education. This bill is about children. Today we have seen a real victory for the over 40 million individuals with disabilities in this country, but especially the 5 million children, individuals with disabilities, who will benefit—who will benefit—from this modernized, updated Individuals With Disabilities Education Act.

The bipartisan vote of 98–1 shows the Republicans and Democrats are working together, have worked together, and will continue to work together to ensure that individuals with disabilities have the same opportunities that every other American has to achieve the utmost potential for themselves. It was a bicameral bill. I am delighted the House passed it, the exact same bill, just 2 days ago.

I want to thank people from my staff, including Sue Swenson, Dave Egnor, Robert Stodden, Dave Larson, Pat Morrissey, Bob Silverstein, and Tom Irvin from the minority staff who helped me so much over the last 2 years, and once again, I thank Dave Hoppe, Senator JEFFORDS, and Senator HARKIN for their leadership, for their experience, and their wisdom in passing this bill today. It is a victory for education, a victory for children, a victory for all Americans.

Mr. JEFFORDS. Thank you, Senator.

Mr. President, last evening the House adopted H.R. 5 by a recorded vote of 420 to 3. Today we have voted 98–1. In the last week Congress has demonstrated once again, its willingness to invest in human capital—the children of today and the taxpayers of tomorrow, children with disabilities and children, who, if not helped, might develop disabilities. We have said in H.R. 5: children with disabilities will continue to receive a free appropriate public education, we do expect them to succeed in the general education curriculum, and we will be accountable for their progress. That is a clear, simple message, a message of power, potential, and promise.

We invested in human capital in another way in H.R. 5. We recognized the range of decisions and obligations that fall to local school districts on a daily basis. We gave them flexible, practical guidelines on how and when they may discipline children with known disabilities. We gave them greater access to Federal dollars and greater discretion in how those dollars may be used. We directed more resources to personnel preparation and to technical assistance. We reshaped procedural requirements so school personnel may concentrate on children and teaching them.

We invested in human capital through incentives for partnership between State educational agencies and local education agencies, and between parents and professionals. These partnerships will not only foster cooperative planning and problem solving, but innovation and expanded opportunities for children, with and without disabilities, to benefit from school.

The process by which we arrived here today, for this vote, may be unprecedented and never be repeated, but it allowed us to achieve a consensus on a fundamental point. All children are entitled to a good education, we reaffirm that, and make it more likely for children with disabilities in H.R. 5.

Although others may characterize our efforts differently, I would say that we were guided by the premise that special education is not a place but an attitude. It is an attitude that says children need not fail in order to be helped; that communication and partnership with parents is a commitment, not an accident; and that solutions to problems do not come from mandates, but from reaching common ground.

I wish to thank my colleagues for their support in the passage of this historic legislation.

IDEA REAUTHORIZATION

Mr. BURNS. Mr. President, I rise to express my gratitude to all the folks who made possible the passage of the Individuals With Disabilities Education Act reauthorization bill. It's been a real struggle over the last 2 years, but a concerted effort led by David Hoppe of Majority Leader LOTT's staff has resulted in a compromise bill that received near unanimous support in both the House and the Senate. I was among those voting for this bill.

Mr. President, Montana's schools are breathing a sigh of relief that they will have more flexibility in dealing with disruptive students who pose a threat to teachers and other students. At the same time, the bill preserves the right of disabled students to a free appropriate public education.

However, as with all compromises, there is something in this bill for everyone to dislike. I don't think the bill goes far enough in giving local educational agencies the ability to remove and expel dangerous students. I supported Senator GORTON's amendment to allow local agencies to develop their own policies on disciplining students. This amendment was defeated.

I also have serious concerns about the costs of implementing this bill, costs which fall directly on the States and the school districts. Make no mistake: at current Federal funding levels, this bill is an unfunded mandate on the States. The Federal Government funds less than 10 percent of the bill's costs, though it has promised to pay 40 percent. This bill does not set funding levels—it is not an appropriations bill. We will have a separate debate on funding later in the year. But I want to point out that we are mandating that our local schools take specific actions which are very expensive and getting even more so every year. We must take more responsibility for our actions, and I hope we will do that when we debate funding later this year.

Mr. JEFFORDS. Mr. President, I ask unanimous consent S. 717 be returned to the calendar.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Alaska [Mr. STEVENS], is recognized to speak for up to 45 minutes.

