest growing population group in this country and have multiple and complex chronic illnesses. More than 50 percent of this population require some assistance with activities of daily living.

At the same time, the cost of caring for the frail elderly is skyrocketing. Many elderly and individuals with disabilities are eligible for both Medicare and Medicaid. These dual eligibles have multidimensional, interdependent, and chronic health care needs. They are at risk for nursing home placement and require acute and long-term care service integration if they are to remain at home. However, as currently structured, the Medicare and Medicaid Programs are not sufficiently coordinated to serve many of these complex health needs. In addition, these programs have traditionally favored institutional care rather than community based or home care. These problems result in duplication and fragmentation of services as well as increased health costs.

In my own State of Tennessee, the home health industry has come under fire because of high Medicare utilization rates. This is partly because there are almost no Medicaid long term care options available to Tennesseans who want to stay at home. Consequently, nursing home care is the only option for frail elders unless they have enough money to pay privately for their care or if family members can afford to be the primary giver. Tennesseans should be able to choose from a broad array of community based long term care services and should not be limited to institutional care.

So, if we are to control costs while providing high quality care to this vulnerable population, we must increase long term care opportunities and provide better coordination between Medicare and Medicaid reimbursement systems.

PACE, Program for All-inclusive Care of the Elderly, is the only program which integrates acute and long term care service delivery and finance. Designed to help the at-risk elderly who need service integration, it represents a fundamental shift in the way needed health services are accessed. By using capitation mechanisms which pool funds from Medicare, Medicaid and private pay sources, this program joins medical services with established long term care services. Care is managed and coordinated by an interdisciplinary team that is responsible for service allocation decisions.

As a result: duplicate services and ineffective treatments are eliminated; participants have access to the entire spectrum of acute and long-term care services, all provided and coordinated by a single organization; and enrollees are relieved of the burden of independently navigating the bewildering health-care maze.

How well has it worked? The accomplishments of PACE include: controlled utilization of both outpatient and inpatient services; controlled utilization of specialist services; high consumer satisfaction; capitation rates which provide significant savings from per capita nursing home costs or community long term care costs; and ethnic and racial distributions of beneficiaries served which reflect the communities from which PACE draws its participants.

Most importantly, PACE has been able to shift location of care from the inpatient acute care setting to the community setting. By integrating social and medical services through adult day health care, PACE has made it possible for frail elders to continue to live at home, not in a nursing care facility.

Are there other alternatives? Medicare HMO's and Social HMO's have also attempted to control costs while providing access to high quality care. However, Medicare HMO's exclude long term care and typically do not serve many frail older persons on an ongoing basis. Social HMO's also limit the long term care benefits available to their members. These programs are important, but simply do not meet the needs of this particular population. PACE, on the other hand, serves frail elders exclusively and provide a continuum of care. It provides all acute and long term care services according to participant needs and without limits on benefits.

Unfortunately, the number of persons enrolled in PACE nationally is minuscule compared with other managed care systems. States such as Tennessee are eager to participate. However, the number of participating sites has been capped under current legislation.

The PACE Provider Act of 1997 increases the number of sites authorized to provide comprehensive, community-based services to frail, older adults from 15 to 40 with an additional 20 to be added each year; and affords regular provider status to existing sites.

Specifically, the bill:

Specifies that PACE sites be lower in cost than the alternative health care services available to PACE enrollees, a goal which has already been accomplished; includes quality of care safeguards; gives States the option of utilizing PACE programs based on their need for alternatives to long-term institutional care and the program's continuing cost-effectiveness; and allows for-profit entities to participate in PACE as a demonstration project.

PACE services frail older people of diverse ethnic heritage and has operated successfully under different state and local environments. This program deserves expansion.

The PACE Provider Act of 1997 does exactly that. It makes the PACE alternative available for the first time to many communities. It also allows more entities in the healthcare marketplace to participate in a new way of providing care for frail elders. PACE gives us a chance to contain costs while providing high quality care to one of our most vulnerable populations.

The PACE program's integration of health and social services, its cost-effective, coordinated system of care delivery and its method of integrated financing have wide applicability and appeal. It is an exciting way to satisfying an urgent need and I wholeheartedly support it.●

● Mr. INOUYE. Mr. President, I introduce the PACE Provider Act of 1997 with my distinguished colleague Senator GRASSLEY.

The Program for All-inclusive Care for the Elderly [PACE] Act of 1997 began in 1983 with the passage of legislation authorizing On Lok, the prototype for the PACE model, as a demonstration program. In 1986 Congress passed legislation to test the replicability of On Lok's success by authorizing Medicare and Medicaid waivers for up to 10 replication sites; and in 1989 the number of authorized sites was increased to 15. The PACE Provider Act of 1997 is the next step in a series of legislative actions taken by Congress to develop PACE as a community-based alternative to nursing home care.

Currently PACE programs provide services to approximately 3,000 individuals in eight States: California, Colorado, Massachusetts, New York, Oregon, South Carolina, Texas, and Wisconsin. There are also 15 PACE programs in development which are operational, although not involved in Medicare capitation. In addition, a number of other organizations are actively working to develop PACE programs in other States including: Florida, Hawaii, Illinois, New Mexico, Michigan, Ohio, Pennsylvania, Virginia, and Washington.

PACE is unique in a variety of ways. First, PACE programs serve only the very frail—older persons who meet their States' eligibility criteria for nursing home care. This high-cost population is of particular concern to policy makers because of the disproportionate share of resources they use relative to their numbers.

Second, PACE programs provide a comprehensive package of primary acute and long-term care services. All services, including primary and specialty medical care, adult day care, home care, nursing, social work services, physical and occupational therapies, prescription drugs, hospital and nursing home care are coordinated and administered by PACE program staff.

Third, PACE programs are cost-effective in that they are reimbursed on a capitated basis, at rates that provide payers savings relative to their expenditures in the traditional Medicare, Medicaid, and private pay systems. Finally, PACE programs are unique in that a mature program assumes total financial risk and responsibility for all acute and long-term care without limitation.

The PACE Provider Act does not expand eligibility criteria for benefits in any way. Rather, it makes available to individuals already eligible for nursing home care, because of their poor health status, a preferable, and less costly alternative.

By expanding the availability of community-based long-term care services, On Lok's success of providing high quality care with an emphasis on preventive and supportive services, can be replicated throughout the country. PACE programs have substantially reduced utilization of high-cost inpatient services. Although all PACE enrollees are eligible for nursing home care, just 6 percent of these individuals are permanently institutionalized. The vast majority are able to remain in the community and PACE enrollees are also hospitalized less frequently. Through PACE, dollars that would have been spent on hospital and nursing home services are used to expand the availability of community-based long-term care.

This bill would expand the number of non-profit entities to become PACE providers to 45 within the first year and allow 20 new such programs each year thereafter. In addition, the PACE Provider Act of 1997 will establish a demonstration project to allow no more than 10 for-profit organizations to establish themselves as PACE providers. The number of for-profit entities will not be counted against the numerical limitation specified for non-profit organizations.

Analyses of costs for individuals enrolled in PACE show a 5- to 15-percent reduction in Medicare and Medicaid spending relative to a comparably frail population in the traditional Medicare and Medicaid systems.

States have voluntarily joined together with community organizations to develop PACE programs out of their commitment to developing viable alternatives to institutionalization. This legislation provides States with the option of pursuing PACE development; and, as under present law, State participation would remain voluntary.

As our population ages, we must continue to place a high priority on long-term care services. Giving our seniors alternatives to nursing home care and expanding the choices available, is not only cost-effective, but will also improve the quality of life for older Americans.●

By Mr. TORRICELLI:

S. 721. A bill to require the Federal Trade Commission to conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers; to the Committee on Commerce, Science, and Transportation.

THE PERSONAL COMPUTER TRUTH IN ADVERTISING ACT OF 1997

● Mr. TORRICELLI. Mr. President, today I am introducing ''The Personal Computer Truth in Advertising Act of 1997,'' which is designed to ensure that consumers are provided with accurate information about the performance of what is becoming one of the most important consumer products in the Nation, the personal computer.

My bill requires the Federal Trade Commission to investigate and conduct a study of the marketing and advertising practices of personal computer manufacturers and retailers with regard to possibly misleading claims made about the performance of their products.

As we head into the next century, the personal computer is quickly becoming one of the most important consumer products. Indeed, the market for computers in the home has exploded in recent years with the market expected to double by 2000. Still, despite their growing popularity, purchasing a personal computer involves technology and terminology that can be very intimidating and confusing to the average consumer.

Of particular concern to me is a practice by personal computer retailers and manufacturers in how they advertise the speed of the central processing unit (CPU) of the personal computer. Indeed, when marketing and advertising personal computers, the CPU speed is a prominent selling point and consumers are frequently charged hundreds of dollars more for models with faster CPU's.

The CPU is to the personal computer as an engine is to an automobile. Measured in millions of cycles per second [mhz], the faster the CPU, the better the software performs. The CPU's in personal computers, including the popular Pentium chip, operate at two speeds, an external speed and an internal speed. The external speed affects computing activity the user sees in action—the scrolling of a web page or a word processing document, the smoothness of an animated interactive storybook and the complexity and frame rate of a flight simulator. The internal speed of the CPU involves activity invisible to the user—spreadsheet calculations, spell checking and database organization.

Nonetheless, personal computers are commonly marketed according to their internal, and faster, speed. For example, a Pentium computer advertised as a 200 mhz screamer runs at only 66 mhz externally. Still, most advertisements fail to mention this discrepancy and retailers and manufacturers charge hundreds of dollars more for the 200 mhz than they would for a 66 mhz model.

Moreover, driving the sales of personal computers has been the availability of advanced multimedia and interactive entertainment software. This is the very software whose performance depends greatly on the CPU's external clock speed.

My legislation would require the Federal Trade Commission to conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers, with particular emphasis on claims made about the CPU. My bill requires the FTC to perform their study within 180 days of enactment of the bill. I had previously written to the FTC on this issue as a member of the House.

Car manufacturers provide both highway and city mileage performance figures for the performance of their engines and computer manufacturers should follow the same logic with the engines of the personal computer, the CPU.

I urge my colleagues to cosponsor this bill and I will work hard for its enactment into law.

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. 721

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 ''Personal Computer Truth in Advertising Act of 1997''.

SEC. 2. FINDINGS.

(b) FINDINGS.—Congress finds that—

(1) computer manufacturers and retailers commonly refer to the speed of the central processing unit of a personal computer in selling a personal computer;

(2) computer manufacturers and retailers commonly charge hundreds of dollars more for a CPU that has a faster speed;

(3) all CPUs operate at 2 speeds (measured in megahertz (MHz)), an external speed and an internal speed;

(4) the external speed of a personal computer affects computing activities that computer users experience, including the scrolling of a word processing document, the smoothness of an animation, and the complexity and frame rate of a flight simulator;

(5) the internal speed of a personal computer, which is faster than the external speed of the computer, affects activities, such as spreadsheet calculations, spelling checks, and database organizations;

(6) it is common for manufacturers and retailers to mention the internal speed of a CPU without mentioning its external speed for the marketing and advertising of a personal computer; and

(7) a study by the Federal Trade Commission would assist in determining whether any practice of computer retailers and manufacturers in providing CPU speeds in advertising and marketing personal computers is deceptive, for purposes of the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) CENTRAL PROCESSING UNIT; CPU.—The term ''central processing unit'' or ''CPU'' means the central processing unit of a personal computer.

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) MANUFACTURER.—The term ''manufacturer'' shall have the meaning provided that term by the Commission.

(4) MEGAHERTZ.—The term ''megahertz'' or ''MHz'', when used as a unit of measurement of the speed of a CPU, means 1,000,000 cycles per second.

(5) RETAILER.—The term ''retailer'' shall have the meaning provided that term by the Commission.

SEC. 4. PERSONAL COMPUTER MARKETING AND ADVERTISING STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers.

(b) CONTENTS OF STUDY.—In conducting the study under this subsection, the Commission shall give particular emphasis to determining—

(1) whether the practice of the advertising of the internal speed of a CPU in megahertz, without mentioning the external speed of a CPU, could be considered to be an unfair or deceptive practice, within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

(2) the extent to which the practice referred to in paragraph (1) is used in the marketing and advertising of personal computers.

(c) REPORT.—Upon completion of the study under subsection (a), the Chairman of the Commission shall transmit to Congress a report that contains—

(1) the findings of the study conducted under this section; and

(2) such recommendations as the Commission determines to be appropriate.●

By Mr. THOMAS:

S. 722. A bill to benefit consumers by promoting competition in the electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELECTRIC UTILITY RESTRUCTURING EMPOWERMENT AND COMPETITIVENESS ACT OF 1997 [EURECA]

Mr. THOMAS. Mr. President, I rise today to introduce the Electric Utility Restructuring Empowerment and Competitiveness Act of 1997. This legislation, which gives states the authority to order the delivery of electric energy to all retail consumers, is based on the idea that less government intervention is the best way to achieve affordable, reliable and competitive options for retail electric energy services.

This is a substantially different approach from other measures that have been introduced in both the House and Senate to restructure the nation's electric utility industry. I do not believe that a federal mandate on the states requiring retail competition by a date certain is in the best interest of all classes of customers. I am concerned that this method could result in increased electricity rates for low-density states or states that have relatively low-cost power. Electricity is an essential commodity critical to everyday life in this country. It is also an industry heavily regulated at the Federal and State levels. If the Congress is going to make fundamental changes to the last major regulated monopoly, its role should be to help implement competitive changes in a positive manner, rather than interject the heavy hand of government with a ''Washington-knows-best'' mentality.

This legislation comes down on the side of States' rights. Having been involved in the electric power industry, I understand the unique characteristics of each State. As most everyone knows, California was the first State to

pass a retail choice law. Since that time, Arizona, Massachusetts, New Jersey, Pennsylvania, New Hampshire, Texas, Montana, Oklahoma and others have followed suit.

According to Bruce Ellsworth, President of the National Association of Regulatory Utility Commissioners [NARUC], ''more than one-third of the Nation's population live in states that have chosen within the last year to move to open-access, customer choice markets.'' All told, every state except one is in the process of either examining or implementing policies for retail consumers of electric energy. States are clearly taking the lead—they should continue to have that role—and this bill confirms their authority by affirming States' ability to implement retail choice policies.

This initiative leaves important functions, including the ability to recover stranded costs, establish and enforce reliability standards, promote renewable energy resources and support public benefit and assistance to low-income and rural consumer programs in the hands of State Public Service Commissions [PUC's]. If a State desires to impose a funding mechanism—such as wires charges—to encourage that a certain percentage of energy production comes from renewable alternatives, they should have that opportunity. However, I do not believe a nationally mandated set-aside is the best way to promote competition. Likewise, individual states would have the authority over retail transactions. This ensures that certain customers could not bypass their local distribution system and avoid responsibility for paying their share of stranded costs.

One of the most important aspects of this debate—assuring that universal service is maintained—is a critical function that each State PUC should have the ability to oversee and enforce. In my legislation, nothing would prohibit a state from requiring all electricity providers that sell electricity to retail customers in that state to provide electricity service to all classes and consumers of electric power.

Mr. President, at the wholesale level, my proposal attempts to create greater competition by prospectively exempting the sale of electricity for resale from rates determined by the Federal Energy Regulatory Commission [FERC]. Although everyone talks about ''deregulating'' the electricity industry, it is really the generation segment that will be deregulated. The FERC will continue to regulate transmission in interstate commerce, and State PUC's will continue to regulate retail distribution services and sales.

When FERC issued Order 888 last year, it allowed utilities to seek market-based rates for new generating capacity. This provision goes a step further and allows utilities to purchase wholesale power from existing generating facilities, after the date of enactment of this Act, at prices solely determined by market forces.

Furthermore, the measure expands FERC authority to require non-public utilities that own, operate or control transmission to open their systems. Currently, the Commission cannot require the Federal Power Marketing Administrations [PMA's], the Tennessee Valley Authority [TVA], municipalities and cooperatives that own transmission, to provide wholesale open access transmission service. According to Elizabeth Moler, Chairwoman of FERC, approximately 22 percent of all transmission is beyond open access authority. Requiring these non-public utilities to provide this service will help ensure that a true wholesale power market exists.

