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Senate

The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

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

Gracious God, whose patience lasts even when ours is tested, we praise You for this new day. Thank You for giving the Senators courage to battle for truth as they see it, deal with differences, and keep the unity of fellow patriots. The very nature of our system can foster party spirit. Help us maintain mutual esteem and trust without which nothing can be accomplished. Thank You for being the unseen but powerful Presence in this chamber. Keep us open to You and respectful of each other. Bear on our hearts the words of Thomas Jefferson after the contentious election of 1800: ''The greatest good we can do our country is to heal its party divisions and make them one people.'' We dedicate ourselves to remember this today and throughout this election year.

At 3:40 p.m. today we will remember the sacrifice in the line of duty of Officer Jacob J. Chestnut and Detective John M. Gibson. Continue to bless their families. Help us to express our gratitude to the officers who serve in Congress wth such faithfulness. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 24, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, today will be a very busy day, which will begin with morning business until 11 a.m. The first half of the time is under the control of Senator DASCHLE, which time has been given to the Senator from Michigan, Ms. STABENOW. The second half of the time is under the control of the Republican leader or his designee.

At 11 o'clock, the Senate will resume consideration of the prescription drug bill, with 2 hours of debate in relation to the Hagel second-degree amendment.

At 1 p.m., the Senate will resume consideration of the supplemental conference report, with 30 minutes of debate prior to a 1:30 p.m. rollcall vote on adoption of the report.

Following disposition of that conference report, there will be 5 minutes of debate, equally divided on each side, on the Hagel amendment, followed by a vote in relation to that amendment.

At 3:40, as has been announced in the prayer by the Chaplain, we will remember the deaths of Officer Chestnut and Detective Gibson.

Following the vote on Hagel, we will go then to an amendment to be offered by Senator ROCKEFELLER. We expect to finish that fairly quickly and then go to another amendment or two today. The leader expects to work toward completing the bill this week.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 10 minutes each.

The first half of the time shall be under the control of the majority leader or his designee. The second half of the time shall be under the control of the Republican leader or his designee.

The Senator from Minnesota is recognized.

(Ms. STABENOW assumed the Chair.)

MINNESOTA NEEDS DISASTER RELIEF

Mr. WELLSTONE. Madam President, I am joined by Senator DAYTON from Minnesota and the occupant of the Chair. We come to the floor this morning because we want to communicate a respectful, sincere, and honest message to each and every one of our colleagues.

It has been my experience in the Senate over the past 12 years that sometimes you just have to fight for people—not with acrimony, but you have to fight for people. In Minnesota, 17

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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counties have been declared Federal disaster areas due to tremendous floods last month. As a result, Northwest Minnesota, a rich agricultural region, has been devastated. According to the Minnesota Farm Service Agency at least $370 billion in damage to the agriculture sector has been caused, due to these floods. We tried to include disaster relief in the supplemental bill. Unfortunately we could not do it because the administration said don't even try, no way. While there is some help for the Federal Emergency Management Agency, which is important, FEMA cannot help the farmers and the Small Business Administration cannot help the farmers.

This is a case of ''there but for the grace of God go I.'' I said this to my colleagues yesterday, and I want to say it again today. I have never voted against disaster relief assistance for anybody in the country, be it a hurricane, tornado, fire, drought, or flooding. If, God forbid, it happens to others, we want to help.

This administration has said no to any emergency disaster assistance for agriculture. The President has said any emergency assistance for agriculture must come out of the farm bill. The farm bill is about loan rates, dairy, conservation and fair prices for farmers. The farm bill is about economic assistance, not natural disasters.

So our message today is this: We are going to look at every appropriations bill, and if any appropriations bill comes out on the floor and there is assistance for fire or any other emergency that has happened—be it for Arizona, or for flooding in Texas, or anywhere else—we will slow up that bill. In fact, we will stop that bill if we need to until we get the commitment that there will be the funding for emergency disaster assistance for the farmers in Minnesota, or for the farmers in Nebraska, for the people we represent.

Time is not neutral. People need help now. We intend to make the Senate address this issue. I yield to my colleague from Minnesota.

The PRESIDING OFFICER. The junior Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, I thank the Senator for graciously taking the Chair so Senator NELSON could join with the Senator from Minnesota and myself. I know the Senator from Michigan, who is presiding, has strong support for this disaster assistance as well. I want to say to my colleague and friend, the senior Senator from Minnesota, I am proud to stand with him today, and I am proud to follow his leadership on this disaster assistance legislation.

The Senator and I both serve on the Senate Agriculture Committee, along with our colleague from Nebraska. The Senate Agriculture bill had disaster assistance funding in it. The House and the administration would not agree to the inclusion of disaster assistance in the package, which came out of the conference committee and was enacted into law.

As the Senator said, it is imperative that the Senate and the House and the administration join together, given what happened in Minnesota, with 17 counties declared a disaster area because of excessive flooding in June. During a recent visit, I saw whole fields of crops underwater—giant lakes created by torrential rains one week, and again the week following. It is hard to see people, many of whom lost their crops last year, struggling again this year.

I asked Secretary of Agriculture Veneman last week in a committee hearing: Where is this money that is purportedly available in the legislation that was passed for disaster aid? And she could not identify any.

I join with my colleague in saying we must have this assistance. The Senate did it right in its version of the Farm bill. Unfortunately, the House and the administration have blocked disaster aid. We have to try again because farmers are going under if we do not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my distinguished colleague from Michigan for exchanging positions for a moment so I have an opportunity to make a statement about the importance of having disaster relief in the soonest possible timeframe.

Over the last several years in developing a farm policy, we have gone from virtually no help to a new farm program that is designed to help get agriculture on its feet, but it is designed to do that in a time when we would expect normal conditions. It is not designed to take care of disaster situations we are facing today for the livestock industry in particular.

If we are not able to step forward at this time, take care of this situation, and provide hope for the livestock industry in our country, particularly those that are experiencing severe drought, as in the case of Nebraska and the Midwestern States, many of those farmers and ranchers are going to divest themselves of their herds. They are going to cut down the size of their herds. They are going to sell off their breeding stock to survive under these terrible conditions. They are not going to be able to rebuild those herds overnight. It will take years to rebuild.

There is no coverage in the Crop Insurance Program for parched pastures that today will not sustain the grazing of our cattle. There is no support in the farm bill for those farmers and ranchers who are experiencing the losses on the livestock side. For those in this body who are looking for offsets, which is important in the Senate, they are looking for money. To go after the farm bill and the funding for building agriculture and take that money now to support the livestock industry is not the way to go. What we need to do is recognize that this is an emergency situation like other emergencies and it is a disaster that must, in fact, be addressed right now.