R.S. 2447 RIGHTS OF WAY AND ALASKA

Mr. STEVENS. Mr. President, when I came to the Senate, I brought with me a little sign I used to keep on my desk as a lawyer. It was the four-way test of the Rotary Clubs of America. It says, ''Of the things we think, say, or do, is it the truth? Is it fair to all concerned? Will it build good will and better friendships? Will it be beneficial to all concerned?''

A little over 10 years ago, I stood on this floor and I had in my hand a flier that had been issued by the Wilderness Society. It had a picture of Mount McKinley National Park and Wonder Lake—that is in the park—on the front of it, with the word ''sold'' stamped on it. That indicates somehow or other that logging was going on in Mount McKinley National Park near Wonder Lake.

There is another picture that talked about logging 800-year-old hemlock trees in a rain forest. As a matter of fact, those photographs were of redwood logs on trucks in California, on a California highway, and we identified the highway. To his great credit, the former Senator from Wisconsin, Senator Gaylord Nelson, withdrew that pamphlet and called me and told me he was doing that.

Last week, after the debate on the supplemental appropriations bill, I came to the office in the morning and I found on my desk an AP story written by Jim Abrams, Associated Press writer. It started with this line: ''Legislation making it easier to build roads through Federal parks and wilderness area survived a Senate challenge Wednesday and headed toward a possible showdown with the White House. The measure, pushed by Alaska and Utah Senators, inserted in a crucial bill to provide billions to victims of natural disasters, would give the Federal Government less say in what constitutes a valid right-of-way under a 130-year-old law.''

Another AP story came to my attention later that day by Mr. H. Josef Hebert of the Associated Press. It goes further in asserting that we have presented to the Senate a bill that would intrude upon national parks and wildlife refugees. Interestingly enough, issued out of the AP office in Salt Lake City, was this article: ''White House move opponents claimed could block access to rural byways in Utah and Alaska has been narrowly defeated by the Senate.''

It goes on to state the issue from the point of view of someone who knows what he is talking about.

I ask unanimous consent these three articles be printed in the RECORD following my remarks.

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

(See exhibit 1.)

EXHIBIT 1

Mr. STEVENS. We found later that the information in those articles was based on a statement issued by the National Parks and Conservation Association, which in my day when I was with the Interior Department of the Eisenhower administration was a truthful organization, not just a bunch of flacks for the extreme environmental movement.

It is very interesting to read this because this is the source of the claims made here on the floor that assert that there would be hundreds of thousands of miles across wildlife refuges, national parks, and other areas in Alaska—as a matter of fact, the figure of over 900,000 miles was used several times.

Now, Mr. President, nothing is farther from the truth. I am here to ask the people in the Senate and the people who are addressing this issue to come back and face the four-way test. It is not true. The newspapers began repeating over and over again that the provision I authored in this bill that passed the Senate would create new roads and make Swiss cheese of our national parks and other protected areas. Those are false reports that are based on I do not know what kind of research. I am here today to set the record straight.

Mr. President, it is a very simple proposition. Here is a map of Alaska with hypothetical section lines on it. Our State is one-fifth the size of the United States, 586,000 square miles. We became a State, Mr. President, in 1959. In 1969, the whole State was withdrawn from the creation of any rights—no State rights, no native rights, no private rights could be created on Federal lands. At that time, the Federal Government owned almost 90 percent of Alaska land. These hypothetical lines represent section lines, as I said. If the lands were ever surveyed under Revised Statute 2477 as interpreted by my State, it would be possible—possible—for the State to claim the right to build a highway.

The falsity of the statements that were made concerning my amendment are depicted on this map. We, in 1976, as a Congress, with the President's approval, repealed the old Revised Statute 2477. What that did is give the areas in the West where rights-of-way had been created by use or by surveys, the right to use those rights-of-way across Federal lands and they, in fact, ripened into the highway system of the United States. However, those rights had to be created in most of the United States by 1976. We protected only valid existing rights that were created prior to the repeal of the old Revised Statute 2477. At the time Revised Statute 2477 was enacted, there were a little over 10,000 miles of section line in our State, according to the Bureau of Land Management. They were primarily, Mr. President, represented by the surveys that had been made in the metropolitan areas of our State and the cities, Anchorage, Fairbanks, Juneau, what not. They were not out in the rural areas, unless the Government on some unknown occasion surveyed the area nearby a mining claim.