One of the key elements of this measure is streamlining and modernizing the Public Utility Regulatory Policies Act of 1978 [PURPA] and the Public Utility Holding Company Act of 1935 [PUHCA]. While both of these initiatives were enacted with good intentions, and their obligations fulfilled, there is widespread consensus that the Acts have outlived their usefulness.

My bill amends section 210 of PURPA on a prospective basis. Current PURPA contracts would continue to be honored and upheld. However, upon enactment of this legislation, a utility that begins operating would not be required to enter into a new contract or obligation to purchase electricity under section 210 of PURPA.

With regard to PUHCA, I chose to incorporate Senator D'AMATO's recently introduced legislation in my bill. As Chairman of the Senate Banking Committee, which has jurisdiction over the issue, he has crafted a proposal that I believe will successfully reform the statute and I support his efforts. Under his proposal, the provisions of PUHCA would be repealed 18 months after the Act is signed into law. Furthermore, all books and records of each holding company and each associate company would be transferred from the Securities and Exchange Commission [SEC]—which currently has jurisdiction over the 15 registered holding companies—to the FERC. This allows energy regulators, who truly know the industry, to oversee the operations of these companies and review acquisitions and mergers. These consumer protections are an important part of PUHCA reform.

Mr. President, an issue which must be resolved in order for a true competitive environment to exist is that of utilities receiving special ''subsidies'' by the federal government and the U.S. tax code. For years, investor-owned utilities [IOU's] have claimed inequity because of tax-exempt financing and low-interest loans that municipalities and rural cooperatives receive. On the other side of the equation, these public power systems maintain that IOU's are able to receive special tax treatment, not offered to them, which amounts to a ''tax free'' loan. The jury is still out on how best to deal with this thorny and, undoubtedly complex matter, but make no mistake about it, changes will be made.

A viable option the Congress should consider is to ''build a fence'' around governmental utilities. Sales in existing service territories could continue to be financed using current methods. However, for sales outside of their traditional boundaries, these systems should operate on the same basis and play by the same rules as other competitors.

The Congress should also address existing tax structures to determine if the ''benefits'' tax-paying utilities receive results in unfair advantages against their competitors. While tax initiatives, such as accelerated depreciation and investment tax credits, are available to all businesses that pay income tax, if this amounts to ''subsidies'' reforms may have to be made.

My bill would direct the Inspector General of the Department of Treasury to file a report to the Congress detailing whether and how tax code incentives received by all utilities should be reviewed in order to foster a competitive retail electricity market in the future. Furthermore, I am pleased that Senator MURKOWSKI, Chairman of the Senate Energy and Natural Resources Committee, requested a report by the Joint Committee on Taxation to review all subsidies and incentives that investor-owned, publicly-owned and cooperatively-owned utilities receive.

Mr. President, I believe EURECA is a common-sense approach that attempts to build consensus to solve some of the critical questions associated with this important issue. The states are moving and should continue to have the ability to craft electricity restructuring plans that recognize the uniqueness of each state. This legislation is the best solution to foster the debate and allow us to move forward with a better product for all classes of consumers and the industry as a whole.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KERRY):

S. 723. A bill to increase the safety of the American people by preventing dangerous military firearms in the control of foreign governments from being imported into the United States, and for other purposes; to the Committee on Foreign Relations.

THE ANTI-GUN INVASION ACT OF 1997

• Mr. LAUTENBERG. Mr. President, today Senators BOXER and KERRY and I are introducing legislation to ensure that millions of lethal American-manufactured military weapons will not be imported into this country. Representatives PATRICK KENNEDY and MALONEY are introducing companion legislation in the House of Representatives.

The bill we are introducing repeals a loophole in the law that could allow U.S. military weapons that were provided to foreign countries to be sold back to gun dealers in this country. The loophole permits the import of so-called ''curios or relics'' —weapons considered to have historic value or which are more than 50 years old.

About 2.5 million American-manufactured military weapons that the U.S. Government gave away, sold, or were taken as spoils of war by foreign governments are at issue. This includes 1.2 million M–1 carbines, which are easily converted to fully automatic weapons. Though these weapons are older, they are lethal. I don't want them flooding America's streets. And I don't want foreign governments making a windfall by selling them to commercial gun dealers.

As some of my colleagues may know, the term ''curios or relics'' was originally used in the Gun Control Act of 1968 to make it easier for licensed collectors to buy curios or relics weapons from outside his or her State of residence. The Treasury Department came up with a definition and list of ''curios or relics'' for this purpose. At that time, importation of surplus military weapons—whether of United States or foreign origin—was prohibited, and the curios or relics list had nothing to do with importing weapons.

Nearly 20 years later, in 1984, a law was passed that expanded the scope of the curios or relics list in ways never foreseen at the time the list was first created. The modified law said that guns that were on the curios or relics list could not just be sold interstate within this country, but could be imported as well.

However, the Arms Export Control Act still prohibited the importation of U.S. military weapons that had been furnished to foreign governments. Although a 1987 amendment to that Act authorized the importation of U.S.-origin military weapons on the curios or relics list as well, only one import license has been granted under the curios or relics exception. Since that isolated incident, every administration—Reagan, Bush, and Clinton—has adopted a policy established by the Reagan administration and based on the Arms Export Control Act of denying these kinds of import licenses.

Though the Clinton administration and the past two Republican administrations have opposed importing these lethal weapons, the NRA supports importing them and it has allies on the Hill. Last year, an effort was made in the Commerce, Justice, State Appropriations bill to force the State Department to allow these weapons to be imported for any reason. That effort was killed as part of the negotiations on the catchall appropriations bill that was signed into law on September 30.

The provision included in the Senate version of the C, J, S appropriations bill last year, section 621, would have prohibited any agency of the Government—notwithstanding any other provision of law—from using appropriated funds to deny an application for a permit to import previously exported United States-origin military firearms, parts, or ammunition that are considered to be curios or relics. The provision would have forced the State Department to allow large numbers of U.S. military firearms that are currently in the possession of foreign governments to enter the United States commercially. Because so many of those firearms can be easily converted to automatic weapons, it would have undermined efforts to reduce gun violence in this country. In addition, it could have provided a windfall for foreign governments at the expense of the taxpayer.

Certainly the dangers posed by many guns on the curios or relics list—in particular the M–1 carbine, which is easily converted into an automatic weapon—are an important reason for preventing imports of those guns. It is the main reason I am proposing legislation to clarify the law to prevent imports in the future. But the provisions of the Arms Export Control Act that limit the imports are not merely technical. They support a principle, included in the Arms Export Control Act, that is basic to the integrity of our foreign military assistance program: No foreign government should be allowed to do anything with weapons we have given them that we ourselves would not do with them. For example, the Department of Defense does not transfer weapons to a country that is our enemy; no foreign government should be allowed to use U.S.-supplied weapons in that way. The Department of Defense does not sell its excess guns directly to commercial dealers in the United States, and foreign governments should not be able to do so either.

As recently as 1994, the General Services Administration Federal weapons task force reviewed U.S. policy for the disposal of firearms and confirmed a longstanding Government policy against selling or transferring excess weapons out of Government channels. The Federal Government has made a decision that it should not be an arms merchant. The Federal regulations that emerged from that task force review are clear. They say surplus firearms may be sold only for scrap after total destruction by crushing, cutting, breaking, or deforming to be performed in a manner to ensure that the firearms are rendered completely inoperative and to preclude their being made operative. These are sound regulations. The Department of Defense does not sell its guns to private arms dealers. Under the Arms Export Control Act, we should not allow foreign governments to sell 2.5 million U.S. military weapons to private arms dealers either.

Flooding the market with these curios and relics would only make it harder for law enforcement to do its job. The Bureau of Alcohol, Tobacco, and Firearms has already seen an increase in M–1 carbines that have been converted to fully automatic machine guns due to the availability and relatively low cost of the weapons. The more military weapons there are in this country, the more likely they are to fall into criminal hands. Surplus military weapons are usually cheap, and, if a government sells its whole stockpile, plentiful. A sudden increase in supply of M–1 garands and carbines and M–1911 pistols would drive down the price, making them less attractive to the collector and more attractive to the criminal.

In fact, the administration opposed last year's provision, in part, because of the increased availability of low-cost weapons for criminals that invariably would have resulted. According to the administration, ''The criminal element thrives on low-cost firearms that are concealable, or capable of accepting large-capacity magazines, or capable of being easily converted to fully automatic fire. Thus, such weapons would be particularly enticing to the criminal element. In short, the net effect of the proposal would be to thwart the administration's efforts to deny criminals the availability of inexpensive, but highly-lethal, imported firearms.''

We know that the M–1 carbine has already been used to kill at least 6 police officers. Another 3 were killed with M–1911 pistols. As recently as this January, two sheriff's deputies, James Lehmann, Jr. and Michael P. Haugen, were killed with an M–1 carbine while responding to a domestic violence call in Cabazon, CA. In October 1994, in Gilford, NH, Sgt. James Noyes of the State Police Special Weapons and Tactics Unit was killed in the line of duty with an M–1 carbine. In December 1992, two Richmond, CA police officers were killed with an M–1 carbine. In just one State, Pennsylvania, at least 10 people were killed using U.S.-origin military weapons during a recent 5-year period. To those who would argue that ''curios and relics'' are not used in crimes, I would say talk to the families of these victims.

American-manufactured weapons were sold to foreign governments—often at a discount rate subsidized by the U.S. taxpayer—because we believed it was in our foreign policy interest to strengthen and assist our allies. We did not intend to enable foreign governments to make a profit by turning around and selling them back to commercial gun dealers in the U.S. We certainly did not help our allies so they could turn around and flood America's streets with lethal guns.

We also did not provide weapons to foreign governments so they could reap a financial windfall at the expense of the taxpayer. Although the law could allow the United States Government to receive the net proceeds of any sales made by foreign governments of defense articles it received on a grant basis, the provision in the appropriations bill last year would have forced the administration—notwithstanding any other law —to approve the import license, even if a foreign government would not agree to provide proceeds of the sale. As such, it would undermine our government's ability to require foreign governments to return proceeds to the United States and could result in a windfall for foreign governments.

Even more, some countries like Vietnam, which hold a significant quantity of spoils of war weapons, including ''curios or relics,'' could sell those ''spoils of war'' to U.S. importers at a financial gain. And, the Government of Iran, which received more than 25,000 M–1911 pistols from the United States Government in the early 1970's, could qualify to export weapons to the United States at a financial gain as well.

Allowing more than 2 million U.S.-origin military weapons to enter the United States would profit a limited number of arms importers. But it is not in the interest of the American people. I don't believe private gun dealers should have the ability to import these weapons from foreign governments. These weapons are not designed for hunting or shooting competitions. They are designed for war. Our own Department of Defense does not sell these weapons on the commercial market for profit. Why should we allow foreign countries to do so?

Mr. President, this bill would confirm the policy against importing these lethal weapons by removing the ''curios or relics'' exception from the Arms Export Control Act. Under this legislation, U.S. military weapons that the U.S. Government has provided to foreign countries could not be imported to the United States for sale in the United States by gun dealers. If a foreign government had no use for surplus American military weapons, those weapons could be returned to the Armed Forces of the United States or its allies, transferred to State or local law enforcement agencies in the United States, or destroyed. The legislation also asks the Treasury Department to provide a study on the importation of foreign-manufactured surplus military weapons.

Mr. President, I ask unanimous consent that a copy of this legislation appear in the RECORD, and I urge my colleagues to support this legislation.

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

S. 723

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 ''Anti-Gun Invasion Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since 1950, the United States Government has furnished to foreign governments at least 2,500,000 military firearms that are considered to be ''curios or relics'' under the Gun Control Act of 1968.

(2) These firearms include more than 1,200,000 M–1 Carbine rifles and 250,000 M1911 pistols of United States manufacture that have been furnished to foreign governments under United States foreign military assistance grant, loan, or sales programs.

(4) Criminals tend to use low-cost firearms that are concealable, capable of accepting large-capacity magazines, or are capable of being easily converted to fully automatic fire.

(5) An M–1 Carbine can be converted easily to a fully automatic weapon by disassembling the weapon and reassembling the weapon with a few additional parts.

(6) An M1911 or M1911A pistol is easily concealable.

(7) At least 9 police officers have been murdered in the United States using M–1 Carbines or M1911 pistols in the past 7 years.

(8) The importation of large numbers of ''curio or relic'' weapons would lower their cost, make them more readily available to criminals, and constitute a threat to public safety and to law enforcement officers.

(9) The importation of these ''curios or relics'' weapons could result in a financial windfall for foreign governments.

(10) In order to ensure that these weapons are never permitted to be imported into the United States, a provision of the Arms Export Control Act must be deleted.

SEC. 3. REMOVAL OF EXEMPTION FROM PROHIBITION ON IMPORTS OF CERTAIN FIREARMS AND AMMUNITION.

(a) REMOVAL OF EXEMPTION.—Section 38(b)(1) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)) is amended by striking subparagraph (B), as added by section 8142(a) of the Department of Defense Appropriations Act, 1988 (contained in Public Law 100–202).

(b) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect any license issued before the date of the enactment of this Act.

SEC. 4. REPORT ON IMPORTS OF FOREIGN-MADE SURPLUS MILITARY FIREARMS THAT ARE CURIOS OR RELICS

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, acting through the Bureau of Alcohol, Tobacco and Firearms, shall submit a report to Congress on the scope and effect of the importation of foreign-made surplus military firearms under section 925(e) of title 18, United States Code. The report shall contain the following:

(1) CURRENT IMPORTATION.—A list of types and models of military firearms currently being imported into the United States as ''curios or relics'' under section 925(e) of title 18, United States Code, which would otherwise be barred from importation as surplus military firearms under section 925(d)(3) of that title.

(2) IMPORTATION DURING PRECEDING 5 YEARS.—A list of the number of each type and model listed under paragraph (1) that has been imported into the United States during the 5 years preceding the date of submission of the report.

(3) EASE OF CONVERSION.—A description of the ease with which each type and model listed under paragraph (1) may be converted to a semi-automatic assault weapon as defined in section 921(a)(30)(B) of that title or to a fully automatic weapon.

(4) INVOLVEMENT IN CRIMINAL ACTIVITIES.—Statistics that may be relevant to the use for criminal activities of each type and model of weapons listed in paragraph (1), including—

(A) statistics involving the use of the weapons in homicides of law enforcement officials; and

(B) the number of firearm traces by the Bureau of Alcohol, Tobacco and Firearms that involved those weapons.

(5) COMPREHENSIVE EVALUATION.—A comprehensive evaluation of the scope of imports under section 925(e) of that title and the use of such weapons in crimes in the United States.●

By Mr. NICKLES (for himself, Mr. ROCKEFELLER, Mr. LOTT, Mr. BREAUX, Mr. HATCH, Ms. MOSLEY-BRAUN, Mr. MURKOWSKI, Mr. D'AMATO, Mr. GRAMM, Mr. MACK, Mr. LIEBERMAN, Mr. COCHRAN, Mr. BROWNBACK, Mr. ENZI and Mr. HUTCHINSON):

S. 724. A bill to amend the Internal Revenue Code of 1986 to provide corporate alternative minimum tax reform; to the Committee on Finance.

THE ALTERNATIVE MINIMUM TAX REFORM ACT OF 1997

Mr. NICKLES. Mr. President, today I join my colleague from West Virginia, Senator ROCKEFELLER, to introduce legislation to reform the Alternative Minimum Tax, or AMT. We are joined in this effort by 13 of our colleagues, including a total of 10 Finance Committee members.

Congress created the AMT in 1986 to prevent businesses from using tax loopholes, such as the investment tax credit or safe harbor leasing, to pay little or no tax. The use of these tax preferences sometimes resulted in companies reporting healthy ''book'' income to their shareholders but little taxable income to the government.