Many of the people who voted for the last four or five disaster programs without requiring any kind of an offset are today saying: If we do it today, we have to find an offset. It is because today we have a farm bill, and they found the source of dollars. That is the only reason I think they are looking at that program.

Robbing Peter to pay Paul at the present time will mean that both Peter and Paul will not make it. What we need to do is face this as a reality so that the farmers in Nebraska and the farmers all across our country, those who are selling their livestock, will know there is help on the way; that they can be sustained; that they are not going to have to sell off their herds.

As we look at this downward spiral, the spinoff problems are consequential. In addition to having smaller herds, there will be less cattle to eat corn. In a bumper crop year, there will be more corn, and therefore that will depress the price of corn.

This is not a situation without consequences to those outside interests. It will harm the smaller communities that depend on agricultural income for their very existence. We must, in fact, act now and not make this a partisan or political football to kick back and forth. We must, in fact, step forward now and recognize the urgency of this situation and not hold the farmers and ranchers of the livestock industry hostage while others are playing partisan politics.

I thank the Senators from Minnesota and other colleagues who are looking forward to having an emergency aid package, recognizing this disaster at the soonest possible time.

I yield the floor. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, we are playing revolving chairs today. It is a pleasure to be in the Chamber with you. I indicate to my colleagues—the Senator from Nebraska and my colleagues from Minnesota—that I completely understand and support what they are fighting for and join them in that fight.

We also have had in northern and western Michigan disasters that happened as late as this spring where we have seen our cherry crop wiped out because of extremely hot weather, in the nineties, and then immediately going into freezing temperatures. We have seen our orchards literally wiped out in terms of the ability to produce cherries and other crops.

When this happens to our farmers, it is critical we step forward in a bipartisan way and do everything we can to support them to get through this year, to get through these disasters.

PRESCRIPTION DRUG BENEFIT

Ms. STABENOW. Mr. President, I rise today, as I have now for many

weeks, and in particular in the last 2 weeks, focusing on prescription drugs, which is another disaster, quite frankly, that has been facing our seniors, our families, our farmers who are trying to find health insurance for their families, our small businesses that are seeing their health care premiums double in some cases, trying to afford health care for themselves and their employees.

I rise on behalf of those workers who have had their employer say: You are going to have to take a pay freeze this year because we have to have money to pay for health care benefits.

I rise for those manufacturers that are seeing an explosion as well, and basically for everyone who is paying the price for the explosion in prescription prices, and the system that is basically out of control.

We have been working hard in the last week and a half. I think we are making some progress, but we are not there yet.

Yesterday, we had an opportunity to vote on two different plans before the Senate. One was a plan to strengthen Medicare, to put a system in place that was promised in 1965 with the advent of Medicare: That once you are 65 or you are disabled, you will know that health care is available for you. We all pay into the system. The promise was made, and we have been trying to update and modernize that system to reflect the way health care is provided today, which is primarily on an outpatient basis with prescription drugs. Yesterday, we had that plan that would pay the majority of the bill and would do it within Medicare, which we know works.

Then we had another plan much more focused on private insurance, HMOs, and I believe a step in privatizing the system. Quite frankly, that is supported by the drug industry, the pharmaceutical industry that has a situation right now for them that is too good to give up voluntarily. They fight everything. They fight any effort to modernize Medicare, to put 40 million people, seniors and disabled persons, in one insurance system because they know that if 40 million seniors and disabled persons are in a system together, they will be able to get a group discount, like all the other insurance companies. They are fighting that. They know when the Federal Government goes to buy for veterans in the VA hospitals, we do not pay retail, we get a discount on behalf of the veterans.

The outrageous part of the system today is that the only people who pay retail, the only people who walk into the pharmacy and have nobody negotiating on their behalf, are the seniors of this country and those who are disabled and need help with health care.

Everybody else gets a discount. So we are trying to change that. The companies are fighting us every step of the way.

I think we did something historic yesterday. We did not get all the way to where we need to be, but for the first time in the Senate—52 people, a majority of our colleagues—voted for a Medicare prescription drug benefit. Unfortunately, in this process we need to get to 60 votes, but I believe we sent a very strong message with 52 people—and the other plan, in fact, had fewer; I believe it was 48 people that voted for that plan. So fewer than the majority voted to move in the direction of privatizing, to set up a system that is much more favorable to the drug companies.

A majority of us, in fact, said we want to do this under Medicare; we want to pay the majority of the bill for our seniors. I am very hopeful that now we will be able to bring enough of our colleagues together, on both sides of the aisle, to be able to get those eight extra votes for something that moves us in the right direction. We know it is not going to be all that we had originally hoped, but I desperately hope the drug companies are not successful again in stopping anything real from happening.

I believe this is a point in history that people will look to just as they will look to 1965, and it is up to us to show that we will do the right thing.

Mr. DORGAN. Mr. President, will the Senator from Michigan yield for a question?

Ms. STABENOW. I would be honored to yield to my friend from North Dakota, who has been such a leader in this effort.

Mr. DORGAN. I would like to ask a question of the Senator from Michigan. It is true that yesterday we had 52 votes for a prescription drug plan in the Medicare Program. It is also true that we desperately need it. Medicare is now roughly 40 years old. Had we had these lifesaving and miracle drugs available when Medicare was created, there is no question that we would have had a prescription drug benefit in the Medicare Program. Our task now is to put a prescription drug benefit in the Medicare Program and do it in a way that does not break the bank. Both goals are important.

Yesterday, we had 52 votes for a prescription drug plan in the Medicare Program, but we need 60. It is also true that although a majority of the Senate have now expressed themselves that they want this prescription drug plan in the Medicare Program, a minority of the Senate can block it.

My hope is we will find a way now to reach 60 votes put a prescription drug plan in the Medicare Program in a thoughtful, responsible manner, that is helpful to senior citizens. At the same time we must put downward pressure on prescription drug prices. Both approaches are necessary.

I ask the Senator from Michigan if it is not the case that although we had 52 votes and the Senate has already said, yes, let us do it, a minority can block it? The question is, over the next 48 hours, Will a minority in the Senate block the majority's efforts to pass this bill? Is that not where we stand at this point?

Ms. STABENOW. That is exactly where we stand. My friend from North Dakota is correct. That is exactly where we stand. The question is, Will the minority be able to block what the majority of people want to have happen?