The reason we protected valid existing rights was that so these rural areas of Alaska would have the right to develop access to airports, to rivers, and to one another. That is the reason we are still battling to protect the rights that were created under Revised Statute 2477. But, Mr. President, there are no surveys of the national parks or the wildlife refuges in Alaska. There were none in 1976, except possibly for the area right near a mining claim. To assert that there are 900,000 miles of section line highway potentials in Alaska across national parks is absolutely a lie. It is time that the people who continue to assert that admit it. I hope that the National Parks Association will have the courtesy and the courage that the Wilderness Society did when it withdrew its false statement about our land.

Section lines are created only by surveys. Surveys of section lines could lead to highways if the State claimed the right when they go across Federal lands. But the basic concept is there are no surveys. There will be no surveys of the lands that remain in Federal ownership. The surveys that are taking place in Alaska are the surveys to take out of Federal ownership the lands that were granted to the State, or to the Native people of Alaska by acts of Congress.

That is what this chart shows. It shows the land ownership of Alaska in 1992. The blue land is patented to the State. The orange land is land that is awaiting patents that have been selected by the State. The green land is all Federal conservation areas set aside by an act of Congress. They will not be surveyed. They are, in fact, the national parks and wildlife refuges. The pink land that is shown is the land that Congress has returned to our Native people based upon the land claims settlement of 1971. But for anyone to assert that it is possible to create 900,000 miles of roads across parks and withdrawn areas on section lines is just absolutely false.

Mr. President, we have, as I said, about 10,000 miles of surveyed section lines in Alaska—in an area one-fifth the size of the United States—in 1976. But, again, for Alaska, the rights that are preserved under Federal law are mostly those that occurred when they were created prior to 1969 when the Secretary of the Interior withdrew the whole State. That was done by the Secretary of Interior, Mr. Udall. And it was, in effect, in order to protect the rights of the Alaska Native people until we passed the Land Claims Settlement Act.

But there is no question about it. None of the lands that these people are talking about—the parks, the wildlife refuges, and the wilderness areas—are surveyed and, therefore, there will be no 900,000 miles of section line rights-of-way.

It is an interesting thing to see. There are assertions coming even now from the Department of the Interior, based upon these claims, I take it, of the National Parks Association, that there are 160,000 miles of section lines and national parks. There are none, Mr. President if they were never surveyed. You can't have a section line until it is surveyed. You can draw hypothetical lines on a map like they did here. This map was issued by the Department of Natural Resources of our State. It is what we call a protraction. But a protraction doesn't create section lines, and section lines are absolutely required to have a section line right-of-way claimed by the State.

Mr. President, we did a little research. This might interest the Senate to know that of all the Federal aid highways in the whole United States there are about 900,000 miles today.

These people in their press releases and in their reports to the American people through the Associated Press claim that this Senator was trying to create in one State in national parks and wildlife refuges and other withdrawn areas the same amount of roads that exist for the whole United States that had Federal aid. By definition, Mr. President, all roads in Alaska are built with Federal aid. They cost a lot of money to build. The roads in Alaska are very expensive. It costs $6 million a mile to build roads in Alaska, and we only build them when we come within the scope of the Federal aid highway system.

We have less than 700,000 people in Alaska. No one I have ever known has ever come to me and said we want almost a million miles in this State; that we want to get more miles of Federal aid roads built in this State on section lines than exist in all the rest of the United States. That is absolutely such a wild claim that I can't find, really, the words to answer it, except that it does disturb me a great deal, as may be obvious and was obvious the other day, I am sure.

We will not have section lines across Federal lands. By definition, Federal lands had to be unreserved at the time of the establishment of the R.S. 2477 claim. As I indicated, in 1969 all of these lands in our State that were Federal lands were withdrawn. No claim could be made against them. The basic law under which claims could be made was repealed in 1976. But because of the withdrawal of our land, none of the claims we can assert—and there can be private rights-of-way, not section lines right-of-way, but rights of way established by public use asserted by interested private citizens—across Federal lands where they were perfected before there was a withdrawal.