Therefore, to create a perception of fairness, Congress created the AMT. The AMT requires taxpayers to calculate their taxes once under regular tax rules, and again under AMT rules which deny accelerated depreciation, net operating losses, foreign tax credits, and other deductions and credits. The taxpayer then pays the higher amount, and the difference between their AMT tax and their regular tax is credited to offset future regular tax liability if it eventually falls below their AMT tax liability.

Unfortunately, Mr. President, in the real world the AMT has reached far beyond its original purpose. As it is currently structured, the AMT is a massive, complicated, parallel tax code which places huge burdens on capital intensive companies. Corporations must now plan for and comply with two tax codes instead of one. Further, the elimination of accelerated depreciation increases the cost of investment and makes U.S. businesses uncompetitive with foreign companies.

It makes little sense, Mr. President, to allow a reasonable business deduction under one tax code, and then take it away through another tax code. Perhaps there are some bureaucrats who believe regular tax depreciation is too generous and should be curtailed, but the AMT is an extremely complicated and convoluted way to accomplish that goal.

The legislation I am introducing today would correct this problem by allowing businesses to use the same depreciation system for AMT purposes as they use for regular tax purposes. This one simple reform removes the disincentive to invest in job-producing assets and greatly simplifies compliance and reporting. In fact, this reform was first suggested by President Clinton in 1993.

Further, my bill helps AMT taxpayers recover their AMT credits in a more reasonable timeframe than under current law. Many capital-intensive businesses have become chronic AMT taxpayers, a situation that was not contemplated when the AMT was created. These companies continue to pay AMT year after year with no relief in

sight, and as a matter of function they accumulate millions in unused AMT credits. These credits are a tax on future, unearned revenues which may never materialize, and because of the time-value of money their value to the taxpayer decreases every year.

Since Congress did not intend for the AMT to become a permanent tax system for certain taxpayers, my bill would allow chronic AMT taxpayers to use AMT credits which are 5-years-old or older to offset up to 50 percent of their current-year tentative minimum tax. This provision will help chronic AMT taxpayers dig their way out of the AMT and allow them to recoup at least a portion of these accelerated tax payments in a reasonable manner and time-frame.

Mr. President, as the Senate begins working out the details of the recent bipartisan budget accord and the resulting tax bill, I hope we will not forget the importance of savings and investment. In that regard, there are few tax code changes we could make which are more important than eliminating the investment disincentives created by the AMT.

Does my legislation fix all of the AMT's problems? No, it does not. This bill specifically addresses the depreciation adjustment, but there are many other AMT adjustments, preferences, and limitations which are unchanged. Some of these, such as the 90-percent net operating loss limitation and the foreign tax credit limitation, are very damaging to business profitability and competitiveness. I hope all these issues will be examined when the Senate Finance Committee considers AMT reform.

Mr. President, I ask unanimous consent that there appear in the RECORD a list of the original cosponsors of this legislation, as well as statements of support by the U.S. Chamber of Commerce and the National Association of Manufacturers. I encourage my colleagues to join Senator ROCKEFELLER and me in this important initiative.

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

ALTERNATIVE MINIMUM TAX REFORM ACT
COSPONSORS, 105TH CONGRESS

(15 total, 10 from Committee on Finance)

Sponsor: NICKLES.

Cosponsors: ROCKEFELLER, LOTT, BREAUX, HATCH, MOSELEY-BRAUN, MURKOWSKI, D'AMATO, GRAMM, MACK, LIEBERMAN, COCHRAN, BROWNBACK, ENZI, and HUTCHINSON.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, May 8, 1997.

Hon. DON NICKLES,
Assistant Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: The U.S. Chamber of Commerce—the world's largest business federation representing an underlying membership of more than three million businesses and organizations of every size, sector, and region—supports your legislation to reform the Alternative Minimum Tax (AMT).

The current AMT system unfairly penalizes businesses that invest heavily in plant, machinery, equipment and other assets. The AMT significantly increases the cost of capital and discourages investment in productivity-enhancing assets by negating many of the capital formation incentives provided under the regular tax system, most notably accelerated depreciation. To make matters worse, many capital-intensive businesses have been perpetually trapped in the AMT system, and unable to utilize their suspended AMT credits. Furthermore, the AMT is extremely complex, burdensome and expensive to comply with.

Your legislation addresses many of the problems of the current AMT and its passage will spur capital investment, help businesses to sustain long-term grown and create jobs. Recent analysis by Data Resources, Inc. demonstrates that your reform bill will result in an increase in GDP of 1.6 percent, the creation of 100,000 new jobs each year, and an increase in worker productivity of about 1.6 percent.

Thank you for introducing this important legislation, and we look forward to working with you for its passage.

Sincerely,

R. BRUCE JOSTEN.

STATEMENT OF NATIONAL ASSOCIATION OF MANUFACTURERS

NAM CALLS THE ALTERNATIVE MINIMUM TAX THE ''ANTI-MANFACTURING TAX''

Urges Support of AMT Reform Legislation

WASHINGTON, DC., MAY 8, 1997.—Calling the alternative minimum tax (AMT) a disincentive for capital investment and job creation, the National Association of Manufacturers urged lawmakers to support AMT reform legislation introduced today by Senators DON NICKLES (R-OK) and JOHN D. ROCKFELLER (D-WV).

''The alternative minimum tax is a fundamentally flawed, counter-productive tax that stifles the creation of high-skilled, high-paying manufacturing jobs,'' said Gil Thurm, vice president taxation and economic policy, in support of the reform bill. ''It's little wonder that many believe that AMT really stands for 'Anti-Manufacturing Tax.' ''

The legislation substantially reforms the AMT to allow businesses to use the same depreciation rules for AMT purposes as they use for their regular tax depreciation rules. It also allows AMT taxpayers to recover their existing tax credits quicker than under current law.

''No other industrialized country imposes such a penalty tax on investment made by capital intensive companies. Furthermore, when businesses report little or no profit, they are still frequently required to pay the AMT,'' said Thurm.

''Substantially reforming the alternative minimum tax will result in greater economic growth by creating thousands of new jobs, stronger growth in GDP, increased productivity and improved cash flow, especially for those companies that have been penalized the most under the AMT,'' according to Thurm.

The NAM continues to lead a coalition of more than 100 companies and associations in support of complete repeal of the AMT. However, absent complete repeal, the AMT Coalition for Economic Growth supports substantive AMT reform.

● Mr. ROCKEFELLER. Mr. President, I am pleased to join my Senate Finance Committee colleague, Senator NICKLES, in introducing an Alternative Minimum Tax [AMT] reform bill. Our bill will: first, allow businesses to use the same depreciation system for AMT as they do under regular tax, and second, permit businesses to use their AMT credits more easily than under current law. It will help make it easier for U.S. businesses to compete and reduce the unintended inequity of current law.

For several years, I have looked for an opportunity to fix the problems that AMT creates especially for capital intensive industries. Two years ago, I introduced my own bill to reform the aspects of AMT that I believe are most detrimental to businesses for which AMT is frequently their method of tax payment. Unfortunately, with the controversies and difficulties that made it impossible to enact a budget plan in the last Congress, there was no ability to move that effort forward.

This year, I am pleased to work with Senator NICKLES to make the AMT fairer. I hope this means we have a real chance of working together in a bipartisan manner to compel Congress, the Finance Committee in particular, to figure out a way to deal with some of the unintended consequences of AMT as part of this year's budget deal. I think previous efforts at AMT reform have failed in the part because it is very tough to focus on the merits of certain corporate tax changes. That remains true today in the context of a larger budget agreement, but if we keep our perspective, I think AMT reform will win support on its merits and Congress can responsibly find a way to finance it.

I am well aware of the fact that as we introduce this legislation, there is no specific provision for AMT relief in the budget deal which the President and Congressional leadership have struck in outline form. As I have noted, the constraints of balancing the budget will require us to carefully examine how much AMT relief is practical this year, as part of an agreement to balance the budget over the next 5 years. I understand that very well, as does Senator NICKLES. I think that means we will have to zero in on the aspects of AMT relief that are most doable this year—and which can be financed without harming other priorities. I am prepared to do that and recognize that it also means the scope of the AMT bill we submit today will have to be tailored accordingly. That does not mean that we should put off AMT relief for another day, it just means we will have to be honest about what is critical to do and what portions of this bill will have to remain on the to-do list. I say all this because it is important to understand the context for our introducing this relief bill now, and as the budget agreement places some high hurdles on what can realistically be accomplished.

I also would like to say that it is my strong belief that the excruciating specifics of the budget agreement which relate to matters under the jurisdiction of the Finance Committee are best left to the expertise on that Committee. The Finance Committee serves an extremely important role in the legislative process. That role cannot and

should not be supplanted by private negotiations between the administration and congressional leadership—however worthwhile the overall purpose. Reaching consensus on the approach to balancing the budget and protecting priorities of the administration and both sides of the aisle in congressional leadership provides the Finance Committee with the framework for its detailed work. The Finance Committee will soon have to work its will within the appropriate parameters of its reconciliation instructions. When that happens, I think the committee must address AMT relief, and I intend to work to build support for it as we wend our way through the committee process.

Let me return to the substance of the bill we submit for our colleagues' consideration today. First, I want to make it absolutely clear—this bill does not repeal AMT. AMT has created during the 1986 Tax Reform Act in response to the problem raised when companies would report profits to stockholders and yet claim losses to the IRS. However, in an effort to simplify the code depreciation under AMT was treated as an adjustment—which amounts to an increase in income. This penalizes low-profit, capital intensive companies, like steel companies. Compared to other countries, after 5 years, a U.S. steelmaker under AMT recovers only 37 percent of its investment in a new plant and equipment. The recovery of investment in other countries is much higher—for example, in Japan it's 58 percent, in Germany companies recover 81 percent, Korea is 90 percent, and in Brazil it's 100 percent.

The problem is not unique to the steel industry though. Other capital-intensive industries that also have long-lived assets lose under the current AMT. The chemical industry has 9½ years to depreciate under the AMT, as opposed to 5 years under the regular tax. And for paper, they have 13 years to depreciate under the AMT, as opposed to 7 years under the regular tax. We need to fix the AMT so that industries with very high capital costs which they cannot recover for years are not put at such a disadvantage.

Today's AMT discourages investment in new plants and equipment, while under our regular tax system depreciation investments are encouraged. The need to improve our tax system to make it fairer to capital intensive industries is clear—fixing the AMT is one way to do that.

U.S. companies have to be able to compete in an increasingly competitive global market—that's almost an adage. It's what our trade laws and agreements seek to ensure. We'll never be able to sufficiently promote U.S. exports if we don't being to equalize the effects of our tax laws on American companies as well.

This bill would eliminate depreciation as an adjustment under AMT—treating AMT taxpayers the same as those companies that pay under our regular tax system. It would also allow tax payers who have not used their accumulated minimum tax credits which are at least 5 years old to use those credits to offset up to 50 percent of their current year AMT liability—with a provision to ensure that taxpayers could not reduce their current payment below their regular tax liability for that year.

AMT has become the standard method of tax payment for many of our Nation's capital intensive industries and it is not working the way Congress initially intended. It's time to fix it.

The bill Senator NICKLES and I submit for your consideration today will fix the AMT so it works the way I believe Congress originally intended. It will have the consequence of improving the competitiveness of American business. It is time to stop talking about AMT and do something that figures out how to address this real problem. I urge my colleagues to cosponsor this legislation and work with me and my Finance Committee colleagues to find a way to act on this important issue in this year's budget bill.●

By Mr. CAMPBELL:

S. 725. A bill to direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District; to the Committee on Energy and Natural Resources.

THE COLLBRAN PROJECT UNIT CONVEYANCE ACT

● Mr. CAMPBELL. Mr. President, today I reintroduce legislation to transfer the Collbran project from the Federal Government back to the people it serves. The bill is designed with only one goal in mind, to guarantee the growing population in the Grand Valley of Colorado a supply of water that they have relied on for the last 30 years.

At the same time, this legislation will be a model for transitioning the Federal Government out of the daily operations of facilities where its useful participation has ceased. This transfer will also be an important and symbolic step in downsizing the Federal Government, returning power to the States and localities, while contributing to our continuing efforts to balance the Federal budget.

The Western slope of Colorado, like the rest of the Colorado Plateau, has a unique blend of rich natural resources and beautiful scenery. This fortunate combination attracts and sustains a strong economy of both industry and tourism. Much of this booming economic development and recreational opportunities would not exist if not for the water and electricity provided by the various Federal reclamation projects in the West. These projects were authorized in the Federal Reclamation Act in 1902 by a visionary Congress which saw the need and importance of water projects to the development of the West. Without such projects, there would be virtually no farming, mining, or ranching and little tourism.

It is appropriate for the Federal Government to shed the Collbran project at this time because the goals of the project have been met. The project, completed in 1964, provides a reliable supply of irrigation water to the users on the arid west slope of Colorado. This project is the main water supplier for a growing population in the Grand Valley, currently serving over 55,000 people. It also provides electric power to the grid that serves several Western States.

It is also time now to transfer the Collbran project because, as the Bureau of Reclamation has acknowledged, due to unanticipated circumstances this project has been a net-cash drain on the Treasury. The Ute Water Conservancy District, the public entity that will purchase the project, will pay the remaining debt on the project, reimbursing the Government completely, returning over $12 million to the Federal Treasury. It is time for the Government to stand aside.

Let me stress that this transfer will not in any way jeopardize any of the recreation opportunities available in Vega Reservoir and related Collbran project reservoirs. In fact, this legislation will transfer the Vega Reservoir from the Federal Government to the State of Colorado, ensuring continued recreation opportunities there. This bill also preserves all water and power operations of the existing Collbran project.

I also want to emphasize that we have striven to accommodate environmental groups' concerns. Although there is no reason to think that a mere transfer of ownership, without affecting the operations, should require the water district to perform an environmental impact statement under the National Environmental Policy Act, I have accommodated the environmental community's requests and eliminated any reference to NEPA. In this way, I have ensured that the transfer will fully comply with all environmental laws.

Finally, as a symbol of the Ute Water Conservancy's good faith, this bill explicitly requires that the conservancy district contributes $600,000 to the Colorado River Endangered Fish Recovery Program and that the project itself will remain subject to future ESA-related obligations that could be imposed on similar projects.

Again, the object of this legislation is merely to ensure a reliable supply of quality water for the residents of the Grand Valley who have depended upon this supply for the last 30 years. This bill proposes a fiscally and environmentally sound and sensible transfer of an existing Federal project to the people it serves.

I look forward to working with all interested parties as this bill proceeds. I urge my colleagues to join me and support this bill.

Thank you, Mr. President. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 725

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 ''Collbran Project Unit Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DISTRICT.—The term ''District'' means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns), which are political subdivisions of the State of Colorado.

(2) FEDERAL RECLAMATION LAWS.—The term ''Federal reclamation laws'' means the Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted under those Acts).

(3) PROJECT.—The term ''project'' means the Collbran Reclamation project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including the Vega Recreation Facilities);

(B) Leon-Park dams and feeder canal;

(C) Southside Canal;

(D) East Fork diversion dam and feeder canal;

(E) Bonham-Cottonwood pipeline;

(F) Snowcat shed and diesel storage;

(G) Upper Molina penstock and power plant;

(H) Lower Molina penstock and power plant;

(I) the diversion structure in the tailrace of the Lower Molina power plant;

(J) all substations and switchyards;

(K) a nonexclusive easement for the use of existing easements or rights-of-way owned by the United States on or across non-Federal land that are necessary for access to project facilities;

(L) title to land reasonably necessary for all project facilities (except land described in subparagraph (K) or paragraph (1) or (2) of section 3(a));

(M) all permits and contract rights held by the Bureau of Reclamation, including contract or other rights relating to the operation, use, maintenance, repair, or replacement of the water storage reservoirs located on the Grand Mesa that are operated as part of the project;

(N) all equipment, parts inventories, and tools;

(O) all additions, replacements, betterments, and appurtenances to any of the land, interests in land, or facilities described in subparagraphs (A) through (N); and

(P) a copy of all data, plans, designs, reports, records, or other materials, whether in writing or in any form of electronic storage, relating specifically to the project.