Turning back and asking my friend a question as well, I want to say for those who are watching today, there is a way to express yourself. We certainly hope you will engage with your Senator. You can also go to fairdrugprices.org and be part of an online petition drive urging the Senate to act, and share your own individual story. We have never had a more important time for people to be involved. We need people now to be involved. There are six drug company lobbyists for every one Member of the Senate, but the majority of the people in this country, regardless of where they live, know that we need action for them now, and that is what this is about.

Since my colleague has been a leader in another important effort, lowering prices for everyone, which is the other piece of the puzzle, we want to make sure Medicare is updated to cover prescriptions for those on Medicare, and that is critical. But for everyone else who is not on Medicare, they also pay too much, and there are a number of efforts we are equally engaged in to get more competition, to lower prices for everyone, and I wonder if I might ask my colleague to speak to that specifically, since we have joined in efforts to open the border to Canada, and other efforts.

I know that the Senator has been very involved in those efforts to create more competition.

Mr. DORGAN. Mr. President, the Senator from Michigan knows that one issue with respect to this bill is adding a prescription drug benefit to the Medicare Program, but that is not the only issue concerning prescription drugs in this country. The other issue is that all Americans who get sick, who have a disease or an illness and who need prescription drugs need to be able to afford and have access to these medicines. Miracle drugs provide no miracles, lifesaving drugs save no lives for those who cannot afford them. So we are trying to find a way to put some downward pressure on prescription drug prices.

The fact is that American people are charged the highest prices in the world for prescription drugs. Virtually everyone else in the world buys the same pill, put in the same bottle, made by the same company, and pays a much lower price. There is no Republican or Democratic way to get sick. There is no Republican version of Celebrex, Zocor, or tamoxifen, and there is no Democratic version of Celebrex, Zocor, or tamoxifen. There is just sickness, medicine, and need.

I want the drug companies to do well. I want them to invest in research, experimentation, and finding drugs. We are doing that in the public sector,

doubling the amount we are spending on the National Institutes of Health searching for cures for these diseases. By the same token, I want what we reap from all this research to be affordable by the American people who need them when they get sick.

Regrettably, what has happened is every year the cost of prescription drugs is going up—18 percent last year, 16 percent the year before, 17 percent the year before that. There is this relentless increase in the cost of prescription drugs, and the fact is a lot of vulnerable people in this country desperately need those drugs and cannot possibly afford them.

Yes, it is important we do a prescription drug benefit in the Medicare Program. Fifty-two Senators have already said yes. The question is, Will a minority block us in the next day or two from getting this done?

We also need to find a way to put downward pressure on prices. One way we have worked on—and the Senator from Michigan has been a leader—is the reimportation of prescription drugs from Canada. The same drug, put in the same bottle, made by the same company, is sold in Canada at a fraction of the cost that the American consumer is charged.

To use one example, someone suffering from breast cancer who needs to take the drug tamoxifen is going to pay $100 for that which they could buy for $10 in Canada, the same medicine made by the same company, FDA approved, similar bottle, different price. The U.S. consumer is charged 10 times more than the Canadian consumer. It is wrong, it is unfair, and it ought to stop. These are the things on which we are working.

Ms. STABENOW. Absolutely.

Mr. DORGAN. We do not have perfect solutions, but we must in the next day or two make progress to get this bill completed so that we can go to conference with the House and make prescription drugs available to senior citizens, especially in the Medicare Program, and also begin to find a way to bring prescription drug prices down for all of us.

I appreciate the work the Senator from Michigan has done. She has done in her leadership position a lot of work on this issue, and I deeply appreciate it.

Ms. STABENOW. I thank my colleague from North Dakota.

To support the comments of the Senator from North Dakota, it is so frustrating to look at what is happening, and I think so unfair for consumers in the United States, taxpayers, and ratepayers. People say: How can this happen?

The reality is that today, while the companies say, oh, no, they cannot possibly lower prices at all because they would have to cut research, we know today that they spend two and a half times more on advertising, marketing, and administration than they do on research. When we look at the numbers for last year, the top companies' profits were three times more than they spent on research. This is not about research. We all are for research and, as my friend from North Dakota indicated, we as taxpayers fund research. This year we will contribute over $23 billion to basic research. I support that. I support doing more than that. It is an important investment.

After we do that, the companies take the basic information and see if they can develop new lifesaving medicine. That is great. However, we give tax deductions for research, as well as advertising and other costs of doing business. When they get to the point where they actually have a new drug, we give them a patent of up to 20 years to protect their competitive edge, their brand name, so they can recover their research costs.

We know it costs a lot of money to develop a lifesaving drug. We want to make sure it is a good investment and they can recover their costs. The problem is, we get done with all of this and what do we have? The highest prices in the world—higher than anyone else. If you are uninsured and using medications—which is primarily the seniors of this country—and you walk into your pharmacy, you get the great pleasure and honor of paying the absolutely highest prices in the world. That is outrageous. That is what we are trying to fix, both by making sure the health care system works with medications through Medicare, and also making sure that we have greater competition, that we address the outrageous spiraling prices and we can bring those down for everyone. That is the point of the debate.

We made some progress through amendments last week on cost containment. Yesterday we had an important debate on Medicare coverage. The question now is whether or not we will be able to get this done on behalf of the American people. I am hopeful we will be able to do that.

I am happy to yield to my friend.

Mr. DORGAN. Some say, when you talk of prescription drug prices, let the market decide. There is, after all, an open, free market; let the market decide.

Is it not the case that there is no free market for prescription drugs in this country? There are price controls in the United States but the prices are controlled by the pharmaceutical industry, and they like that. I understand that. Most other countries have price controls in which the governing authority sets the price, including profit, and the drug manufactures market those drugs in those countries under those conditions.

In this country, there are no such limitations. So in this country, you can charge whatever you like. The problem is, what if you charge too much for tamoxifen? What if you charge 10 times more than you should for tamoxifen, and they can actually buy it for one-tenth the price in Winnipeg, Canada? What prevents the consumer from voting with their feet and going to Canada? What prevents it is a perversion of the free market, and that is a law that says the pharmacist at the Main Street drugstore, the distributor cannot access drugs and bring them back.

There is a law that creates an artificial barrier against the free market working. When we try to change that, people say they are worried about bioterrorism, poppy seeds in Afghanistan, or they are worried the Moon is made of blue cheese—the most Byzantine arguments I have heard since I have been in the Senate.

Is it not the case that to say let the market decide, the free market is not a free market with respect to drug pricing in the United States?

Ms. STABENOW. The Senator is absolutely correct. There is not a free market. There are barriers placed in the way from real competition, real trade across the border, and there are ways now that the companies stop competition—buying up generic companies and blocking other competition.