Mr. President, the great problem that we have in Alaska is this checkerboard land ownership. I urge the Senate to consider this. In our State, we have State lands, Federal lands, Native lands, and private lands in such a checkerboard pattern that literally in order for some of the State lands to be accessed, it is absolutely necessary to go across Federal lands. But we are not trying to access that land by sections lines to go through withdrawn areas that were withdrawn for national parks. There may be some private citizens asserting R.S. 2466 rights there by use. I think that the Department of the Interior is cataloging those now. I know our State is. And we are going to have some disputes over what extent we can have that access.

But I would ask anyone, look at that map. That is the total road system of Alaska today. There is no access by road to any of those 270 villages. They can only be accessed by air. It is true that in some of these areas we are trying to establish roads between the villages so we can have one airport serving four villages instead of one airport per village. But we are not talking about going through the national parks with section lines. We are not talking about going through areas that were already reserved on section lines, because according to Bureau of Land Management, there are no section lines.

Mr. President, I don't know how to deal with issues like this and represent my State without coming here and once again urging that the people involved do some basic research. We have now a Federal judge, Judge Sedwick, who years ago wrote an article about the issue of rights-of-way. I want to put it in the RECORD today, and will read his conclusions.

Mr. President, this is an issue that is going to perplex our State. Again, Mr. President, we have only been a State since 1959. We were a State only 10 years before the whole thing was withdrawn, and no rights could be created until Congress acted. Congress acted in 1971 in the Alaska Native Claim Settlement Act, and then in 1980 on the Alaska National Interest Conservation Lands Act. After that, the rights of the State and Natives could be perfected. We had to wait until 1980 to proceed to get the lands that were awarded to us by Congress in 1958 and awarded the Native people of our State in 1971. The reason we did was because the withdrawal, as I said, was made by Secretary Udall. All Federal lands were withdrawn. As a consequence, the whole subject of where we can build roads to improve the quality of life of our rural people is a very, very intriguing one, but a difficult one for us.

We want to have the roads that will help us get better health care, that will get better education for people who live in rural areas, that will get better communications, particularly to try to see if we can't find a way to deal with the delivery of mail and other packages by some sort of road connection.

This is an unpublished manuscript, but I want to put it in the RECORD.

This is Mr. Sedwick. He was then an attorney. John Sedwick was an attorney practicing law, and he was chairman of the Alaska Bar Association's environmental law section. He is a recognized environmental lawyer, a very good lawyer, and a very good judge. This is his summary. I want to read it into the RECORD:

> The following summary represents the current state of section line easement law in Alaska in 1983, after the 1976 repeal of RS 2477. As the preceding sections of this paper has shown, there are some areas of uncertainty and some differences of opinion which have not yet been resolved. With that warning in mind, the summary is as follows:
>
> A section line easement is an easement for the construction of a public highway, or other facility such as a power line, water line, or sewer line. The maximum width of a section line easement will be 100 feet on State-owned land, or land acquired from the State, and 66 feet on Federal land, or land acquired from the Federal Government. One making use of the section line easement is not, however, automatically entitled to use its maximum width. The user may only take advantage of so much of the section line easement as is reasonably necessary for the construction and maintenance of the facility. Section line easements cannot exist prior to approval of the official survey which creates the section line.

Let me repeat that:

> Section line easements cannot exist prior to the approval of the official survey which creates the section line.
>
> The section line easement exists on all land in Alaska for which an official survey was approved prior to October 21, 1976, except for the following: Land which went into private ownership prior to April 6, 1923; land which went into private ownership prior to approval of the official survey; lands whose official survey was approved on or after January 18, 1949, which, if territorial lands, went into private ownership before March 26, 1951, and which, if Federal lands, went into private ownership before March 21, 1953; Federal land which was reserved for public use prior to April 6, 1923, which remain reserved at least until October 21, 1976; Federal lands reserved for public use prior to approval of the official survey which remain reserved at least until October 21, 1976; Federal lands whose official survey was approved on or after January 18, 1949, which were reserved for public use prior to March 21, 1953, and which remain reserved until at least October 21, 1976.

And the last category is all university lands.

Mr. President, those few exceptions give us some hope for small connections of roads in rural Alaska.