(4) VEGA RECREATION FACILITIES.—The term ''Vega Recreation Facilities'' includes—

(A) buildings, campgrounds, picnic areas, parking lots, fences, boat docks and ramps, electrical lines, water and sewer systems, trash and toilet facilities, roads and trails, and other structures and equipment used for State park purposes (such as recreation, maintenance, and daily and overnight visitor use), at and near Vega Reservoir;

(B) lands above the high water level of Vega Reservoir within the area previously defined by the Secretary as the ''Reservoir Area Boundary'' that have not historically been utilized for Collbran project water storage and delivery facilities, together with an easement for public access for recreational purposes to Vega Reservoir and the water surface of Vega Reservoir and for construction, operation, maintenance, and replacement of facilities for recreational purposes below the high water line; and

(C) improvements constructed or added under the agreements referred to in section 3(f).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CONVEYANCE.

(a) IN GENERAL.—

(1) CONVEYANCE TO DISTRICTS.—

(A) IN GENERAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary shall convey to the Districts all right, title, and interest of the United States in and to the project by quitclaim deed and bill of sale, without warranties, subject only to the requirements of this Act.

(B) ACTION PENDING CONVEYANCE.—Until the conveyance under subparagraph (A) occurs, the Director of the Bureau of Reclamation shall continue to exercise the responsibility to provide for the operation, maintenance, repair, and replacement of project facilities and the storage reservoirs on the Grand Mesa to the extent that the responsibility is the responsibility of the Bureau of Reclamation and has not been delegated to the Districts before the date of enactment of this Act or is delegated or transferred to the Districts by agreement after that date, so that at the time of the conveyance the facilities are in the same condition as, or better condition than, the condition of the facilities on the date of enactment of this Act.

(2) EASEMENTS ON NATIONAL FOREST SYSTEM LANDS.—

(A) IN GENERAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary of Agriculture shall grant, subject only to the requirements of this section—

(i) a nonexclusive easement on and across National Forest System land to the Districts for ingress and egress on access routes in existence on the date of enactment of this Act to each component of the project and storage reservoir on the Grand Mesa in existence on the date of enactment of this Act that is operated as part of the project;

(ii) a nonexclusive easement on National Forest System land for the operation, use, maintenance, repair, and replacement (but not enlargement) of the storage reservoirs on the Grand Mesa in existence on the date of enactment of this Act to the owners and operators of the reservoirs that are operated as a part of the project; and

(iii) a nonexclusive easement to the Districts for the operation, use, maintenance, repair, and replacement (but not enlargement) of the components of project facilities that are located on National Forest System land, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of Agriculture for nonroutine, nonemergency activities that occur on the easements.

(B) EXERCISE OF EASEMENT.—The easement under subparagraph (A)(ii) may be exercised if the land use authorizations for the storage reservoirs described in subparagraph (A)(ii) are restricted, terminated, relinquished, or abandoned, and the easement shall not be subject to conditions or requirements that interfere with or limit the use of the reservoirs for water supply or power purposes.

(3) EASEMENTS TO DISTRICTS FOR SOUTHSIDE CANAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary shall grant to the Districts, subject only to the requirements of this section—

(A) a nonexclusive easement on and across land administered by agencies within the Department of the Interior for ingress and egress on access routes to and along the Southside Canal in existence on the date of enactment of this Act; and

(B) a nonexclusive easement for the operation, use, maintenance, repair, and replacement of the Southside Canal, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary for nonroutine, nonemergency activities that occur on the easements.

(b) RESERVATION.—

(1) IN GENERAL.—The conveyance of easements under subsection (a) shall reserve to the United States all minerals (including hydrocarbons) and a perpetual right of public access over, across, under, and to the portions of the project that on the date of enactment of this Act were open to public use for fishing, boating, hunting, and other outdoor recreation purposes and other public uses such as grazing, mineral development, and logging.

(2) RECREATIONAL ACTIVITIES.—The United States may allow for continued public use and enjoyment of such portions of the project for recreational activities and other public uses as are conducted as of the date of enactment of this Act.

(c) CONVEYANCE TO STATE OF COLORADO.—All right, title, and interest in the Vega Recreation Facilities shall remain in the United States until the terms of the agreements referred to in subsection (f) have been fulfilled by the United States, at which time all right, title, and interest in the Vega Recreation Facilities shall be conveyed by the Secretary to the State of Colorado, Division of Parks and Outdoor Recreation.

(d) PAYMENT.—

(1) IN GENERAL.—At the time of the conveyance under subsection (a)(1), the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations for the project), of which—

(A) $12,300,000 shall be deposited in the general fund of the Treasury of the United States; and

(B) $600,000 shall be deposited in a special account in the Treasury of the United States and shall be available to the United States Fish and Wildlife Service, Region 6, without further Act of appropriation, for use in funding Colorado operations and capital expenditures associated with the Grand Valley Water Management Project for the purpose of recovering endangered fish in the Upper Colorado River Basin, as identified in the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin, or such other component of the Recovery Implementation Program within Colorado as may be selected with the concurrence of the Governor of the State of Colorado.

(2) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in paragraph (1) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds the interest on which is exempt from taxation under section 103 of the Internal Revenue Code of 1986.

(e) OPERATION OF PROJECT.—

(1) IN GENERAL.—

(A) DECLARATION.—The project was authorized and constructed under the Act of July 3, 1952 (66 Stat. 325, chapter 565) for the purpose of placing water to beneficial use for authorized purposes within the State of Colorado.

(B) OPERATION.—The project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this Act for the purpose for which the project was authorized.

(C) CHANGES IN OPERATION.—The Districts shall attempt, to the extent practicable, taking into consideration historic project operations, to notify the State of Colorado of changes in historic project operations which may adversely affect State park operations.

(2) REQUIREMENTS.—During the 40-year period described in paragraph (1)(B)—

(A) the Districts shall annually submit to the Secretary of Agriculture and the Colorado Department of Natural Resources a plan for operation of the project, which plan shall—

(i) report on project operations for the previous year;

(ii) provide a description of the manner of project operations anticipated for the forthcoming year, which shall be prepared after consultation with the designated representatives of the Secretary of Agriculture, the Board of County Commissioners of Mesa County, Colorado, and the Colorado Department of Natural Resources; and

(iii) certify that the Districts have operated and will operate and maintain the project facilities in accordance with sound engineering practices; and

(B) subject to section 4, all electric power generated by operation of the project shall be made available to and be marketed by the Western Area Power Administration.

(f) AGREEMENTS.—Conveyance of the project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at Vega Reservoir, which agreements shall continue to be performed by the parties to the agreements according to the terms of the agreements.

SEC. 4. OPERATION OF THE POWER COMPONENT.

(a) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).

(b) POWER MARKETING.—

(1) EXISTING MARKETING ARRANGEMENT.—The post-1989 marketing criteria, which provide for the marketing of power generated by the power component of the project as part of the output of the Salt Lake City area integrated projects, shall no longer be binding on the project upon conveyance of the project under section 3(a).

(2) AFTER TERMINATION OF EXISTING MARKETING ARRANGEMENT.—

(A) IN GENERAL.—

(i) FIRST OFFER.—After the conveyance under section 3(a), the Districts shall offer all power produced by the power component of the project to the Western Area Power Administration or its successors or assigns (referred to in this paragraph as ''Western''), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established under subparagraph (B).

(ii) SECOND OFFER.—If Western declines to purchase the power after consultation with its affected preference customers, the power shall be offered at the same rates first to Western's preference customers located in the Salt Lake City area integrated projects marketing area (referred to in this paragraph as the ''SLCAIP preference customers'').

(iii) OTHER OFFERS.—After offers have been made under clauses (i) and (ii), power may be sold to any other party, but no such sale may occur at a rate less than a rate established under subparagraph (B) unless the power is offered at the lesser rate first to Western and second to the SLCAIP preference customers.

(B) RATE.—The rate for power initially offered to Western and the SLCAIP preference customers under this paragraph shall not exceed that required to produce revenues sufficient to provide for—

(i) annual debt service or recoupment of the cost of capital for the amount specified in section 3(d)(1)(A) less the sum of $310,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District); and

(ii) the cost of operation, maintenance, and replacement of the power component of the project.

(C) DETERMINATION OF COSTS AND RATE.—Costs and a rate under subparagraph (B) shall be determined in a manner that is consistent with the principles followed, as of the date of enactment of this Act, by the Secretary and by Western in its annual power and repayment study.

SEC. 5. LICENSE.

(a) IN GENERAL.—Before conveyance of the project to the Districts, the Federal Energy Regulatory Commission shall issue to the Districts a license or licenses as appropriate under part I of the Federal Power Act (16 U.S.C. 791 et seq.) authorizing for a term of 40 years the continued operation and maintenance of the power component of the project.

(b) TERMS OF LICENSE.—

(1) IN GENERAL.—The license under subsection (a)—

(A) shall be for the purpose of operating, using, maintaining, repairing, and replacing the power component of the project as authorized by the Act of July 3, 1952 (66 Stat. 325, chapter 565);

(B) shall be subject to the condition that the power component of the project continue to be operated and maintained in accordance with the authorized purposes of the project; and

(C) shall be subject to part I of the Federal Power Act (16 U.S.C. 791 et seq.) except as stated in paragraph (2).

(2) LAWS NOT APPLICABLE.—

(A) FEDERAL POWER ACT.—

(i) IN GENERAL.—The license under subsection (a) shall not be subject to the following provisions of the Federal Power Act: the 4 provisos of section 4(e) (16 U.S.C. 797(e)); section 6 (16 U.S.C. 799) to the extent that the section requires acceptance by a licensee of terms and conditions of the Act that this subsection waives; subsection (e) (insofar as the subsection concerns annual charges for the use and occupancy of Federal lands and facilities), (f), or (j) of section 10 (16 U.S.C. 803); section 18 (16 U.S.C. 811); section 19 (16 U.S.C. 812); section 20 (16 U.S.C. 813); or section 22 (16 U.S.C. 815).

(ii) NOT A GOVERNMENT DAM.—Notwithstanding that any dam under the license under subsection (a) may have been constructed by the United States for Government purposes, the dam shall not be considered to be a Government dam, as that term is defined in section 3 of the Federal Power Act (16 U.S.C. 796).

(iii) STANDARD FORM LICENSE CONDITIONS.—The license under subsection (a) shall not be subject to the standard ''L-Form'' license conditions published at 54 FPC 1792–1928 (1975).

(B) OTHER LAWS.—The license under subsection (a) shall not be subject to—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) section 2402 of the Energy Policy Act of 1992 (16 U.S.C. 797c);

(iii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iv) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(v) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(vi) the Federal Water Pollution Control Act (commonly known as the ''Clean Water Act'') (33 U.S.C. 1251 et seq.);

(vii) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(viii) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(ix) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.); or

(x) any other Act otherwise applicable to the licensing of the project.

(3) LAWS ENACTED AFTER ISSUANCE OF LICENSE.—The operation of the project shall be subject to all applicable State and Federal laws enacted after the date of issuance of the license under subsection (a).

(c) LICENSING STANDARDS.—The license under subsection (a) is deemed to meet all licensing standards of the Federal Power Act (16 U.S.C. 791 et seq.).

(d) POWER SITE RESERVATION.—Any power site reservation established under section 24 of the Federal Power Act (16 U.S.C. 818) or any other law that exists on any land, whether federally or privately owned, that is included within the boundaries of the project shall be vacated by operation of law on issuance of the license for the project.

(e) EXPIRATION OF LICENSE.—All requirements of part I of the Federal Power Act (16 U.S.C. 791 et seq.) and of any other Act applicable to the licensing of a hydroelectric project shall apply to the project on expiration of the license issued under this section.

SEC. 6. INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.

On conveyance of the project to the Districts—

(1) the repayment contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the contract for use of project facilities for diversion of water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and

(2) the project shall no longer be subject to or governed by the Federal reclamation laws.

SEC. 7. LIABILITY OF THE DISTRICTS.

The Districts shall be liable, to the extent allowed under State law, for all acts or omissions relating to the operation and use of the project by the Districts that occur subsequent to the conveyance under section 3(a), including damage to any Federal land or facility that results from the failure of a project facility.

SEC. 8. EFFECT ON STATE LAW.

Nothing in this Act impairs the effectiveness of any State or local law (including a regulation) relating to land use.

SEC. 9. TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.

The sales of assets under this subchapter shall not be considered to be a disposal of Federal surplus property under—

(1) section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484); or

(2) section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).●

By Mrs. FEINSTEIN (for herself, Mr. GRAHAM, Mrs. BOXER, Ms. SNOWE, Mr. REID, Mr. JOHNSON, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Mr. HARKIN, Mr. D'AMATO, Mr. SPECTER, Mrs. MURRAY, and Mr. MACK):

S. 726. A bill to allow postal patrons to contribute to funding for breast cancer research through the voluntary

purchase of certain specially issued United States postage stamps; to the Committee on Governmental Affairs.

THE BREAST CANCER RESEARCH STAMP ACT

• Mrs. FEINSTEIN. Mr. President, I, along with Senators BOXER, GRAHAM, SNOWE, MOSELEY-BRAUN, LANDRIEU, HARKIN, SPECTER, D'AMATO, MACK, JOHNSON, REID, and MURRAY would like to introduce the Breast Cancer Research Stamp Act.

In a time of shrinking budgets and resources for breast cancer research, this legislation would provide an innovative way to provide additional funding for breast cancer research.

This bill would: authorize the U.S. Postal Service to issue an optional special first class stamp to be priced at 1 cent above the cost of normal first-class postage; earmark a penny of every stamp for breast cancer research; provide administrative costs from the revenues for post office expenses; allow 100 percent of the proceeds from the stamp to fund HHS breast cancer research projects; clarify current law, in that any similar stamp would require an act of Congress to be issued in the future.

If only 10 percent of all first class mail used this optional 33 cent stamp, $60 million could be raised for breast cancer research annually.

There is wide support for this legislation. Congressman FAZIO, along with over 100 cosponsors have already introduced the companion bill (H.R. 407) in the House.

The breast cancer epidemic has been called this Nation's best kept secret. There are 2.6 million women in America today with breast cancer, one million of whom have yet to be diagnosed with the disease.

In 1996, an estimated 184,000 were diagnosed with breast cancer. It is the number one killer of women ages 40 to 44 and the leading cause of cancer death in women ages 15 to 54, claiming a woman's life every 12 minutes in this country (source: National Breast Cancer Coalition).

For California, 17,100 women were diagnosed with breast cancer and 4,100 women will die from the disease (source: American Cancer Society cancer facts and figures, 1996).

In addition to the cost of women's lives, the annual cost of treatment of breast cancer in the United States is approximately $10 billion.

Over the last 25 years, the National Institutes of Health has spent over $31.5 billion on cancer research—$2 billion of that on breast cancer. In the last 6 years alone, appropriations for breast cancer research have risen from $90 million in 1990 to $600 million today. That's the good news.

But, the bad news is that the national commitment to cancer research overall has been hamstrung since 1980. Currently, NIH is able to fund only 23 percent of applications received by all the institutes. For the Cancer Institute, only 23 percent can be funded—a significant drop from the 60 percent of applications funded in the 1970's.

Most alarming is the rapidly diminishing grant funding available for new researcher applicants.

In real numbers, the National Cancer Institute will fund approximately 3,600 research projects, of which about 1,000 are new, previously unfunded activities. For investigator-initiated research, only 600 out of 1,900 research projects will be new.

The United States is privileged to have some of the most talented scientists and many of the leading cancer research centers in the world such as UCLA, UC San Francisco, Memorial Sloan-Kettering, and the M.D. Anderson.

This lack of increase in funding is starving some of the most important research, because scientists will have to look elsewhere for their livelihood.

The U.S. must increase the research funds if these scientists and institutions are to continue to contribute their vast talents to the war on cancer and finding a cure.

What is clear is that there is a direct correlation between increase in research funding and the likelihood of finding a cure.

Cancer mortality has declined by 15 percent from 1950 to 1992 due to increases in cancer research funding. In fact, federally-funded cancer research has yielded vast amounts of knowledge about the disease—information which is guiding our efforts to improve treatment and search for a cure. We have more knowledge and improvements in prevention through: identification of a ''cancer gene'', use of mammographies, clinical exams, and encouragement of self breast exams. Yet there is still no cure.