I say in conclusion, unfortunately, we cannot just say, let the free market prevail. We are not talking about optional products. We are not talking about a family saying, we cannot afford a new car this year, we will wait; we cannot afford a pair of new tennis shoes or lawn equipment. We are talking about lifesaving medicine. Sometimes when people have to wait, they do not survive. This is different. We have to be serious about the difference.

I urge my colleagues to come together and get something done.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the emergency supplemental appropriations bill on which we will be voting at about 1:30 this afternoon. It is high time we pass this bill. The President asked for emergency appropriations to fund the Department of Defense and the war on terrorism about 4 months ago. It is critical. It contains $14 billion to fund the war on terrorism. With the cost of antiterrorist operations in Afghanistan and elsewhere exceeding $2 billion per month, these funds are certainly needed.

Because Congress has taken so long to produce this bill, the Pentagon has already reached into $3 billion worth of funds budgeted for ongoing activities in the fourth quarter of the current fiscal year.

Last week, the Pentagon's comptroller warned of dire consequences if Congress did not provide the funds soon. He said the Department would have to suspend ship deployments and aircraft training operations for units that are not forward deployed, with the result that many units would no longer

be able to respond to any crisis that might emerge.

Many spare parts and supplies no longer could be ordered, and both ship maintenance and maintenance on critical aircraft, such as the EA–6B jammers and the F/A–18 fighter/attack aircraft, would come to a halt. Scheduled moves for military personnel would be disrupted, jeopardizing school years for children and job opportunities for spouses. As many as 35,000 civilians could be furloughed from the Department of defense.

Passage of this bill will guarantee our military does not run out of funds before the fiscal year 2003 Defense appropriations bill is sent to the President's desk, hopefully by October 1 of this year.

This bill also helps Texans who have been devastated by two disasters at the same time—a severe lack of water in the Rio Grande River Valley in south Texas and heavy flooding in central Texas.

This emergency legislation will help south Texas farmers by providing $10 million to make up for some of the losses they incurred during the last crop year due to lack of water. Families are suffering because their livelihood depends on water and Mexico has failed to deliver, under the United States-Mexico water treaty of 1994, the water that is owed. This treaty obligates Mexico to allow 350,000 acre feet of water to flow to the Rio Grande river annually while obliging the United States to allow 1.5 million acre feet of water to flow to Mexico from the Colorado River.

Since 1992, Mexico has incurred a debt of 1.5 million acre feet of this water to the United States, while the United States has continually complied with our water obligations under the treaty. Because Mexico has failed to deliver its treaty obligated water, south Texas has lost over 5,000 jobs each year and suffered $230 million per year in lost business activity. The economic loss to the region since 1992 is estimated to be $1 billion. This situation has become critical due to the continuing drought conditions in both south Texas and Mexico.

The bill also provides $100 million in assistance for emergency use—$50 million for fires, $50 million for floods—to hundreds of thousands of Americans who courageously fought to survive the wrath of scorching wildfires and unyielding flash floods that swept across New Mexico, Colorado, Arizona, Montana, Utah, Wyoming, Texas, and many other areas of our Nation. These natural disasters rip through our towns, threaten our families, wreck our homes and businesses, destroy our heirlooms, and leave us stripped of resources to begin putting the pieces back together.

On the Fourth of July, when most of the Nation was celebrating America's birthday, central Texans were evacuated from their homes by the thousands. Texas rivers were on the rise and were cresting at record levels, more than 20 feet above flood stage in most locations. By the time most of America's firework had burned out, the Medina River crested at a ferocious 44 feet above flood stage south of San Antonio. The storm left Texas with four people injured, four missing, and mourning the tragic deaths of nine.

I thank the Texas Department of Emergency Management and the Federal Emergency Management Agency, FEMA, for their rapid response and rescue efforts for thousands of people who evacuated their homes, some of whom had only a few precious minutes to muster their families and secure their most valuable possessions.

Imagine having to choose between saving your family photo album, your great-grandfather's journal, or your family Bible.

I particularly want to thank Joe Albaugh, the Director of the Federal Emergency Management Agency, who toured with some of us in the congressional delegation to see the floods firsthand so he could come back and make sure he had made all of the efforts that could be made, all that were possible to give help to the people of south central Texas.

The flood waters have dropped in Texas and people are now diligently working to clean and repair their homes and businesses. The total damages are still being assessed, and it is estimated they will reach another billion dollars. So I urge my colleagues to agree to this supplemental appropriations conference report to help them begin to put their lives back together in south central Texas.

In addition, I want to mention Amtrak because this bill does restore a commitment to Amtrak, and $4.4 billion in vital highway funding to the States that would have been lost due to a decrease in gasoline tax revenue. Amtrak, in particular, deserves our continued attention. Our national passenger rail system is teetering on the edge of the abyss. The bill merely pulls it back a few inches. We must find a way for Amtrak to achieve long-term financial security through a dedicated funding source similar to the way we fund highways and aviation transportation. Otherwise, we will face these emergencies every year, and service will continue to deteriorate.

At the same time, Amtrak's new leadership must eliminate this regional bias which has infected the railroad since its inception. Amtrak must stop sending all of its resources to the Northeast corridor, which is probably the only place in America with reliable rail service. Even so, the Northeast corridor is losing money every bit as fast as the rest of the system.

I have inserted language into the Amtrak authorization, of which I am a cosponsor, that would force the railroad to spend its money proportionately throughout the system. That way, passengers in Texas, Washington State, and Mississippi can enjoy the kind of service that Northeast commuters have had for decades.

I think we can have a national rail system for our country. I think it is important that we do so. We have the outline of such a railroad system today in Amtrak, but we have not funded it at a level where we could have and expect stable service.

So I hope we will not only give Amtrak its lifeline today—which I believe that we will—but let's look at ways we can stabilize Amtrak so all the places that now get service can get reliable service, ontime service. Every time Amtrak threatens to pull the long-haul lines—which they did earlier this year—we lose thousands of reservations from people not knowing if they are going to be able to use their tickets, if they are going to go somewhere and not be able to get back, so it hurts the system even more. That is why we need to have stability so people can count on the service for which they are paying. We owe them that.

We cannot possibly judge Amtrak unless we give them reliable service that would give us fair criteria. But to think we are going to do it on an operationally self-sufficient basis is ludicrous. We are not. No country in the world does. We are going to have to give it a stable revenue base and then hold the officers and board accountable for knowing how to run a railroad. I think it is time we do all these things and keep the commitment to having rail service in our country.