By what is being done now there are some people who want apparently to destroy those rights which exist. They are very few in number, as Judge Sedwick pointed out, very few. They had to be created before 1969 and in many instances before 1923. But the main purpose of it is to determine how we can do the things which must be done to improve the quality of life in rural Alaska.

I call the Chair's attention to this one green line here that goes from Nome to Teller. That is the only improved road that I know of that type. It goes from the city of Nome, which was the gold rush headquarters at the turn of the century, to Teller, which is a small city up on the coastline. That is one connection that was made years ago, and it was made using an old trail that existed. We have not been able to get approval to move forward with the others, and we want to do so.

My State, as I stated on the floor last week, has gone through a whole series of studies trying to find a way to demonstrate to the Department of Interior that the claims that are asserted based on use now—we are not talking about section lines; section lines automatically can be claimed by the State under State law once they are surveyed. But again the key is those people who assert we are going to have 900,000 miles of section line roads know better. They know they are telling a lie because the conservation system units themselves have not been surveyed.

Now, I hope, Mr. President, that when we get back to this issue again people will not come out on the floor and assert that this Senator is trying to build roads across wilderness areas either. We are not trying to determine any kind of rights-of-way across wilderness areas. There are some areas that are candidates for becoming wilderness areas in which there are private rights and public rights that exist now on these Federal lands. That is the issue we are trying to resolve.

I am indebted to my good friend from Arizona, Senator MCCAIN, who suggested that we have some approach to this to get the issue resolved. It is a very vital issue for rural Alaska. It is not an issue that involves putting 900,000 miles of roads across national parks, wilderness areas, wildlife refuges, wild and scenic rivers, whatever.

It might interest the Senate to know we have over 80 percent of those categories. Most of the park land of the whole United States is in our State. But the lands are exterior, have lines that give us their exterior. The parks and other protected areas were never surveyed as such. They are just lines on a map. The surveys will not be made. It costs too much money to survey those lands. They are reserved permanently for national parks. There will be no development that is not authorized by the park service. They do not need any right to build roads within parks. They have that right. There are not going to be any surveys.

I do say for the Chair, only Congress can create a wilderness area. Every time a wilderness area has come before the Senate we have looked at it to see whether or not there are private rights that need protection, and we have had provisions that said valid existing rights are preserved.

Now, that is all we are trying to say, is in 1976 when Congress repealed R.S. 2477, this was done subject to valid existing rights. I had that chart out here. Three times in that act I insisted that Congess say that validated existing rights were preserved, that everything

the Secretary of Interior did in that law was subject to existing rights, and now we have the situation where the Department continues to believe that it has the right to ignore that law.

Mr. President, last year in the Interior Department appropriations bill we asked for a section to be put in there which said that nothing can be done to change the rights-of-way which exist that are valid existing rights on Federal lands by rule or regulation, and they cannot be changed except by authorization from Congress. The Department of Interior now seeks to change the status of some of these existing rights by a new fiat. They call it a policy statement which changes the basis, historical basis that has been developed through a series of court cases for over 100 years. These precedents have been established by law and interpreted by solicitors, and as I said I was one of those solicitors at one time and I know that we have a series of cases that have been decided both by the Interior Department's land section and by the courts which tell States under what conditions they can assert the right to use the R.S. 2477 rights-of-way for improvements for public access which we now call public highways.

If the Congress looks at this map or this other map, it can only come to the conclusion that the problem we have is the problem of determining whether the Federal Government speaks with a forked tongue. The Federal Government when we became a State gave Alaska the right to 103.5 million acres of Federal land. It was our dowry in order to have land that could be developed to sustain our economy. It then in 1971 passed the Alaska Native Land Claims Settlement Act which transferred to Alaska, or gave the right of transfer to approximately 45 million acres of Alaska land to the Native people. Both of those rights were held up until Congress decided the location of the lands it wanted to withdraw, the National Lands Conservation Act of 1980 perfected those withdrawals and enlarged the whole concept. And if anyone will look at the map you will see it is almost impossible to get to the coastline from the Native lands except up in Nome. Access is denied entirely to our lands that were given to us by an act of Congress unless we can perfect the access routes which were in place prior to their conveyance to Alaska and the Native people, prior to the repeal of Revised Statute 2477 unless we can prove in effect they are valid existing rights.