The Bay Area has one of the highest rates of breast cancer incidence and mortality in the world. According to data given to my staff by the Northern California Cancer Center, Bay Area white women have the highest reported breast cancer rate in the world, 104 per 100,000 population. Bay Area African-American women have the fourth highest reported rate in the world at 82 per 100,000 (source: Northern California Cancer Center).

I want to recognize Dr. Balazs (Ernie) Bodai who suggested this innovative funding approach. Dr. Bodai is the Chief of the Surgery Department at the Kaiser Permanente Medical Group in Sacramento, California. He is the founder of Cure Cancer Now, which is a nonprofit organization committed to developing a funding source for breast cancer research.

This legislation is supported by the American Cancer Society, American Medical Association, American Hospital Association, Association of Operating Room Nurses, California Health Collaborative Foundations, YWCA-Encore Plus, the Sacramento City Council and Mayor Joe Serna, Siskiyou County Board of Supervisors, Sutter County Board of Supervisors, Nevada County Board of Supervisors, Yuba City Council, California State Senator Diane Watson and California State Assemblywoman Dede Alpert as well as the Public Employees Union, San Joaquin Public Employees Association, and Sutter and Yuba County Employees Association and many more on the attached list.

Given the intense competition for Federal research funds in a climate of shrinking budgets, the Breast Cancer Research Stamp Act would allow anyone who uses the postal service to contribute in finding a cure for the breast cancer epidemic.

In a sense, this particular proposal is a pilot. I recognize that the postal service may oppose this since it hasn't been done before. I also recognize that in a day of diminishing federal resources, this innovation is an idea whose time has come.

It will make money for the post office and for breast cancer research. No one is forced to buy it, but women's organizations may even wish to sell the stamps in a fundraising effort.

The administrative costs can be handled with the 1 cent added on to the cost of a first class stamp and conservatively it can make from $60 million per year for breast cancer research.

We need to find a cure for breast cancer and I believe the Breast Cancer Research Stamp Act is an innovative response to the hidden epidemic among women. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECITON 1. SHORT TITLE.

This Act may be cited as the ''Breast-Cancer Research Stamp Act''.

SEC. 2. SPECIAL POSTAGE STAMPS.

(a) IN GENERAL.—In order to afford the public a convenient way to contribute to funding for breast-cancer research, the United States Postal Service shall establish a special rate of postage for first-class mail under this section.

(b) HIGHER RATE.—The rate of postage established under this section—

(1) shall be 1 cent higher than the rate that would otherwise apply;

(2) may be established without regard to any procedures under chapter 36 of title 39, United States Code, and notwithstanding any other provision of law; and

(3) shall be offered as an alternative to the rate that would otherwise apply.

The use of the rate of postage established under this section shall be voluntary on the part of postal patrons.

(c) USE OF FUNDS.—

(1) IN GENERAL.—

(A) PAYMENTS.—The amounts attributable to the 1-cent differential established under this Act shall be paid by the United States Postal Service to the Department of Health and Human Services.

(B) USE.—Amounts paid under subparagraph (A) shall be used for breast-cancer research and related activities to carry out the purposes of this Act.

(C) FREQUENCY OF PAYMENTS.—Payments under subparagraph (A) shall be paid to the Department of Health and Human Services no less than twice in each calendar year.

(2) AMOUNTS ATTRIBUTABLE TO THE 1-CENT DIFFERENTIAL.—For purposes of this subsection, the term ''amounts attributable to the 1-cent differential established under this Act'' means, as determined by the United States Postal Service under regulations that it shall prescribe—

(A) the total amount of revenues received by the United States Postal Service that it would not have received but for the enactment of this Act, reduced by

(B) an amount sufficient to cover reasonable administrative and other costs of the United States Postal Service attributable to carrying out this Act.

(d) SPECIAL POSTAGE STAMPS.—The United States Postal Service may provide for the design and sale of special postage stamps to carry out this Act.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) nothing in this Act should directly or indirectly cause a net decrease in total funds received by the Department of Health and Human Services or any other agency or instrumentality of the Government (or any component or other aspect thereof) below the level that would otherwise have been anticipated absent this Act; and

(2) nothing in this Act should affect regular first-class rates or any other regular rate of postage.

SEC. 3. ANNUAL REPORTS.

The Postmaster General shall include in each annual report rendered under section 2402 of title 39, United States Code, information concerning the operation of this Act.

ORIGINAL COSPONSORS

Tony Hall (OH)—original.
Charles Norwood (GA)—original.
Lynn Woolsey (CA)—original.
George Brown (CA).
Tom Barrett (WI).
Carrie Meek (FL).
Nancy Pelosi (CA).
Bernie Sanders (VT).
Robert Matsui (CA).
Corrine Brown (FL).
Eni Faleomavaega (AS).
Barney Frank (MA).
Tom Lantos (CA).
Gene Green (TX).
Lynn Rivers (MI).
Sheila Jackson-Lee (TX).
Gary Condit (CA).
Jose Serrano (NY).
Zoe Lofgren (CA).
Sam Farr (CA).
Carolyn Maloney (NY).
Bob Filner (CA).
Connie Morella (MD).
Martin Frost (TX).
Mike McNulty (NY).
Loretta Sanchez (CA).
Tom Coburn (OK).
John Dingell (MI).
Mel Watt (NC).
Sherrod Brown (OH).
Pete Stark (CA).
Anna Eshoo (CA).
John Olver (MA).
Paul McHale (PA).
Susan Molinari (NY).
Eleanor Holmes-Norton (DC).
Gary Ackerman (NY).
Jerry Lewis (CA).
Louise Slaughter (NY).
Frank Lobiando (NJ).
Kay Granger (TX).
Sam Gejdenson (CT).
Henry Gonzalez (TX).
Floyd Flake (NY).
Danny K. Davis (IL).
Elizabeth Furse (OR).
Eddie Bernice Johnson (TX).
Major Owens (NY).
William Jefferson (LA).
Thomas Foglietta (PA).
Ed Pastor (AZ).
John Ensign (NV).
John Tierney (MA).
Ron Packard (CA).
Ellen Tauscher (CA).
Rosa DeLauro (CT).
Brian Bilbray (CA).
Barbara Kennelly (CT).
Scott Klug (WI).
James McGovern (MA).
John Conyers (MI).
Carolyn Kilpatrick (MI).
J.D. Hayworth (AZ).
Gerald Kleczka (WI).
Robert Wexler (FL).
Richard Neal (MA).
Sue Kelly (NY).
John Doolittle (CA).
George Miller (CA).
Donna Christian-Green (Virgin Islands).
David Camp (MI).
Martin Meehan (MA).
Carlos Romero-Barcello (PR).
David Minge (MN).
Sonny Callahan (AL).
Peter Deutsch (FL).
John Baldacci (ME).
Harold Ford (TN).
Cynthia McKinney (GA).
Charlie Rangel (NY).
Nick Lampson (TX).
Richard Burr (NC).
Jim McDermott (WA).
Earl Hilliard (AL).
David Bonior (MI).
Frank Pallone (NJ).
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SUPPORTERS OF H.R. 407

American Association of Health Education.
American Association of Critical-Care Nurses.
American Cancer Society—National.
American College of Surgeons.
American Medical Association.
American Medical Student Association.
American Society of Anesthesiologists.
American Society of Clinical Pathologists.
American Society of Internal Medicine.
American Society of Plastic and Reconstructive Surgeons.
Association of Operating Room Nurses.
California Health Collaboration Foundations.
California Medical Association.
California Nurses Association.
California Schools Employees Association.
California State.
Committee for Freedom of Choice in Medicine, Inc.
Emergency Nurses Association.
Health Education Council.
Kaiser Permanente—Sacramento.
Louisiana Breast Cancer Task Force.
Merced County Board of Supervisors.
National Cancer Registrars Association.
National Lymphedema Network.
National Osteoporosis Foundation.
Nevada County Board of Supervisors.
ONE-California, organization of nurse leaders.
Public Employees Union—Local One.
Sacramento Area Mammography Society.
Sacramento City Council.
Sacramento-El Dorado Medical Society.
San Joaquin Public Employees Association.
Santa Cruz County Board of Supervisors.
Save Ourselves-Y-Me.
Sonoma County Board of Supervisors.
Sutter County Board of Supervisors.
The Breast Cancer Fund.
United Farm Workers of America AFL–CIO.
Vital Options TeleSupport Cancer Network.
WIN Against Breast Cancer.
YWCA–ENCORE.
Hadassah The Women's Zionist Organization of America, Inc.
Foundation Health Corporation.
American Association of Health Plans.
American College of Osteopathic Surgeons.
Association of Reproductive Health Professionals.●

By Mrs. FEINSTEIN (for herself, Ms. MIKULSKI, Mr. WELLSTONE, Mr. JOHNSON, and Mrs. MURRAY):

S. 727. A bil 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 annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography; to the Committee on Finance.

PRIVATE INSURANCE UNIFORM COVERAGE OF MAMMOGRAPHY LEGISLATION

● Mrs. FEINSTEIN. Mr. President, I am introducing a bill today to try to bring some uniform coverage of mammography to private insurance, Medicare and Medicaid, consistent with the American Cancer Society and the National Cancer Institute guidelines. Joining me as cosponsors are Senators MIKULSKI, WELLSTONE and JOHNSON.

I am introducing this bill because I believe mammography is our best tool for finding breast cancer early and women will not get mammograms without good insurance coverage. We now have the two leading organizations, the American Cancer Society and the National Cancer Institute, agreeing on screening guidelines and we cannot assume that insurance companies will rush to follow those guidelines. In the current highly competitive climate of managed care, with plans and providers reducing services and benefits, with employers cutting back on coverage, only congressional action will guarantee women the health care they need, especially preventive services like this.

BREAST CANCER'S TOLL

Breast cancer is the most common cancer among women, after skin cancer. In 1996, 184,300 new cases were diagnosed and 44,300 women died. Breast cancer is the second leading cause of cancer deaths among women, after lung cancer. Breast cancer is the leading cause of cancer death in women between ages 40 and 55.

Most women diagnosed with breast cancer are over age 50. For women age 40 to 44, the incidence rate is 125.4 per 100,000 women; for women ages 50 to 54, it jumps to 232.7 per 100,000.

EARLY DETECTION SAVES LIVES

The sooner breast cancer is detected, the better the survival rate. If breast cancer is diagnosed when it is local—

confined to the breast—the 5-year survival rate is 96 percent. If diagnosed later, when cancer has metastasized, the survival rate is 20 percent.

Regularly scheduled mammography screening offers the single best method of finding breast cancer early. Mammograms, while never absolutely certain, can detect cancer several years before physical symptoms are obvious to a women or her doctor. Mammography has a sensitivity that is 76–94 percent higher than that of a clinical breast exam. Its ability to find an absence of cancer is greater than 90 percent. For women over 50, mammography can reduce breast cancer mortality by at least 30 percent.

Earlier this year, the National Cancer Institute recommended that asymtomatic women in their 40s have a screening mammogram every one to two years. The American Cancer Society recommends that all women over age 40 should have annual screening mammograms.

A February 1997 CBS poll found that 71 percent of women think early detection of breast cancer significantly increases a woman's chances of surviving. 85 percent believe mammograms are safe and 88 percent trust the accuracy of mamograms. Between 1987 and 1992, the National Health Interview survey found that there was at least a two-fold increase in the percentage of women of all ages who had a recent mammogram.

COMPLIANCE WITH GUIDELINES LOW

So women by and large understand the need for mammograms. However, a study by the Centers for Disease Control found that only 41 percent of women age 40 to 49 reported having a recent mammogram. Only half of women aged 50 to 64 had a recent mammogram. And only 39 percent of women over age 65 reported a recent mammogram.

LACK OF INSURANCE A DETERRENT

So the question is, if women understand the importance of mammograms, why is adherence to the guidelines so low? The CDC study said, ''Health insurance coverage and educational attainment were both strongly associated with [mammograms] for women 40–49 years of age.''

A survey by the Jacob Institute of Women's Health likewise found that 56 percent of women in their 40's and 47 percent of women in the 50's were meeting the ACS screening guideline. After lack of a family history, the cost of a mammogram was the principal reason for not having a mammogram.

The lack of insurance coverage, the CDC study found, is an important factor in determining which women follow the recommended guidelines. Among commercially insured women, more than half were following the guidelines. However, for women in government insurance programs, between 58 percent and 66 percent were not following the guidelines. For women with no insurance of any kind, 84 percent were not in compliance with the guidelines.

The cost of a mammogram also varies widely, depending on the radiologist's technique, the location, the interpretation needed. One unofficial estimate of cost is that a mammogram ranges from $75.00 to $200.00 per visit. A $200 medical charge is not something most Americans want to bear out of pocket. They expect their insurance plan to cover medically necessary services.

COVERAGE VARIES WIDELY

Commercial insurance coverage for mammograms varies widely, differing in terms of the age of the covered person and frequency of the service. Many plans follow the American Cancer Society's guidelines, but this is not documented. At least 38 states have mandated some type of coverage for commercial plans, but again the details vary. Medicare covers mammograms every other year. Federal law does not require Medicaid to have specific coverage. A 1993 Alan Guttmacher study attempting to describe coverages of commercial health insurance coverage of reproductive services is aptly titled ''Uneven & Unequal.'' So in summary, insurance coverage is ''all over the map.''

THE BILL

The bill addresses private commercial group and individual insurance plans, Medicare and Medicaid. It would—

Require private plans that cover diagnostic mammograms for women under 40 to also cover annual screening mammography.

Require Medicare and Medicaid to cover annual screening mammography for women over age 40. (Medicare now covers biannual screening. Federal law does not require State Medicaid programs to cover mammography for any age and State approaches vary widely.)

Prohibits plans from denying coverage for annual screening mammography because it is not medically necessary or not pursuant to a referral or recommendation by any health care provider;

Deny a woman eligibility or renewal to avoid these requirements;

Provide monetary payments or rebates to women to encourage women to accept less than the minimum protections of the bill;

Financially reward or punish providers for withholding mammographies.

SUPPORT FOR THE BILL

The bill is supported by the American Cancer Society, the National Breast Cancer Coalition, the Susan B. Komen Breast Cancer Foundation, the Breast Cancer Resource Committee, the Association of Women's Health, Obstetrics, and Neonatal Nurses.

I believe this bill will put some important principles into insurance coverage for this very necessary service. I hope my colleagues will join me in promptly moving this bill to enactment.●

By Mrs. FEINSTEIN (for herself, Mr. MACK, Mr. D'AMATO, Mr. REID, and Mr. JOHNSON):

S. 728. A bill to amend title IV of the Public Health Service Act to establish a Cancer Research Trust Fund for the conduct of biomedical research; to the Committee on Finance.

THE CANCER RESEARCH FUND ACT OF 1997

● Mrs. FEINSTEIN. Mr. President, today Senators MACK, D'AMATO, REID, and I are introducing a bill to give citizens two ways to contribute to the Nation's cancer research program. In connection with their annual tax return, taxpayers could make a tax deductible contribution for cancer research of not less than $1 and could check off or designate a contribution of not less than $1 from their tax refund owed them by the Government.

The bill establishes a Cancer Research Trust Fund and directs the National Institutes of Health to use the funds for research on cancer. It prohibits expenditures from the fund if appropriations in any year for the NIH are less than the previous year so that these funds do not supplant appropriated funds.

In fiscal 1997, the National Cancer Institute could only fund 26 percent of grants received with appropriated funds. This approval rate dropped from 29 percent in 1996 and 32 percent in 1992. Under the President's budget request for fiscal 1998, the success rate is estimated to drop again, to 25 percent.

While we do not have a specific estimate for how much our bill for cancer research would raise, a Federal tax checkoff for health research could raise $35 million in revenues for health research, if the average contribution were $2, according to Research America. If taxpayers gave $10, it would raise $410 million. Their study shows that the average contribution would be $23 and at that rate, $1.1 billion could be raised. In 1994, U.S. taxpayers contributed $25.7 million through State checkoffs.