Rail service is every bit as important an alternative as highways, as buses on the highways, as airports and aviation. We need all kinds of transportation in our country. In some places, freight is most easily and efficiently transferred from State to State across our country via rail. In some places, people cannot get to an airport. They do not live in a place that even has bus service. So they need another alternative that will allow them to travel across our country. This is part of national security. It is part of a stable economy. I think we need to just make a commitment and do it right. We have not been doing it right. We have been putting Band-Aids on Amtrak ever since we revived it years ago. Now is the time to do it right.

I think this supplemental appropriations bill is a good one. It meets the needs of our military and our homeland defense, which certainly have been in a crisis situation for the last few months as we have debated this bill. It also addresses the emergencies in our country, from fires raging across the western part of the United States to floods in my home State of Texas. And it does help us revive Amtrak, hopefully to give the leadership of Amtrak—new leadership, I might add—the ability to get this job on track and hopefully to do it right.

Mr. President, I urge my colleagues to support this bill and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, what is the state of the proceedings at this point?

The ACTING PRESIDENT pro tempore. The minority controls the next 14½ minutes.

STRENGTHENING CORPORATE ACCOUNTABILITY WHILE STRENGTHENING CORPORATE INNOVATION

Mr. HATCH. Mr. President, the Senate accomplished two significant feats last week. First, this body took strong action to ensure that candor and accountability will be watchwords in the world of corporate accounting. We have given the Securities and Exchange Commission the tools it needs to better do its job of ensuring that financial statements tell investors, in plain English, how our nation's corporations are really doing. And we crafted 21st-century criminal statutes and tougher penalties for those corporate wrongdoers who willfully mislead investors about corporate finances, and we are still working on that language.

Second, and more important, we resisted to a great extent the temptation to turn this bill, on which Senator SARBANES and Senator GRAMM worked so hard, into a tool for demagoguery. With the continuing reports of shoddy bookkeeping at some of our biggest companies, with terrible news coming from Wall Street these past few weeks, and with continuing layoffs at major corporations, it is no wonder that many pundits across the country, and even a few of our colleagues, were tempted to cast about, looking for a bill to support—any bill at all—that could make them look tough on white-collar crime.

But the battle is not over yet. We know that here in Congress, as well as in the regulatory agencies and in State governments, there are still moves afoot to impose more rules, more regulations, and more punishments on American businesses. There are those who are predicting that this wave of corporate scandals could give rise to a new era of big government, much like the Progressive Era or even the Great Depression.

I rise today, to say that this Nation must not return down that failed path. A new era of ''re-regulation'' would, without a doubt, damage or destroy the twin engines of innovation and capital formation that have made the American people the richest people the world has ever known. A new era of re-regulation, however well-intentioned, would put us on the path that Europe and Japan have recently trod. We would be playing a constant game of catch-up with whatever country was in the economic lead. People in the leading countries would have access to new inventions today, and then, years later, citizens of the sluggish United States would finally be able to afford them. That is the kind of trickle-down we need to avoid, and that is the kind of trickle-down that the good people of Europe and Japan live with every day.

I have faith that the American people will not be led down that path. Instead, I believe that they will remember that in the late 1990s, the forces of competition gave birth to modern wonders in the fields of medicine and telecommunications while Congress cut capital gains taxes and balanced the budget. We saw the promise of venture capital unleashed, as many new start-ups tried out their new ideas in the marketplace even though we knew in advance that only a few would succeed.

And as investment and innovation increased, our workers became more productive, and higher productivity led, as always, to higher wages and better living standards. Census figures show that since 1980, the share of families earning over $100,000 per year doubled, even after adjusting for inflation. The number of people living in poverty has declined, and the only reason it has not declined faster is because this land of opportunity draws in poor immigrants from throughout the world. In many cases, however, within a generation these immigrants will rise into the middle and upper ranks of income-earners.

And, most saliently, this prosperity reached into almost every part of American life. Overall unemployment rates reached the lowest levels in 30 years, and every race and every age group saw its fortunes improve. Just as the 1980s debunked the pessimists who thought that stagflation and malaise were the waves of the future, so the 1990s, with unemployment rates getting down to 4 percent, debunked those who thought that unemployment rates below 6 percent inevitably spark inflation.

Despite the fact that the American people have endured a year of high energy prices, a painful recession, waves of corporate accounting scandals, and the horrific attacks of September Eleventh, our economy's foundations remain strong. Innovation and capital formation have continued even during the depths of the recession, to the amazement of the pessimists. Despite the many buffetings our nation has endured, America's workers are more productive today than they were just a year ago. That continued the trend of the last few years, where we saw productivity grow at an annual rate of 3.1 percent.

We have seen the unemployment rate shoot up from its 30-year low of 3.9 percent up to 5.9 percent in June. Mere numbers, of course, can never convey the real cost of losing a job. And tragically, recessions continue to hurt workers months and months after sales pick up. But clearly, this recession is like no other that we have seen: manufacturing has been hit hard, very hard, by this recession. Workers in those industries, and people who live in towns that rely on those industries, have paid a heavy price.

But our economy's resilience and flexibility is amazing, and this resilience shows in our labor markets, where our nationwide average unemployment rate of 5.9 percent, while still too high, would have been hailed during most of the 1980's and 1990's. And if Congress acts to restore the economy to its potential, enacting policies that encourage innovation and capital formation, we can continue to improve our standard of living, get the unemployment rate back down, and make our economy more resistant to the inevitable economic shocks of our modern world.

As Chairman Greenspan noted last Tuesday, Congress can strengthen our economy's long-run potential through strong fiscal discipline, so that more of our economy's resources are in the hands of our innovating private sector. And since capital formation and technical innovation are keys to productivity growth, we should move aggressively toward expensing capital equipment and finally making the research and development tax credit permanent.

The accounting reform bill we passed last week is a good bill, and once it comes out of conference, I hope it is even better. The Senate bill reduces the potential for conflicts of interest between auditing and consulting services. It ensures that the government will vigorously scrutinize audits to ensure that the balance sheet is telling the real story. And it modernizes the criminal codes to deal with the corrupt few who knowingly break the rules outright.

But once the final version of this bill becomes law, that is by no means the end of the story. Once the regulators get ahold of the final bill, it will, once again, become a target for anti-corporate activists, those who distrust bigness, who distrust success, and who distrust the competitive spirit of the American people. They will seek to pressure the SEC and the Financial Accounting Standards Board to enact rules that express their hostility toward corporate America. And however well-intentioned the goals of these activists, they could have disastrous consequences.