Mr. President, I am hopeful that the people who really run the National Parks Conservation Association will do some basic research and deal with facts. Particularly what brought me here was the assertion of the 900,000 miles of section line roads that we were going to build across Federal parks and wilderness area. We do not propose to build them. They would not be valid under any interpretation of Federal laws. The lands are withdrawn for national parks. They cannot be subject to rights-of-way under the section line concept until those lands would be surveyed, and even then the survey would take place after the reservation, and, with the possible exception of some unknown, ancient government survey of the area near a mining claim, there are no rights from section lines in areas that have already been reserved.

So I do believe it is time for us to return to the concept that I mentioned in the beginning, and that is the four-way test. As I have said, since I have been a Senator, I have tried to be guided by this test and I would like to see the Senate as a whole guided by it.

There were assertions made right here on this floor about this Senator wanting to build roads across national parks on section lines. I know that those Senators who made those statements were misinformed by such people as the National Parks Conservation Association that issued their statement. But above all, I think it is incumbent upon Members of the Senate to look at the facts before they really accuse a fellow Senator of something of that magnitude. Building 900,000 miles of section line roads through national parks was mentioned right here on this floor, and it was not true. I plead with the Senate to be guided by the truth and be guided by the concept of fairness and whether or not what they say will build good will and friendship among Members of the Senate. This Senator finds it very hard to maintain friendship for people who accuse him of some of the things we were accused of last week, Mr. President.

I yield the floor.

EXHIBIT 1

WESTERN SENATORS WIN FIRST ROUND IN ROAD RIGHT-OF-WAY DISPUTES

(By Jim Abrams)

WASHINGTON (AP).—Legislation making it easier to build roads through federal parks and wilderness areas survived a Senate challenge Wednesday and headed toward a possible showdown with the White House.

The measure, pushed by Alaska and Utah senators and inserted into a crucial bill to provide billions of dollars for victims of natural disasters, would give the federal government less say in what constitutes a valid right of way under a 130-year-old law.

Sen. Dale Bumpers, D–Ark., proposed that the road issue be taken out of the disaster relief bill, but lost, 51–49.

Sen. Max Baucus, D–Mont., voted to take the issue out of the bill while Sen. Conrad Burns, R–Mont., was among the 51 that voted for it to remain in the bill.

''It is wrong as a matter of principle to tie controversial issues to flood disaster relief,'' Baucus said. ''We simply should not play politics when people's lives are in the balance.''

The Senate also voted, 89–11, to provide $240 million in the emergency relief bill to extend welfare payments to legal immigrants until the start of the new fiscal year on Oct. 1. Under the new welfare law, legal immigrants were to lose their benefits in August.

The amendment, offered by Sens. Alfonse D'Amato, R–N.Y., and John Chafee, R–R.I, replaced a provision in the bill that set aside $125 million for block grants to the states for immigrants, an idea opposed by the administration.

Lawmakers resolved another sticking point in the bill when they agreed to allow the Census Bureau, with congressional oversight, to go ahead with plans for the use of sampling methods in the 2000 census. Republicans from rural states in particular had sought to ban sampling, which could record greater urban and minority populations and lead to district reapportioning.

Resolution of that issue left two outstanding disputes efforts by Republicans to prevent future government shutdowns and to weaken the Endangered Species Act. The administration has indicated that President Clinton would veto any bill with those provisions.

Sen. Ted Stevens, R–Alaska, used his position as chairman of the Appropriations Committee, which is responsible for the disaster relief bill, to promote the right-of-way measure. He accused opponents of using scare tactics in claiming that it would ''result in roads across our national parks and wilderness. That is simply not true,'' he said.

''What is at stake here for those of us in the West is the preservation of what really amounts to the primary transportation system and infrastructure of many rural cities and towns,'' said Sen. Orrin Hatch, R–Utah.

Interior Secretary Bruce Babbit said the measure would render the federal government powerless to stop the conversion of footpaths, four-wheel-drive tracks and other primitive roads on federal lands into paved highways. He has urged the president to veto the disaster relief bill if the road issue is included.

Baucus said the provision ''could allow roads to be built through spectacular wilderness in Montana.

''Equally disturbing, this section could prevent Montana roadless areas from being designated as wilderness in the future,'' Baucus said.