I believe Americans would be very willing to make a contribution to health research and using the tax return is a very easy way. Sixty percent of Americans say they would check off a box on the tax return for medical research. The median amount people are willing to designate is $23.

Virtually everyone is touched by disease and has had some experience with incurable diseases. We all fear dreaded diseases. A May 1996 California poll found that 59 percent of my constituents would pay an extra dollar a week in taxes to support medical research. An overwhelming 94 percent of Americans believe it is important that the United States maintains its role as a world leader in medical research and medical research takes second place only to national defense for tax dollar value.

Cancer mortality has risen in the past half-century. By the year 2000, cancer will overtake heart disease as the leading cause of death of Americans. Over 40 percent of Americans will develop cancer and over 20 percent of us will die from cancers. Cancer is

causing twice as many deaths as in 1971. Cancer's total economic costs in 1995, according to the National Institutes of Health, came to $104 billion.

In my own State of California, in 1996, 125,800 new cases of cancer were diagnosed and 51,200 people died. The incidence of certain cancers, specifically cervical, stomach, and liver, is higher than national rates. The San Francisco area has some of the highest rates of breast cancer in the world. There are areas in my State, such as Alameda County, where prostate cancer incidence exceeds the national rate. In my State, African-American women have a 60-percent higher risk of developing cervical cancer than white women. Hispanic women have the highest risk of cervical cancer in my State. Asian-Americans in California are twice as likely to develop stomach cancer and five times more likely to develop liver cancer than whites.

We have made great strides in understanding cancer, particularly the genetics of cancer and what makes a normal cell become a cancer cell. Because of research, cancer survival rates have increased for some cancers. But we cannot rest until we find a cure.

The National Cancer Institute's bypass budget identifies five promising areas of research and with 74 percent of grants going unapproved, the scientific talent is there. As the National Cancer Advisory Board said in its 1994 report to Congress, ''Current investment is insufficient to capitalize on unprecedented opportunities in basic science research.'' Clearly additional funds can be well used by some of the world's leading cancer researchers.

By introducing this bill, I do not believe giving taxpayers an opportunity to contribute to cancer research will or should be the mainstay of funding for our national war on cancer. Congress needs to continue increasing appropriations and I am disappointed that the President's fiscal year 1998 budget for the National Cancer Institute represents only a 2.5-percent increase over fiscal 1997. I hope we can do better and I pledge my help in doing that. To insure that these taxpayer contributions generated by this bill do not supplant Congressionally appropriated funds, the bill includes a provision that prohibits expenditures from the cancer research fund if appropriations in any year for the NIH are less than the previous year.

Twenty-six years of research since the 1971 passage of the National Cancer Act has brought great progress, but some say that the war on cancer has really only been a skirmish. We must escalate that war, we must launch an armada of scientists, we must push vigorously ahead, we must find a cure for cancer. I hope this bill will help to escalate that battle.●

By Mr. KEMPTHORNE (for himself, Mr. CRAIG, Mr. TORRICELLI, Mr. THOMAS, and Mr. ENZI):

S. 730. A bill to make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll; to the Committee on Veterans' Affairs.

MEDAL OF HONOR ROLL LEGISLATION

Mr. KEMPTHORNE. Mr. President, I rise today to introduce legislation that is the final step toward correcting a wrong—a wrong which lingered for more than 50 years.

In January of this year, I attended a moving ceremony at the White House where the Congressional Medal of Honor was presented to seven African-Americans who had been denied the award during World War II. I can tell you, it was a solemn and dignified ceremony in the East Room of the White House last January, when the medals were awarded. Unfortunately, only one of the soldiers—Lt. Vernon Baker—was able to receive the medal in person. The other six died, unaware their heroism would one day be acknowledged.

Like the medal itself, the financial rewards that normally accompany the honor are also past due. My bill offers the stipend that would have been earned by the three heroes who survived the heroic act which earned them the Congressional Medal of Honor.

This bill, co-sponsored by Senators CRAIG, TORRICELLI, THOMAS, and ENZI, provides Lt. Vernon Baker and the surviving spouse or children of S. Sgt. Edward A. Carter, Jr., and Maj. Charles L. Thomas with the financial benefits normally given to recipients of the Congressional Medal of Honor. The other Medal of Honor recipients, S. Sgt. Ruben Rivers, 1st Lt. John R. Fox, Pfc. Willy F. James, Jr., and Pvt. George Watson were all killed in action performing acts of heroism, and have no surviving family members.

Mr. Vernon Baker, the only living survivor, now makes his home in the quiet north Idaho community of St. Maries. He is a soft spoken, humble man, almost embarrassed by all the national and international attention given him as a result of heroism. In April 1945, on a hill in Italy, Lt. Vernon Baker performed acts of bravery above and beyond the normal call of duty, risking his life to save the lives of others and taking a strategically important position, which saved countless other American lives.

Following the battle, Lieutenant Baker's commander recommended this hero for our Nation's top military honors. But during World War II, no African-American soldier received the Medal of Honor, and so Lieutenant Baker never received the commendation due him—until 50 years after the fact.

An Army review board studied thousands of service records and reports, and determined that seven African-Americans should have been awarded the Congressional Medal of Honor. I am proud the last Congress finally stepped up to the challenge and overturned this stain on the Nation's history, when it authorized the President to award the Congressional Medal of Honor to Vernon Baker.

My bill will provide Mr. Baker and the surviving spouse or children of S. Sgt. Edward A. Carter, Jr., and Maj. Charles L. Thomas with the Congressional Medal of Honor pension that they would have received had they been rightly given the award in 1945. My bill does not adjust the pension for inflation nor does it offer interest. Instead, the bill I am introducing today offers three American heroes only what they rightly earned in combat defending our Nation and the free world.

The people of Idaho have embraced Vernon Baker as a true American hero. The State's Governor has awarded Mr. Baker Idaho's top civilian honor. The Nation has bestowed upon him its highest military honor.

This is a fair bill that will help provide three American heroes with the reward they rightly earned. I urge my colleagues to take a look at this important bill and I urge its adoption.

Mr. President, in closing, I will just say that as an Idahoan and as an American, I am so proud to have been able to get to know Vernon Baker, a truly great American, and his wife Heidi. I wish them all the best success and joy as they continue a wonderful life in the State of Idaho.

Again, as an American, I salute him and the other six African Americans who are true American heroes.

Mr. President, I send to the desk the bill. I know that Senator CRAIG wishes to now address this issue as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me first thank my colleague, Senator KEMPTHORNE, for his action and the work in developing this legislation that appropriately recognizes Vernon Baker, Edward A. Carter, Jr., and Charles L. Thomas in what I think can best be called retroactivity, certainly recognizing that there is a special pension tied to the Medal of Honor.

The Medal of Honor was given to these African American soldiers and citizens and wonderful people in the appropriate fashion, finally, after a long, long wait. We had the opportunity to be at the White House for the ceremonies, and it was truly moving.

Recognition of their outstanding courage and daring leadership during their service to their country in World War II was far too long coming, as I mentioned. However, their rewards should not be based upon the delay in their recognition, but based on the moment of their heroism.

In the case of Vernon Baker, one of my fellow Idahoans—as Senator KEMPTHORNE said, we had the privilege of getting to know he and his wife—more than 50 years have passed before the Nation did the appropriate thing in recognizing their courageous actions and bestowing them with the Congressional Medal of Honor. Now fairness demands that we couple this honor with

the benefits entitled to them and the next of kin in the case of the deceased, effective to the dates corresponding to their actions.

Mr. President, on behalf of a grateful Nation, I once more thank Vernon Baker for his gallant actions on that April day so long ago and encourage the support of my colleague's legislation to resolve this issue for America for all time.

Mr. TORRICELLI. Mr. President, I rise today in strong support of Senator KEMPTHORNE's effort to provide Medal of Honor recipient Vernon Joseph Baker, and the heirs of Medal of Honor recipients Edward Carter and Charles Thomas, with retroactive compensation for their awards.

During World War II, Mr. Baker was an Army 2d lieutenant serving with the 92d Infantry Division in Europe. During a 2-day action near Viareggio, Italy, he single handedly wiped out two German machinegun nets, led successful attacks on two others, drew fire on himself to permit the evacuation of his wounded comrades, and then led a battalion advance through enemy minefields. Mr. Baker is the only one of these three men still alive today, and he currently resides in St. Maries, ID.

Edward Carter, of Los Angles, was staff sergeant with the 12th Armored Division when his tank was destroyed in action near Speyer, Germany, in March 1945. Mr. Carter led three men through extraordinary gunfire that left two of them dead, the third wounded and himself wounded five times. When eight enemy riflemen attempted to capture him, he killed six of them, captured the remaining two and, using his prisoners as a shield, recrossed an exposed field to safety. The prisoners yielded valuable information. Mr. Carter died in 1963.

Charles Thomas, of Detroit, was a major with the 103d Infantry Division serving near Climbach, France, in December 1944. When his scout car was hit by intense artillery fire, Mr. Thomas assisted the crew to cover and, despite severe wounds, managed to signal the column some distance behind him to halt. Despite additional multiple wounds in the chest, legs, and left arm, he ordered and directed the dispersion and emplacement of two antitank guns that effectively returned enemy fire. He refused evacuation until certain his junior officer was in control of the situation. Mr. Thomas died in 1980.

I commend Mr. Baker, Mr. Carter, and Mr. Thomas for their bravery and Senator KEMPTHORNE for leading this effort.

As a result of their heroics these men had clearly met the criteria for being awarded a Medal of Honor, the Nation's highest award for valor. This medal is only awarded to a member of the U.S. armed services who ''distinguishes themselves conspicuously by gallantry and intrepidity at the risk of their life and beyond the call of duty,'' with an act ''so conspicuous as to clearly distinguish the individual above their comrades.'' However, because of the racial climate of the time and the segregated nature of the Army in 1945, African-Americans were denied the Medal of Honor. It is a sad testament to America's legacy of discrimination that although 1.2 million African-Americans served in the military during the Second World War, including Mr. Baker, Mr. Carter, and Mr. Thomas, none received 1 of the 433 Medals of Honor awarded during the conflict.

This past January our Nation took an important step in correcting this injustice by awarding Mr. Vernon Joseph Baker, and six of his dead comrades, the Medal of Honor during a long-overdue ceremony at the White House. This recognition of these men's extraordinary courage was a vindication for all African-American heroes of World War II. In order to further demonstrate our profound thanks to these brave men, I support Senator KEMPTHORNE's effort to retroactively compensate Mr. Baker, and the heirs of Mr. Carter and Mr. Thomas for the money that they would have received from the Army for receiving the Medal of Honor. The other three heroes died as a result of the brave deeds which qualified them to receive the Medal, and thus would not have received any compensation by the military.

Each recipient of this Medal is entitled to receive a token monthly stipend from their respective branch of the military after they leave active duty service. In 1945 the stipend was $10 and today it has risen to $400. Since he was denied the Medal more than a half century ago, Mr. Baker and the survivors of Mr. Carter and Mr. Thomas, deserve to receive the same amount of money that they would have received had they been awarded the Medal at the close of World War II. American is profoundly thankful for the patriotism of these men, and awarding retroactive compensation to them is a simple way to express our gratitude for their service. For these reasons I stand today to recognize Mr. Baker, Mr. Carter, and Mr. Thomas, and support retroactively compensating them for their accomplishments.

By Mr. FAIRCLOTH (for himself, Mr. HELMS, Mr. DEWINE, Ms. SNOWE, Ms. COLLINS, Mr. ROBERTS, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. SANTORUM, Mr. THOMAS, Mr. WARNER, Mr. DODD, Mr. COCHRAN, and Mr. MURKOWSKI):

S. 732. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903; to the Committee on Banking, Housing, and Urban Affairs.

THE FIRST FLIGHT COMMEMORATIVE COIN ACT

Mr. FAIRCLOTH. Mr. President, I rise today, joined by my colleague from North Carolina, Senator HELMS, and 12 other Senators to introduce the First Flight Commemorative Coin Act. This revenue-neutral legislation instructs the Treasury Secretary to mint coins in commemoration of the Wright Brothers' historic 1903 flight on the North Carolina coast.

Mr. President, in the cold morning hours of December 17, 1903, a small crown watched the Wright Flyer lift off the flat landscape of Kitty Hawk. Orville Wright traveled just 120 feet—less than the wingspan of a Boeing 747—in his 12-second flight. It was, however, the first time that a manned machine sailed into the air under its own power. The residents of Kitty Hawk, then an isolated fishing village, thus bore witness to the realization of the centuries-old dream of flight.

The significance of the Wright Brothers' flight reaches far beyond its status as the first flight. Their flight represented the birth of aviation. On that morning, aeronautics moved from untested theory to nascent science, and it triggered a remarkable technological evolution. In fact, just 24 years after their fragile craft rose unsteadily and took to the air, Charles Lindbergh crossed the Atlantic Ocean. In 1947, less than half a century after the pioneer 31 m.p.h. flight over Kitty Hawk, Chuck Yeager shattered the sound barrier over the Mojave Desert.

The rapid aeronautical progression, which the Wright Brothers initiated on that December morning in Kitty Hawk, is, of course, remarkable. Mr. President, it was just 66 years after the Wright Brothers' 120-foot flight—a timespan equivalent to the age of many Members of this body—that Neil Armstrong traveled 240,000 miles to plant the American flag on the moon. Today, some 86,000 planes lift off from American airports on a daily basis, and air travel is routine. It was with a sprinkling of onlookers, however, that the Wright Brothers ushered in the age of flight on that cold winter morning in Kitty Hawk.

The site of the first flight, at the foot of Kill Devil Hill, was initially designated as a national memorial in 1927 and is visited by close to a half-million people each year.

I think that First Flight Commemorative Coin Act is a most appropriate tribute to the Wright Brothers as the centennial anniversary of the first flight approaches. The coin will be minted in $10, $1, and 50¢ denominations, and its sales will fund educational programs and improvements to the visitor center at the memorial. These commemorative coins are struck to celebrate important historical events, and, of course, the proceeds are an important revenue source to the custodians of these legacies. The centennial anniversary of the Wright Brothers' flight merits our observance.

Mr. President, because all of the funds raised under this legislation will be used to, build, repair or refurbish structures all within a national park, I have added an exemption to the mintage levels as required by coin reform

legislation last year. Nevertheless, so that coin collectors can enjoy some certainty that the coin will be of value in the future, the Mint can reduce the mintage levels as it deems necessary.

Mr. President, I ask my colleagues for their support, and 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. 732

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 ''First Flight Commemorative Coin Act of 1997''.

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $10 GOLD COINS.—Not more than 500,000 $10 coins, each of which shall—

(A) weigh 16.718 grams;

(B) have a diameter of 1.06 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 3,000,000 $1 coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 10,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) REDUCED AMOUNTS.—If the Secretary determines that there is clear evidence of insufficient public demand for coins minted under this Act, the Secretary of the Treasury may reduce the maximum amounts specified in paragraphs (1), (2), and (3) of subsection (a).

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain gold and silver for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law, including authority relating to the use of silver stockpiles established under the Strategic and Critical Materials Stockpiling Act, as applicable.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the first flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2003''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Board of Directors of the First Flight Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. PERIOD FOR ISSUANCE OF COINS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may issue coins minted under this Act only during the period beginning on August 1, 2003, and ending on July 31, 2004.

(b) EXCEPTION.—If the Secretary determines that there is sufficient public demand for the coins minted under section 2(a)(3), the Secretary may extend the period of issuance under subsection (a) for a period of 5 years with respect to those coins.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $35 per coin for the $10 coin;

(2) $10 per coin for the $1 coin; and

(3) $1 per coin for the half dollar coin.

(e) MARKETING EXPENSES.—The Secretary shall ensure that—

(1) a plan is established for marketing the coins minted under this Act; and

(2) adequate funds are made available to cover the costs of carrying out that marketing plan.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the First Flight Foundation for the purposes of—

(1) repairing, refurbishing, and maintaining the Wright Brothers Monument on the Outer Banks of North Carolina; and

(2) expanding (or, if necessary, replacing) and maintaining the visitor center and other facilities at the Wright Brothers National Memorial Park on the Outer Banks of North Carolina, including providing educational programs and exhibits for visitors.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the First Flight Foundation as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

SEC. 10. WAIVER OF COIN PROGRAM RESTRICTIONS.