Let us consider an example that sounds reasonable enough. I started off by noting that the Sarbanes bill would ensure that financial statements tell investors, in plain English, how our nation's corporations are really doing. There are good reasons for reporting financial statements in language that ordinary investors can understand, and the SEC has done a good job encouraging corporations and financial services companies to avoid unneeded jargon in their official statements. But at the same time, we need to remember that while corporate finance is not rocket science, it is not that far from it.

Some issues will be hard to understand, and they should stay that way. If we insist that every financial dealing be completely understandable to the average investor, then you know what we will end up with. Corporations that

the average investor would not want to invest in. Investors want their companies to be run by people who know more about finance than they do, just as they want our homes built by people who know more about construction than they do. Sure, it is good to know the broad outlines about how a house is built. But we expect construction workers to use their specialized knowledge, knowledge that is difficult to convey to a layperson.

The same holds true in the world of corporate management. Even after these accounting reforms are up and running, accounting is still going to sound like a foreign language to most people, and plenty of run-of-the-mill business decisions are going to sound complex to outsiders. Critics will accuse anything with a footnote of being a loophole, just another example of ''crony capitalism.'' They will put pressure on America's businesses to simplify their businesses so that it can be ''transparent'' to outsiders. But we cannot give in to the urge to insist that corporate finance be intelligible to high-school students, and we cannot allow pressure groups to dictate how to organize a business.

We have seen unjustified awards destroy the careers of many good doctors who can no longer get malpractice insurance just because juries end up being swayed by emotion and genuine human suffering rather than by the difficult medical issues at hand. We cannot let the same thing happen to corporate America.

Finally, I want to address an overarching question: Do we really live in a world where a couple of crafty and unscrupulous executives can destroy an entire Fortune 500 company? Is our market economy really a house of cards that needs the ever-present support of the Federal Government to keep from falling down? I do not believe the evidence supports these pessimistic conclusions. The companies that have been in the news made bad business decisions generated by what Chairman Greenspan called ''infectious greed,'' which they covered up with accounting chicanery. It was the bad business decisions that were the root cause here, made far worse by the fact that the mistakes were successfully covered up for so long.

By tightening the auditor's scrutiny of business decisions, we expect that in the future, bad decisions will be uncovered sooner, before too much damage is done to the company and to its stock price. But business decisions will continue to be made, both good and bad, and companies will continue to rise and fall as customers and shareholders vote with their dollars. That, as Secretary O'Neill noted, is the ''genius of the market.''

And that brings me to my final point. If auditors uncover a serious problem with a company's books, who will fix it? Surely, in most cases, the board of directors will act aggressively to sack the problem executives and install a new team that will work hard to put things right. Especially with the incentive of stock options and stock ownership, the new management team, facing auditor scrutiny, will have strong reasons to do the best they can to boost shareholder value. The punishments dealt by the stock market are already giving corporations a strong incentive to reform, as stockholders press for clarity and boards of directors interrogate their CEOs and demand answers.

But what about those occasional situations where the directors are either incompetent or out of touch? In practice, it is very difficult for shareholders to replace directors on their own. There are sometimes millions of individual shareholders, each of whom has little incentive to put in the time and effort of replacing their directors. It is almost always easier to sell the badly-performing stock than it is to replace incompetent directors. At this point, our last best hope is that much-maligned character from the 1980s, the hostile takeover artist.

The Sarbanes bill uses the phrase ''protection of investors'' over 20 times. But who protects investors better than someone who invests a large sum of cash into a failing company, kicks out the old, ineffective, perhaps even corrupt management, and installs new leaders dedicated to maximizing long-run shareholder value? But while we have seen numerous large mergers over the last decade, why have we not seen as many genuinely hostile takeovers? The answer, of course, is legislation. In this case, it was not federal law but state laws that stemmed the tide of hostile takeovers, as laws made it easier for sloppy management to fend off takeover advances. So even if improved audits uncover corporate incompetence or worse, shareholders could still be left with bad managers and worthless investments.

The accounting reform legislation on which we have worked will break new ground in the realm of investor protection. It will increase transparency and punish wrongdoers. But that is only half the battle against corporate mismanagement. The second half of the battle comes when directors and shareholders take action to purge the ineffective executives and restore the profitability of their investments. In time, I hope Congress takes action to assist them. The combined calls by the President and the Senate for directors with greater independence is a strong step in that direction.

In closing, I want to draw attention again to the true foundation of our nation's prosperity—our nation's workers, the most productive in the world. Whether they work in a factory, behind a desk, or on a farm, the American worker can produce more in an hour than any other worker in the world. That is because they have access to better tools, better knowledge, better education, and in particular, better organizations. From old-economy stalwarts such as Ford to new-economy innovators like Intel to our ever-modernizing agribusiness sector, our economy's large organizations help to coordinate the activities and innovations of countless numbers of people so that we can accomplish more with our scarce time. The quality of American automobiles, the speed of American-designed microprocessors, and the produce of America's farms keep increasing each and every year. I am confident that our accounting reforms, if enforced prudently, will help to strengthen the American corporation's ability to innovate. And by doing so, all Americans will reap the rewards.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 812, which the clerk will report.

The bill clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Hagel Amendment No. 4315 (to amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

AMENDMENT NO. 4315

The PRESIDING OFFICER (Ms. LANDRIEU). Under the previous order, there will now be 120 minutes for debate on the Hagel amendment No. 4315, with 60 minutes each under the control of the Senator from Nebraska, Mr. HAGEL, or his designee, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will yield myself such time as I might use.

Madam President, yesterday we had a very important debate, and we also had the Members of the Senate voting on two important measures for the prescription drug program. I am a strong supporter of the proposal that was offered by the Senator from Florida, Mr. GRAHAM, and Senator MILLER from Georgia. That amendment achieved 52 votes in the Senate. A majority of the Members voted in favor of a program based upon the Medicare system, a program that closes the great loophole that is part of our Medicare system, which so many of our seniors are faced with every single day.

We had a good debate on that measure. And we had a good debate on the Republican alternative, which I believe, as I expressed during the course of the debate, falls well short of meeting the needs of our seniors. The alternative plan is inadequate, full of loopholes, and fails to address the overarching issue of prescription drugs for our seniors. But, nonetheless, we had a good debate.