But Senate Democratic Leader Tom Daschle of South Dakota said he doubted the Senate would sustain a presidential veto and slow action on the disaster relief bill over the road issue.

''I don't know if we've got enough of a strength of conviction to hold up the bill,'' he said.

The bill provides $8.4 billion in new spending, including $5.5 billion for disaster victims and $1.8 billion for U.S. troops in Bosnia and the Mideast.

The Senate, in a voice vote, agreed that no money from this bill should support U.S. troop presence in Bosnia after June 1998, the date the administration has set for the end of the mission there.

Stevens left open the possibility for compromise, saying that when the House and Senate get together to work out differences in their bills he might ask Babbitt for a proposal ''that might set the policy for future realization of these rights of way throughout the West.''

The controversy involves and 1866 law that was repealed in 1976 but then resurrected in part during President Reagan's administration as it began aggressively processing thousands of right-of-way claims it considered still valid.

The Clinton administration has recognized the validity of claims, but has fought with state officials, particularly from Alaska and Utah, about who has final say on their validity.

Babbitt announced a new policy in January that requires states to examine more closely whether a right of way actually once was a significant corridor, which make it a valid site for road building.

Stevens' measure would override Babbitt's new directive and again swing the pendulum to the states.

RIDER TO FLOOD-RELIEF BILL ENRAGES ENVIRONMENTALISTS—ALASKA SENATOR SEEKS TO PAVE WAY FOR U.S. PARK ROADS

(By H. Josef Hebert)

As his Senate Appropriations Committee grappled with how to help victims of floods, chairman Ted Stevens saw an opportunity he couldn't pass up.

Alaska's senior senator tacked onto the must-pass emergency bill a pet piece of legislation to make it easier to build roads through federal parks, refuges and wilderness areas.

Environmental activists were outraged, and Interior Secretary Bruce Babbitt is urging a presidential veto if the provision added last week stays in the bill. It goes before the full Senate today.

The measure, also pushed by fellow Republican Sen. Bob Bennett of Utah, would give the government less say in what constitutes a valid right-of-way for roads built under a 130-year-old law.

''Such a requirement could effectively render the federal government powerless to prevent the conversion of foot paths, dogsled trails, jeep tracks, ice roads and other primitive transportation routes into paved highways,'' Babbitt complained in a letter to Stevens.

Bennett and Stevens have accused Babbitt of overstepping his authority by putting too many restrictions on such right-of-way claims and usurping the states' authority. They contend state law should determine validity of claims.

Road construction in federally protected parks, refuges and wilderness areas has been a growing worry among conservationists, especially in the West. Nowhere has it been an issue more than in Alaska and Utah, where hundreds of claims are pending for rights-of-way over federally protected land.

The controversy involves a law enacted in 1866, repealed by Congress 110 years later, then resurrected in part during President Reagan's administration as it began aggressively processing thousands of right-of-way claims it considered still valid under the defunct Civil War-era statute.

No one disputes valid claims exist, but the Clinton administration has waged a running battle with some state officials-particularly those of Alaska and Utah-over who should have the final say on their validity.

Babbitt announced a new policy in January that requires states to examine more closely whether a right-of-way actually once was a significant corridor, which would make it a valid site for road building.

The measure Stevens inserted into the $5.5 billion emergency relief legislation for victims of floods and other disasters would override Babbitt's new directive and again swing the pendulum to the states.

Stevens defended the measure. In 1976, he argued, Congress ''absolutely stated, without any question,'' that prior claims must be accepted.

''The provision is aimed at preserving historic rights-of-way established at least 20 years ago and creates no new rights-of-way across federal land,'' Stevens insisted.

Many environmentalists see it differently.

''It grants rights-of-way across millions of acres of federal land to virtually any person who asserts a claim,'' asserted William Watson of the National Parks and Conservation Association, a private watchdog group. ''It threatens to carve up our national parks.''

Most claims under the 1866 law are in Alaska and Utah because those states have been the most lenient in considering what constituted a historic pathway. Conservationists say the Stevens legislation may bring old claims boiling to the surface in other states. Rumblings already have been heard in Oklahoma, Nebraska, New Mexico and the Dakotas, said Phil Vorhees of the park association.

Adam Kolton of the Alaska Wilderness League said hundreds of rights-of-way claims are pending in Alaska, including some through the Denali National Park and seven in the coastal plain of the Arctic National Wildlife Refuge.