The provisions of section 5112(m) of title 31, United States Code, do not apply to the coins minted and issued under this Act.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor 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. 67

At the request of Ms. SNOWE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 67, a bill to amend the Public Health Service Act to extend the program of research on breast cancer.

S. 98

At the request of Mr. HUTCHINSON, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 98, a bill to amend the Internal Revenue Code of 1986 to provide a family tax credit.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Arkansas [Mr. BUMPERS] 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. 191

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SESSIONS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 191, a bill to throttle criminal use of guns.

S. 253

At the request of Mr. LUGAR, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 253, a bill to establish the negotiating objectives and fast track procedures for future trade agreements.

S. 263

At the request of Mr. MCCONNELL, the names of the Senator from Florida [Mr. MACK] and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and

receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 293

At the request of Mr. HATCH, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 311

At the request of Mr. GRAHAM, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 311, a bill to amend title XVIII of the Social Security Act to improve preventive benefits under the medicare program.

S. 314

At the request of Mr. THOMAS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 335

At the request of Mr. WARNER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 335, a bill to authorize funds for construction of highways, and for other purposes.

S. 350

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 350, a bill to authorize payment of special annuities to surviving spouses of deceased members of the uniformed services who are ineligible for a survivor annuity under transition laws relating to the establishment of the Survivor Benefit Plan under chapter 73 of title 10, United States Code.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 387

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 433

At the request of Mr. BROWNBACK, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 433, a bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws.

S. 476

At the request of Mr. HATCH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 476, a bill to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000.

S. 497

At the request of Mr. COVERDELL, the names of the Senator from Wyoming [Mr. THOMAS] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment.

S. 528

At the request of Mr. CAMPBELL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 535

At the request of Mr. MCCAIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor 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. 555

At the request of Mr. ALLARD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 555, a bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act.

S. 572

At the request of Mr. ALLARD, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. KYL], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 572, a bill to amend the Internal Revenue Code of 1986 to repeal restrictions on taxpayers having medical savings accounts.

S. 616

At the request of Mr. ALLARD, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 616, a bill to amend titles 23 and 49, United States Code, to improve the designation of metropolitan planning organizations, and for other purposes.

S. 620

At the request of Mr. GREGG, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 620, a bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes.

S. 717

At the request of Mr. JEFFORDS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 717, a bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. DODD, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Vermont [Mr. LEAHY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from California [Mrs. BOXER], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Concurrent Resolution 6, a concurrent resolution expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Minnesota [Mr. GRAMS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Kansas [Mr. ROBERTS] 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 51

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of Senate Resolution 51, a resolution to express the sense of the Senate regarding the outstanding achievements of NetDay.

SENATE RESOLUTION 63

At the request of Mr. DOMENICI, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Hawaii [Mr. AKAKA], the Senator from Hawaii [Mr. INOUYE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Resolution 63, a resolution proclaiming the week of October 19 through October 25, 1997, as ''National Character Counts Week.''

SENATE RESOLUTION 76

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. INHOFE], the Senator from Massachusetts [Mr. KERRY], the Senator from

Illinois [Ms. MOSELEY-BRAUN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Resolution 76, a resolution proclaiming a nationwide moment of remembrance, to be observed on Memorial Day, May 26, 1997, in order to appropriately honor American patriots lost in the pursuit of peace or liberty around the world.

AMENDMENT NO. 66

At the request of Mr. WARNER the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of amendment No. 66 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. KOHL his name was added as a cosponsor of amendment No. 66 proposed to S. 672, supra.

At the request of Mr. LUGAR his name was added as a cosponsor of amendment No. 66 proposed to S. 672, supra.

AMENDMENT NO. 80

At the request of Ms. SNOWE the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Maine [Ms. COLLINS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Hampshire [Mr. SMITH], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of amendment No. 80 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. 134

At the request of Mr. STEVENS the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of amendment No. 134 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. 139

At the request of Mr. KEMPTHORNE the names of the Senator from Nevada [Mr. REID], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. CRAIG], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of amendment No. 139 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 CONCURRENT RESOLUTION 26—TO PERMIT THE USE OF THE ROTUNDA OF THE CAPITOL

Mr. BROWNBACK submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 26

Whereas Mother Teresa of Calcutta has greatly enhanced the lives of people in all walks of life in every corner of the world through her faith, her love, and her selfless dedication to humanity and charitable works for nearly 70 years;

Whereas Mother Teresa founded the Missionaries of Charity, which includes more than 3,000 members in 25 countries who devote their lives to serving the poor, without accepting any material reward in return;

Whereas Mother Teresa has been recognized as an outstanding humanitarian around the world and has been honored by: the first Pope John XXIII Peace Prize (1971); the Jawaharal Nehru Award for International Understanding (1972); the Nobel Peace Prize (1979); and the Presidential Medal of Freedom (1985).

Whereas Mother Teresa has forever enhanced the culture and history of the world; and

Whereas Mother Teresa truly leads by example and shows the people of the world the way to live by love for all humanity: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on June 5, 1997, for a congressional ceremony honoring Mother Teresa. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED

THE SUPPLEMENTAL APPROPRIATIONS ACT

COCHRAN AMENDMENT NO. 236

Mr. STEVENS (for Mr. COCHRAN) proposed an amendment to the bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes; as follows:

On page 13, line 4, strike ''$161,000,000'' and insert in lieu thereof ''$171,000,000''.

DORGAN (AND OTHERS) AMENDMENT NO. 237

Mr. STEVENS (for Mr. DORGAN for himself, Mr. CONRAD, Mr. GRAMS, Mr. DASCHLE, Mr. WELLSTONE, and Mr. JOHNSON) proposed an amendment to the bill, S. 672, supra; as follows:

On page 30, line 11, strike ''$100,000,000'' and insert ''$500,000,000''.

On page 31, line 4, insert after the colon the following: ''*Provided further,* the Secretary of Housing and Urban Development shall publish a notice in the federal register governing the use of community development block grant funds in conjunction with any program administered by the Director of the Federal Emergency Management Agency for buyouts for structures in disaster areas: *Provided further,* that for any funds under this head used for buyouts in conjunction with any program administered by the Director of the Federal Emergency Management Agency, each state or unit of general local government requesting funds from the Secretary of Housing and Urban Development for buyouts shall submit a plan to the Secretary which must be approved by the Secretary as consistent with the requirements of this program: *Provided further,* the Secretary of Housing and Urban Development and the Director of the Federal Emergency Management Agency shall submit quarterly reports to the House and Senate Committees on Appropriations on all disbursement and use of funds for or associated with buyouts:''.

On page 31, line 13, strike ''$3,500,000,000'' and insert ''$3,100,000,000''.

On page 31, line 17, strike ''$2,500,000,000'' and insert ''$2,100,000,000''.

MURRAY (AND GORTON) AMENDMENT NO. 238

Mr. STEVENS (for Mrs. MURRAY, for herself and Mr. GORTON) proposed an amendment to the bill, S. 672, supra; as follows:

On page 17 of the bill, line 5, after ''Administration'' insert the following:

Operations, Research, and Facilities

Within amounts available for ''Operations, Research and Facilities'' for Satellite Observing Systems, not to exceed $7,000,000 is available until expended to continue the salmon fishing permit buyback program implemented under the Northwest Economic Air Package to provide disaster assistance pursuant to section 312 of the Magnuson-Stevens Fishery Conservation and Management Act: *Provided,* That the entire amount shall be available only to the extent that an official budget request for $7,000,000 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: *Provided, further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of such Act.

GRASSLEY AMENDMENT NO. 239

Mr. STEVENS (for Mr. GRASSLEY) proposed an amendment to the bill, S. 672, supra; as follows:

At the appropriate place, insert the following:

SEC. . RELIEF TO AGRICULTURAL PRODUCERS FOR FLOODING LOSS CAUSED BY DAM ON LAKE REDROCK, IOWA.

(a) ELIGIBILITY.—To be eligible for assistance under this section, an agricultural producer must—

(1)(A) be an owner or operator of land who granted an easement to the Federal Government for flooding losses to the land caused by water retention at the dam site at Lake Redrock, Iowa; or

(B) have been an owner or operator of land that was condemned by the Federal Government because of flooding of the land caused by water retention at the dam site at Lake Redrock, Iowa; and

(2) have incurred losses that exceed the estimates of the Secretary of the Army provided to the producer as part of the granting of the easement or as part of the condemnation.

(b) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Army shall compensate an eligible producer described in subsection (a) for flooding losses to the land of the producer described in subsection (a)(2) in an amount determined by the Federal Crop Insurance Corporation.

(2) REDUCTION.—If the Secretary maintains a water retention rate at the dam site at Lake Redrock, Iowa, of—

(A) less than 769 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 10 percent;

(B) not less than 769 feet and not more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 7 percent; and

(C) more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 3 percent.

(c) CROP YEARS.—This section shall apply to flooding losses to the land of a producer described in subsection (a)(2) that are incurred during the 1997 and subsequent crop years.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President. I would like to announce for the benefit of Members and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on S. 417, reauthorizing EPCA through 2002; S. 416, administration bill reauthorizing EPCA through 1998; and S. 186, providing priority for purchases of SPR oil for Hawaii; and the energy security of the United States. In addition to these bills the committee will also consider S. 698, the Strategic Petroleum Reserve Replenishment Act.

The hearing will take place on Tuesday, May 13, 1997 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact Karen Hunsicker, counsel to the committee at (202) 224–3543 or Betty Nevitt, staff assistant, at (202) 224–0765,

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 8, 1997, at 5 p.m. in executive session, to consider certain pending military nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 8, 1997, to conduct a mark-up on S. 462, the Public Housing Reform and Responsibility Act of 1997.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 8, 1997, at 10:30 a.m. to hold a business meeting.

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

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, May 8, 1997, at 10 a.m. for a hearing on the Government's Impact on Television Programming.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 8, 1997, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 8, 1997, at 2 p.m. to hold a hearing on: S. 43, Criminal Use of Guns.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, May 8, 1997, beginning at 9:30 a.m. to consider revisions of Title 44/GPO.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine of the Senate Committee on Commerce, Science and Transportation be authorized to meet on May 8, 1997, at 10:30 a.m. on the Hazardous Materials Transportation Reauthorization.

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

ADDITIONAL STATEMENTS

AMENDMENT ON WZLS RADIO STATION

● Mr. FAIRCLOTH. Mr. President, I have agreed not to offer an amendment to the supplemental appropriations bill regarding a radio station in my State, because I am told that a point of order may be raised against it. But, Mr. President, I will continue to probe this matter further. I intend to request documents from the FCC on this issue. Further, I think that the Commerce Committee should hold a hearing to investigate the irregularities concerning this case.

Mr. President, in 1987, Zeb Lee and his family attempted to get a new FM station license in Asheville, NC. At the time, Mr. Lee had owned and operated a successful AM station in the area for 40 years.

By all accounts, Mr. Lee has been a model citizen and a model radio station operator, this is in stark contrast to a lot of what is taking place on radio today.

In 1993, a full 6 years later, Mr. Lee was awarded the station on a temporary basis, beating out 12 other applicants. Several of his competitors were found to be unqualified. In fact, one lied about his ability to operate a station. Another lied about his heritage in order to obtain a minority preference.

Pending final approval, Mr. Lee was required by the FCC to sell his AM station and to begin constructing a new FM tower. In reliance on the Government, he did both. A week after Zeb Lee was on the air, the FCC issued a public notice freezing all licensing proceedings affected by the Bechtel versus FCC case.

In an unusual move, in 1996, the full FCC Board reversed all previous decisions and awarded temporary operating authority to the four opponents of Zeb Lee in the original application process. The four opponents were acting as a group by this time.

Mr. President, here we are, 10 years later—and Mr. Lee is still fighting his case with the FCC. He was on the air for 3 years—only to be told by the FCC that he would now be taken off the air, once his opponents could go on.

Mr. President, this is a highly unusual case. This was the only station, affected by the Bechtel case, where the initial decision was reserved. Furthermore, the FCC has never issued final regulations pursuant to the Bechtel case.

And what did the four opponents who got the radio station do with the new license—they have shopped for another buyer.

The four opponents have now turned over their temporary license to a large out of state radio company.

The fact of the matter is that the opponents in the licensing process had no intention of running a radio station. They only hope was that Zeb Lee would buy them off—in other words pay ''blackmail.'' If that did not work—and they did win the radio station—they would transfer those rights for a big profit.

Mr. President, this process is wrong. It is deeply flawed.

Any bureaucratic process that takes 10 years, by itself is an outrage.

But the process that bankrupts an 80 year old man is truly wrong.

If he losses the station, the end result will be that a family owned radio business, located in Asheville area for 40 years, will have lost the radio license in a deeply flawed process.

His four opponents never had any intention of operating a radio station, they only wanted to flip the license to a larger company.

This is wrong, and it must stop.

Mr. President, my amendment would have provided that Zeb Lee could continue to operate his station for a period of 6 more months. This would allow the Congress to review this matter. It would allow us to get to the bottom of what the FCC is doing.

We have to make certain that this process has been fair and even handed, but quite frankly, judging from the facts, there have been serious problems with this entire issue.

Mr. President, in conclusion, I can assure all the citizens in Asheville that I will continue to pursue this matter with vigor.●

ARSON AWARENESS WEEK

● Mr. MOYNIHAN. Mr. President, as I am sure many of my colleagues are

aware, this week—May 4–May 10—is Arson Awareness Week. All over the Nation, people are coming together to combat arson and take back their communities. One such place where this has been happening is Utica, a city of about 70,000 people in upstate New York. Utica is a pilot city in the Federal Emergency Management Agency's [FEMA] Partnership for Arson Awareness and Prevention. FEMA Director James Lee Witt is heading up the National Arson Prevention Initiative [NAPI], a combined effort of FEMA and the Departments of Housing and Urban Development, Justice, and the Treasury. President Clinton asked Director Witt to create the NAPI in response to the many church fires which recently occurred in the South.

In March, Utica Mayor Edward Hanna and Oneida County Executive Ralph Eannace formed a local arson prevention coalition and have been working with FEMA officials. Throughout this week and in the future, the people of Utica will band together to take back their city from scourge of arson fires which it has recently seen.

On Tuesday, students at the Martin Luther King School heard a public education program on arson from officers of the Utica Fire Department and the New York State Office of Fire Prevention. On Wednesday, risk assessments were conducted at senior citizen's centers, and on Friday, the Utica National Insurance Co's. are presenting a fire prevention grant to residents of the neighborhood near the intersections of South and Steuben Streets.

On Saturday, Director Witt will cap off the week with a visit to Utica. The day's activities will include boarding up abandoned structures to make them less susceptible to arson and conducting fire drills at several churches in the morning and having a parade and arson prevention rally in the afternoon. I would like to thank Director Witt for making Utica a pilot city in this program and for visiting Utica. Working together, the people of Utica will reclaim their city from arson.

Mr. President, I ask that an article by Director Witt on Arson Awareness Week be printed in the RECORD.

The article follows:

WHAT ARE YOU DOING TO TARGET ARSON IN YOUR COMMUNITY?

WASHINGTON.—IN THE WAKE OF THE CHURCH FIRES LAST SUMMER, THE PRESIDENT ASKED ME TO LEAD A NATIONAL ARSON PREVENTION INITIATIVE. HE WANTED TO FOCUS THE EFFORTS AND THE RESOURCES OF THE FEDERAL GOVERNMENT ON SUPPORTING COMMUNITY-BASED ACTIVITIES TO PREVENT ARSON.

The initiative the President implemented was national in
gional, and not focused on houses of worship exclusively. This effort represents the commitment by numerous Federal agencies, governments at all levels, the private sector and the voluntary community to greatly reduce the 750 fatalities and over $2 billion in losses caused by arson in this country every year.