There are those who supported that program. Obviously, their interpretation differed with my interpretation of the program, and they believed—and continue to believe strongly—that their program was the best way to achieve the objective of universal coverage of seniors in this country. We did not have a difference in terms of the underlying concept, we had a difference in terms of approach. I believed—and still believe—we would be unable to guarantee protections for our elderly under the Republican proposal. But that was the matter of the debate. The Senate spoke. And it spoke more favorably of the proposal offered by Senator GRAHAM than the Republican proposal.

Now we have an entirely different proposal before the Senate. I, quite frankly, believe—even though I was highly skeptical of what they call the tripartisan proposal—that this does not even measure up to the tripartisan proposal.

What we are attempting to do in the Senate is to pass a program that will reach all of our seniors, and do it in a way that is going to be affordable for our seniors. That is one of the great features of the underlying proposal, which we all support on this side of the aisle. And it does include measures that have been accepted both in our HELP Committee, as well as on the floor of the Senate that deal with the issue of the cost of prescription drugs.

We want to make prescription drugs affordable, we want to make them accessible, and we want to build on a system in which the seniors have confidence. That is why, quite frankly, we find that virtually all the seniors groups have supported the proposal of Senator GRAHAM and Senator MILLER. They all support that proposal. Virtually none of them support the tripartisan program. And virtually none of them support this particular proposal.

It seems to me, as we stated yesterday, our seniors—who have fought in the wars, brought us out of the Depression, and built this Nation up to be the great country that it is—are entitled to more than crumbs in terms of the prescription drug program.

They are living longer, thankfully, and families are blessed by the presence of their parents and grandparents. These days, a number of generations—three or four generations—can be alive at the same time. That is all very good.

I cannot understand, for the life of me, why the Senate would be willing to accept the amendment which is being offered now, which is so inadequate that it does not even deserve to be called prescription drug coverage under Medicare. It is a step backwards, not forwards, in mending the broken promise of Medicare and providing senior citizens the health security they deserve.

It provides no real cost containment for the explosive growth of prescription drugs. That is a major problem. We have had good debate on those measures, but this proposal has no cost containment. Its funding is so inadequate that it would pay about a dime on the dollar toward prescription drug costs of the elderly—a dime on the dollar. One of the things we want to avoid in the Senate is telling our seniors that we are doing something meaningful for them in terms of prescription drugs and then failing to meet that test. When you are down to a dime on the dollar for prescription drugs, I believe this amendment fails to live up to a prescription drug coverage for the elderly.

It is a catastrophic-cost-only plan. We tried that once, and the elderly, themselves, rejected it. I was here in the Senate when we tried the catastrophic program for the elderly, and they, themselves, rejected it. We can come back to that discussion later on if we want to.

Under this amendment, a poor senior citizen with an income of less than $9,000 a year would have to pay $1,500—17 percent of their income—before they got any help.

A low-income senior with an income of only $18,000 a year would have to pay $3,500—20 percent of their meager income—before they got any help.

A moderate-income senior citizen with an income of $35,000 would have to pay $5,500—16 percent of their income—before they got any help.

This isn't insurance, and this isn't Medicare. If it were to become law, senior citizens would still be choosing between whether they are going to put food on the table or take the medicines they need to survive. If it were to become law, senior citizens would still face the prospect of having their lifetime savings swept away by the high cost of prescription drugs. If it were to become law, the broken promise of Medicare would remain broken.

Beyond the simple fact that this benefit is inadequate, it violates a basic principle of Medicare, by effectively imposing a means test. Medicare is one of the most beloved and successful programs ever created. The reason it has such broad public support is that it is universal social insurance. Everyone contributes, and everyone benefits.

Republicans have wanted to turn Medicare into a welfare program ever since it was created. This plan is, I believe, just another step in that direction. The American people rejected that approach in 1965, and I think they still reject it today.

This bill is more inadequate than the House Republican bill. It is more inadequate than either of the two bills just voted on by the Senate. It is not supported by a single organization of the elderly or the disabled. And it does not deserve the support of the Senate.

If we are going to take steps to try to respond to the needs of the elderly, it seems to me we ought to be able to gain the support of those groups. We have to ask ourselves, each time we consider legislation, who benefits? Obviously, we also have to ask, who pays? The taxpayer. Who benefits from this program, and how do they react to this program? The elderly, and they are not in support of the program.

The fight for a real Medicare prescription drug benefit did not end yesterday. We will continue to fight until senior citizens have the protections they deserve.

A vote for this bill is a vote to substitute a political fig leaf, a very small fig leaf, for the real protection the elderly need.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I yield 5 minutes to my colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Hagel-Ensign bill because it really strikes right at the heart of what seniors expect from our Government as they look at their health care and as they look to their future.

When I talk to seniors as I travel around the great State of Tennessee and the country, they tell me a very simple and straightforward message regarding prescription drugs: Please, when you go back to Washington, enact a prescription drug benefit and do it now. Do not do it 3 or 4 years from now—implementing the program in 7 or 8 years. What I want is something now; do it now.

The beautiful thing about the Hagel-Ensign bill—and I congratulate the authors and sponsors and cosponsors—is that it is the only bill that has come to the floor of the Senate that enacts a prescription drug benefit now. Our seniors deserve an affordable, immediate prescription drug coverage. That is No. 1: Do it now. This is the only bill we have considered that accomplishes that.

No. 2: do it responsibly. That is where the debate has changed a lot compared to 2 years ago or 4 years ago or even prior to the last election a year and a half ago. Our seniors today, individuals with disabilities and the future generation of seniors say: Do it now, but do it responsibly. Responsibly means to have a bill on the table that can be sustained over time, which does not sunset or have a narrow window of applicability. Do it now; do it responsibly.

Yesterday, we talked about bills on the floor that cost $800 billion or, over a full 10-year period, $1 trillion, and that did not pass. Additionally, we debated a bill that cost about $370 billion. That bill did not have sufficient votes for the point of order. Today, we are

talking about a bill that costs less than $200 billion—well within what we have budgeted.

Even more importantly than cost, is that this particular bill captures the power of what is called competition or the marketplace. What that means is what we pass today in terms of benefits, in terms of the prescription drug card, and in terms of the catastrophic coverage will be able to be sustained over time. When you capture the element of competition in the delivery, what you say is that there will be prudent tradeoffs, and decisions made regarding—whether it is inpatient hospital care, acute care, chronic care, preventive care, or prescription drugs.

When I say ''tradeoffs,'' I don't mean lessening of the benefits. I mean bringing people to the table so rational decisionmaking can take place, given that the benefits that are promised need to be matched with the resources that are available.

The Hagel-Ensign bill is immediate, affordable, and permanent. It is not promised just for a period of time. Finally, it is market based—capturing the power of competition so that it can continue to deliver the benefits over time.