''Sen. Stevens wants to make Swiss cheese of the Arctic refuge and other wilderness areas by building roads through them,'' Kolton complained.

In Utah, where much of the land also is federal, an estimated 5,000 rights-of-way claims are pending. Many are in federal parks and refuges, as well as in the recently declared 1.7 million-acre Grand Staircase-Escalante National Monument.

WESTERNERS EKE OUT SENATE WIN ON RURAL ROADS

SALT LAKE CITY.—A White House move opponents claimed could block access to rural byways in Utah and Alaska has been narrowly defeated by the U.S. Senate.

Western senators led the revolt, even though Interior Secretary Bruce Babbitt said he would recommend that President Clinton veto the entire emergency flood and disaster relief bill to which the byways measure is attached.

''This is not an issue where the senators from the Western states are trying to do something improper,'' said Sen. Bob Bennett, R-Utah. ''The real issue is that there are a number of roads in rural Utah that the federal government wants closed.''

The vote Wednesday was 51–49.

At issue are rights-of-way created under an 1866 law that allowed counties to put roads on unreserved federal lands. It was repealed in 1976, but existing byways were allowed to continue. But no inventory of them was made.

Congress and the administration have fought for years over proposals by Babbitt to force counties now to prove the byways existed before 1976 and were used for vehicular traffic, not just livestock or horses.

Congress had blocked that move, but in January Babbitt issued administrative rules outlining how until a final compromise is reached counties could gain emergency, permanent recognition on some claims. The status would be granted only for those byways where vehicular traffic and upgrades for them occurred.

Senators from Utah and Alaska, where most of the byways claims are pending, charged the White House was trying to take the first step toward federalizing local roads.

''What is at stake here for those of us in the West is the preservation of what amounts to the primary transportation system and infrastructure of many cities and towns,'' said Sen. Orrin Hatch, R-Utah.

''In many cases, these roads are the only routes to farms and ranches; they provide necessary access for school buses, emergency vehicles and mail delivery.''

Sen. Dale Bumpers, D-Ark., countered that Westerners were really pushing the issue to block wilderness designations by claiming roads in the areas.

He also charged Westerners want to put roads in sensitive areas to foster development.

''Can you imagine anything so insane as allowing states to build roads across public lands, no matter where they may be?'' he said. ''You cut the weeds, it becomes a 'highway.' You move a few rocks, it becomes a 'highway'''

Senate Appropriations Committee Chairman Ted Stevens, R-Alaska, reacted angrily to those claims. He pounded his desk so hard he tipped over this water glass into his documents. He also trembled as he declared the byways ''are our lifeblood.''

Bennett recalled that when Garfield County bulldozed in Capitol Reef National Park to widen the Burr Trail by four feet on a blind curve but still within its right of way the federal government sued.

''It has little or nothing to do with the county maintaining this kind of right of way. What it had to do with is who's going to make the decision and the federal government is determined it will make the decision.'' Bennett said.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—FLANK DOCUMENT AGREEMENT TO THE CFE TREATY

Mr. STEVENS. Mr. President, for the majority leader I ask as in executive session for unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to consideration of the Flank Document Agreement, No. 105–5, to the CFE Treaty which was ordered reported by the Foreign Relations Committee on Thursday, May 8, and, further, the treaty be considered having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, that all committee reservations, understandings, declarations, statements, conditions and definitions be considered and agreed to, with the exception of condition No. 5. I further ask consent that no other amendments be in order to the resolution, other than a modification to condition No. 5 offered on behalf of Senators KERRY of Massachusetts, SARBANES, and ABRAHAM. I further ask consent that overall debate on the resolution be limited to 1½ hours between chairman and ranking member, and an additional 30 minutes under the control of Senator BYRD; and, further, after the expiration or yielding back of that time the Senate proceed to a vote on the resolution of ratification. I finally ask that immediately following that vote, the President be notified of the Senate's action and Senate then return to legislative session.

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

Mr. STEVENS. Mr. President, I want to clarify the unanimous-consent agreement that was just entered into. The amendment is an amendment being offered on behalf of Senators KERRY, SARBANES, and ABRAHAM. The consent agreement could be interpreted otherwise but it is their amendment that is being offered as a managers' amendment.