National Arson Awareness Week, which begins Sunday (May 4) and runs through Saturday, May 10th, is the culmination of this initiative. In a very real sense, it marks the first anniversary of an unprecedented crusade to combat a national problem that far too often maims and kills and can destroy the fabric of our communities. The theme of this week is ''Target Arson,'' and each community should ask themselves what they are doing in the fight against arson.

Arson is preventable. What is disturbing is that one out of every four fires is intentionally set. That means that someone—a fellow human being—consciously decides for whatever reason to destroy a home, a car, a house of worship, or a business. And in that moment they have attacked the lives, the livelihoods, and the spirit of a community. Arson is a national problem, but it is fundamentally a local problem. This war—like most wars—must be won in the trenches. Local fire and police departments are well-trained and ready to mount heroic efforts. But when the doors of the fire station go up to respond, you have already lost the battle to prevent that fire from happening. In the end, the real responsibility for stopping arson lies with the community—with students, teachers, business leaders, parents, the clergy, and civic organizations.

Arson does affect everyone—and every taxpayer should be vitally concerned about arson's destructive and deadly toll. Think of the cost of rolling out fire trucks to deal with a toilet paper fire at a school. Consider that teenagers account for more than 55 percent of all deliberately set blazes, and if you include youth 20 years and younger that figure climbs to 61.2 percent. Then think of the cost of teachers and students killed or scarred for the rest of their lives and a smoldering school that must be rebuilt. Think again of the houses and businesses that disappear from the tax rolls because of arson, and the services that suffer in a community as the result. Imagine what it's like to pull up outside your church or house of worship, and realize that it disappeared in flames the night before.

As we observe National Arson Awareness Week, three communities—Charlotte, NC; Macon, GA; and Utica, NY—will be launching grassroots arson prevention coalitions that could well become models for other American cities. These are communities that took firm hold of their arson problems and have put together a partnership from across their community to prevent future arson fires.

These communities will step forward as model arson prevention partnerships with a flurry of week-long activity, that includes boarding up abandoned buildings, cleaning up litter and debris from vacant properties, conducting arson prevention training programs in schools and community centers, and promoting arson awareness through public education campaigns and neighborhood watch rallies. Dozens of other cities across the country will also be hosting National Arson Awareness Week events.

The most effective way of combating any problem, including arson, it to prevent it from happening. That takes more than federal agencies and federal dollars. It takes you and your family and your friends. It takes your entire community.

So ask yourself this week—what you are doing to ''target arson'' in your community? Then get involved—organize a neighborhood watch, assess arson risks in your community, participate in prevention training programs, call your local fire department or call the National Arson Prevention Clearinghouse at 1–888–603–3100 for some arson prevention ideas. Remember fire stops with you.

CAPT. JAMES HUARD

• Mr. ABRAHAM. Mr. President, I rise today to pay my respects to Air Force Capt. James Huard, buried on Thursday, May 1 with full military honors at Arlington National Cemetery. The day was long overdue; 25 years, in fact, since the Dearborn, MI native's plane disappeared in a mission over North Vietnam.

In July 1972, Captain Huard's death left behind a young wife, three small children, and countless other family and friends. His memory lives on today, however, evident in the attendance at Arlington of a number of members of the Vietnam Veterans of America James L. Huard Chapter 267, named in his honor.

As fitting and well deserved a tribute as last week's ceremony was, it also serves as a stirring reminder of those who still wait for return of the remains of their loved ones. For one quarter of a century, over 2,000 families have so far been denied the opportunity to properly bring closure to this difficult period in their lives.

As Paul Kane, one of Captain Huard's fellow veterans told the Detroit News, ''This ends the Vietnam war for Dearborn, finally. Today, the good captain comes home to rest.''

It is my sincere hope the other families and communities across this country waiting to honor those servicemen still missing in action will one day, if they have not already, find a similar peace themselves. Until then, we cannot and will not waver or rest in our solemn task of returning every American home for recognition as heroes by the country in whose service they made the ultimate sacrifice.•

NATIONAL SAFE KIDS WEEK 1997

• Mr. ABRAHAM. Mr. President, I rise today to recognize May 10 through 18 as National Safe Kids Week 1997. The National Safe Kids Campaign is a joint effort of the Children's National Medical Center and its founding sponsor Johnson & Johnson to promote basic child safety precautions among America's parents.

To illustrate the importance of this cause, consider the following facts. Unintentional injury is the number one killer of children ages 14 and under. Every day, more than 39,000 children are injured seriously enough to require emergency medical treatment. That is more than 14 million each year. These statistics are all the more tragic because so many of these accidents could have been prevented with adequate basic child safety education.

Earlier today, the National Safe Kids Gear Up Games kicked off here in Washington. The Gear Up Games will move to New York tomorrow, Los Angeles on Saturday, and on to communities across the country in the days ahead. The primary awareness program of National Safe Kids Week 1997, the Gear Up Games are an interactive safety obstacle course with events centered around the childhood injury risk areas depicted in the Safe Kids Gear Up Guide.

Mr. President, I am honored to say my wife Jane is a honorary chairperson of the Detroit Safe Kids Campaign. She joins such respected national figures as former United States Surgeon General C. Everett Koop, our distinguished colleagues from Connecticut and Ohio, CHRIS DODD and MIKE DEWINE, respectively, and countless others in this worthwhile initiative.

During National Safe Kids Week 1997, and beyond, I plan to have available in both my Washington and Michigan offices copies of the Safe Kids Gear Up Guide. Jane and I join Senators DODD and DEWINE in urging other Senators to do likewise. As the parents of three children, all under the age of 4, my wife and I believe there is no more important task than working to ensure all of America's children have safe home and play environments in which to grow up.

I commend those involved in the National Safe Kids Campaign and the good works they do, and look forward to the day accidental childhood injuries are eliminated entirely.●

HOPE SCHOLARSHIP PROGRAM

Mr. CLELAND. Mr. President, I rise today to acknowledge and commend the State of Georgia's HOPE Scholarship program. The HOPE Scholarship, which stands for helping outstanding pupils educationally, has served as a model of excellence in education for a number of other States, and indeed the entire Nation. I am honored to represent a State, which in my opinion, has one of the most innovative educational programs in the country.

The HOPE Scholarship provides eligible students wishing to attend a Georgia Pubic College or University with tuition, mandatory fees and a $100 book allowance. The HOPE Scholarship also provides eligible students wishing to attend a Georgia Private College or University with $3000 per academic school year and an additional $1000 in Georgia Tuition Equalization Grants per academic year. To be eligible, students must be a Georgia resident, graduated from high school after a certain date and have completed high school with a ''B'' average. Students must continue to perform well academically and maintain a ''B'' average while in college to continue to receive the HOPE Scholarship.

Students wishing to attend a Georgia Public Technical Institute are also eligible for the HOPE Scholarship. The HOPE scholarship provides tuition, mandatory fees and a $100 book allowance for students attending these technical institutions.

Since the program began in September of 1993, more than 238,500 Georgia students have been awarded HOPE Scholarships. Because of the HOPE Scholarship college enrollment is up 1.2 percent, full-time private college enrollment is up 32 percent and technical school enrollment is up 24 percent in Georgia. At the University of Georgia, 97 percent of the entering in-state freshman were on HOPE Scholarships for the Fall 1996 quarter. At the Georgia Institute of Technology, 96 percent of in-state entering students in 1996 were on HOPE Scholarships.

The HOPE Scholarship has given, and will continue to give, thousands of Georgia students the financial encouragement both to attend college and to persist and gain a degree. Students in Georgia know that if they work hard and do well academically, despite the rising cost of higher education, they will be provided the resources needed to further their education. Not only does the HOPE Scholarship reward those students who are willing to work hard with tuition money, but it also serves as incentive to keep Georgia's best and brightest in the great state of Georgia.

A lack of financial resources should not prevent any American from pursuing a college education and thanks to the Georgia HOPE Scholarship, in Georgia, it doesn't. Unfortunately, however, the lack of financial resources remains the number one obstacle to higher education for many American students and their families. This is why it is so important that the necessary financial resources are provided to all students pursuing a higher education and why the importance of current education legislation, such as S. 12, that addresses this crucial need cannot be overlooked.

I believe that federal support for education is one of the best investments our nation can make to ensure future security and prosperity. In keeping with this commitment to education I am a proud co-sponsor of S.12. The goal of S. 12 is to make higher education more accessible and affordable for all students. S. 12, ''The Education for the 21st Century Act,'' includes two new forms of assistance to help families meet the costs of higher education. The first form of assistance, also called the HOPE Scholarship, is a $1500 per year refundable tax credit for the first two years of post-secondary education. To qualify for the credit, students must have a ''B'' average and be drug-free. S. 12 also includes a tax deduction of up to $10,000 per year for qualified education expenses.

In these days of budget cuts, we must not forget that the future of our country depends on the youth of today. If we deny our youth the necessary tools to grow and learn we deny ourselves a better tomorrow. The Georgia HOPE Scholarship is a shining example of how the people and the government can come together to create an efficient, highly successful program that benefits everyone.

The Georgia HOPE Scholarship has been an overwhelming success and Georgians have been very fortunate to have reaped such a wealth of benefits from this innovative program. S. 12 is an attempt to provide similar opportunities for all Americans. We must work together as a nation to ensure that barriers to higher education continue to fall for all Americans. It is my sincere hope that the entire nation will follow Georgia's lead and make education a top priority. The future of our country depends on it.●

RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

● Mr. THOMPSON. Mr. President, I ask unanimous consent that the Rules of Procedure for the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, as adopted, April 28, 1997, be printed in the RECORD.

The rules of procedure follow:

105TH CONGRESS—RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS AS ADOPTED, APRIL 28, 1997

1. No public hearing connected with an investigation may be held without the approval of either the Chairman and the ranking minority Member or the approval of a majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The ranking minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee majority staff upon the approval of the Chairman and notice of such approval to the ranking minority Member or the minority counsel. Preliminary inquiries may be undertaken by the minority staff upon the approval of the ranking minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the ranking minority Member with notice of such approval to all members.

No public hearing shall be held if the minority Members unanimously object, unless the full Committee on Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules will govern all closed sessions convened by the Subcommittee (Rule XXVI, Sec. 5(b), Standing Rules of the Senate).

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him, with notice to the ranking minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and ranking minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him, immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and ranking minority Member waive the 48 hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and ranking minority Member that, in his opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of

the Subcommittee, a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its dates and hour. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

Five (5) Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he is testifying, of his legal rights, Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued by the Chairman. The Chairman of the full Committee and the ranking minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9. Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him. If the Chairman or designated Member overrules the objection, he may refer the matter to the Subcommittee or he may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Subcommittee.

9.4 Filing. The Subcommittee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review pursuant to the provisions of Rule 12. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Subcommittee clerk. Subcommittee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

10. Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Chief Counsel or Chairman of the Subcommittee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the ranking minority Member waive this requirement. The Subcommittee shall determine whether such statement may be read or placed in the record of the hearing.

11. A witness may request, on grounds of distraction, harassment, personal safety, or physical discomfort, that during the testimony, television, motion picture, and other cameras and lights shall not be directed at him. Such requests shall be ruled on by the Subcommittee Members present at the hearing.

12. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his own testimony whether in public or executive session shall be made available for inspection by witness or his counsel under Subcommittee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his expense if he so requests.

13. Interrogation of witnesses at Subcommittee hearings shall be conducted on behalf of the Subcommittee by Members and authorized Subcommittee staff personnel only.

14. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Subcommittee questions in writing for the cross-examination of other witnesses called by the Subcommittee. With the consent of a majority of the Members of the Subcommittee present and voting, these questions, or paraphrased versions of them, shall be put to the witness by the Chairman, by a Member of the Subcommittee or by counsel of the Subcommittee.

15. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Subcommittee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Subcommittee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Subcommittee for its consideration and action.

If a person requests to appear personally before the Subcommittee pursuant to alternative (a) referred to herein, said request shall be considered untimely if it is not received by the Chairman of the Subcommittee or its counsel in writing on or before thirty (30) days subsequent to the day on which said person's name was mentioned or otherwise specifically identified during a public hearing held before the Subcommittee, unless the Chairman and the ranking minority Member waive this requirement.

If a person requests the filing of his sworn statement pursuant to alternative (b) referred to herein, the Subcommittee may condition the filing of said sworn statement upon said person agreeing to appear personally before the Subcommittee and to testify concerning the matters contained in his sworn statement, as well as any other matters related to the subject of the investigation before the Subcommittee.

16. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Subcommittee.

17. No Subcommittee report shall be released to the public unless approved by a majority of the Subcommittee and after no less than 10 days' notice and opportunity for comment by the Members of the Subcommittee unless the need for such notice and opportunity to comment has been waived in writing by a majority of the minority Members.

18. The ranking minority Member may select for appointment to the Subcommittee staff a Chief Counsel for the minority and such other professional staff members and clerical assistants as he deems advisable. The total compensation allocated to such minority staff members shall be not less than one-third the total amount allocated for all Subcommittee staff salaries during any given year. The minority staff members shall work under the direction and supervision of the ranking minority Member. The Chief Counsel for the minority shall be kept fully informed as to preliminary inquiries, investigations, and hearings, and shall have access to all material in the files of the Subcommittee.

19. When it is determined by the Chairman and ranking minority Member, or by a majority of the Subcommittee, that there is reasonable cause to believe that a violation of law may have occurred, the Chairman and ranking minority Member by letter, or the Subcommittee by resolution, are authorized to report such violation to the proper State,

local and/or Federal authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.●

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

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

USE OF THE ROTUNDA OF THE CAPITOL FOR A CONGRESSIONAL CEREMONY HONORING MOTHER TERESA

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 26, which was submitted earlier today by Senator BROWNBACK.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 26) to permit the use of the rotunda of the Capitol for a congressional ceremony honoring Mother Teresa.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 26) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 26

Whereas Mother Teresa of Calcutta has greatly enhanced the lives of people in all walks of life in every corner of the world through her faith, her love, and her selfless dedication to humanity and charitable works for nearly 70 years;

Whereas Mother Teresa founded the Missionaries of Charity, which includes more than 3,000 members in 25 countries who devote their lives to serving the poor, without accepting any material reward in return;

Whereas Mother Teresa has been recognized as an outstanding humanitarian around the world and has been honored by: the first Pope John XXIII Peace Prize (1971); the Jawaharal Nehru Award for International Understanding (1972); the Nobel Peace Prize (1979); and the Presidential Medal of Freedom (1985).

Whereas Mother Teresa has forever enhanced the culture and history of the world; and

Whereas Mother Teresa truly leads by example and shows the people of the world the way to live by love for all humanity: Now, thereore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on June 5, 1997, for a congressional ceremony honoring Mother Teresa. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

ORDERS FOR FRIDAY, MAY 9, 1997

Mr. ASHCROFT. 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 Friday, May 9. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and there then be a period of morning business until 12:30 p.m., with Senators to speak for up to 10 minutes each, with the following exception: Senator D'AMATO for up to 30 minutes from 9:15 to 9:45.

I further ask unanimous consent that the time in morning business from 9:45 to 12:30 be equally divide between the majority leader or his designee and the Democratic leader or his designee for opening remarks relating to the flex time/comp time legislation known as the Family Friendly Workplace Act.

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

PROGRAM

Mr. ASHCROFT. Mr. President, for the information of all Senators, tomorrow Senators will speak on the subject of the flex time/comp time bill, the Family Friendly Workplace Act, until the hour of 12:30. However, no rollcall votes will occur during Friday's session of the Senate.

On Monday the Senate will consider the IDEA legislation and/or the CFE Treaty. If an agreement can be reached for the consideration of the IDEA bill for Monday, then any votes ordered with respect to that bill would be stacked to occur on Tuesday. As always, all Senators will be notified when any votes are ordered.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. ASHCROFT. Mr. President, I understand that S. 672 now is ready to be read for a third time.

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

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

Mr. ASHCROFT. Mr. President, I now ask unanimous consent S. 672 be placed back on the calendar.

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

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. ASHCROFT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:59 p.m., adjourned until Friday, May 9, 1997, at 9:15 a.m.