For that reason, I am excited about this bill. I urge my colleagues to support this bill. We will have the opportunity to debate and discuss the details over the next 2 hours. In short, it is a prescription drug card where every senior who participates can get a discount instead of paying retail for drugs. Additionally, there is a cap as to how much they will have to pay out of pocket. This cap provides seniors with security and peace of mind that in the event they are struck by a lymphoma, heart or lung disease and have to buy prescription drugs that they will only have to pay a certain amount. For those reasons, I urge support for this immediate, affordable, permanent, and market-based plan.

The PRESIDING OFFICER. The Senator has used 5 minutes. Who seeks recognition? Who yields time?

Mr. HAGEL. Madam President, I yield my colleague from Nevada 5 minutes.

Mr. ENSIGN. Madam President, I want to talk about a couple of philosophies that deal with this bill. We currently have a health care system that has evolved over time where we have low deductible policies and we have usually a small copay involved. That low deductible coverage over time has taken the patient out of the accountability loop.

Somebody goes into the office. They have an annual deductible. They don't pay attention. They go in and they start getting their health care coverage. The doctor tells them whatever they should do. The doctor is trying to rush people through. They don't think the patient is paying for the care. So they don't take the time to explain why certain tests cost money. They know somebody else is paying for it. They don't think about the patient's cost because it isn't the patient. It is an insurance company that is paying the cost.

By taking that patient out of the accountability loop, costs have skyrocketed in the United States. That is the fundamental flaw to the insurance system we have in our health care delivery system today. It would be akin to having homeowners insurance that paid for doing the landscaping around your house or painting the trim. We don't expect that. We expect those normal maintenance costs to be paid out of pocket.

But if something like a fire happens to your house or some kind of other horrible thing happens—for example, I recently had a hose break in our washing machine. We ended up with probably about $30,000 worth of damage. Unfortunately, we had gone on vacation when the hose in the washing machine broke. We came home. There was all kinds of damage. We had to have floors replaced, walls; it was about $30,000 worth of damage. Our insurance kicked in. But I didn't expect my homeowners insurance to pay for repainting the trim on my house or landscaping or things like that.

That is normal expenses in everyday life. That is why homeowners insurance has remained relatively inexpensive over the years. Health care insurance has not, because the patient doesn't think about the cost.

Our plan says: Let's keep the patient accountable. Let's keep the senior citizen accountable. Senior citizens don't want to put a huge burden onto young people. Yes, they would like prescription drug coverage.

The Senator from Massachusetts mentioned that seniors don't want to lose what they have saved for all the years. They want to make sure they have some security in their assets.

We have said: Let's keep the patient in the accountability loop. Low-income seniors in our bill will pay the first $1,500 or about $120 a month out of pocket. They are going to pay that. Seniors can afford to pay that. They are willing to do that. After that, the Government is going to pay—other than a small copay—is going to pay so that the senior who has diabetes, a heart condition, cancer, that senior is going to be covered under our plan and is going to keep from losing all of their valuable assets.

So because the first dollar coverage is paid by the senior instead of the Government, our plan is much more fiscally responsible to the next generation. That is why, when Senator FRIST talked about it being a sustainable plan, our plan, in the future, will be sustainable because the patients—the senior citizens themselves—will shop for medicine; they will not just take whatever the doctor says. They will ask: what about generics? Is there a generic for that? They will do that because they are paying the first dollars out of their pockets. They will also ask: Do I need that medication? I am taking four medications. Do I need all four? Maybe the doctor would say: I forgot about the other medication you were taking.

So this brings the patient back into being accountable for their own health care. That is critically important to our health care system and especially to this new prescription drug coverage that we want to add to Medicare.

Madam President, I urge my colleagues to look at this very reasonable proposal. It is something that can be done, and can be done now, and it can be made permanent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I think we ought to have at least some understanding about what the challenge is. We make decisions in the Senate, and this is basically a question of priorities. The issue that is before us, in the broader context, is whether we believe it's a priority to do something to keep the costs down in terms of prescription drugs for our senior citizens, our fellow citizens.

Now, our good friends on the other side say: Look, we want to do something, but we are not going to do very much. It is better than doing nothing at all.

I would like to believe we are capable of doing something more for those Americans who have been called the greatest generation. Rather than giving them crumbs, it seems to me we ought to give them a decent benefit package that is built upon the Medicare system. That is what is supported by all of the elderly groups.

The question is, do we have the will? Or are we going to just trim something off the edges and give them a little something? If you are making $8,000 or $9,000, you are going to have to spend $1,500 before you ever get anything at all.

It seems to me this is a question of priorities here in the Senate for the greatest generation, for our senior citizens: Are we prepared to make a commitment that will ensure them a benefit package that is equal to the request by this President for tax cuts this year—$600 billion? I don't hear any proposals from the other side saying, let's defer that $600 billion tax cut and put it in here for prescription drugs. Let us not try to shortchange our senior citizens.

There are two issues which are underlying all of this. One is the issue of cost, which is clearly demonstrated by this chart. The yellow represents the consumer price index, the gradual increase in inflation, and the blue represents the drug costs that are going up every year. There is nothing in the Hagel proposal that does anything to get a handle on these costs. Those costs are going to continue to go up. There is no proposal in there that does anything about cost. But there is another very important proposal that we

have before the Senate—and we welcome the support of our Republican colleagues—that can make a difference in terms of cost.

Our Democratic program deals with the issues of cost and also with the issues of coverage. Cost is going up. Our seniors need help. Let's just look at what we are facing globally in the United States in terms of prescription drugs and our seniors and where they are.

We have 13 million who have virtually no coverage at all; 10 million have coverage in employer-sponsored programs—we will come back to that—13 million have none, and 10 million are in employer sponsored programs; 5 million are in the Medicare HMO; 2 million are in Medigap; 3 million are in Medicaid, and another million have other kinds of public coverage. The only seniors who are protected in this whole group are the ones with Medicaid. They are the ones who are guaranteed. The rest of them are not, and we will see very quickly why they are not protected.

Remember now, 13 million have none and 10 million are employer sponsored, 5 million in HMOs, and 2 million in Medigap. Let's take the employer-sponsored group. Look at what happened in the employer-sponsored programs. This chart shows what has been happening in the employer-sponsored programs. Firms offering retiree health coverage dropped 40 percent between 1994 and 2001. That line is going down through the cellar of the Senate. Those 10 million who were covered by employer-sponsored plans are going right on down. They are being dropped every single day. Make no mistake about it.

Under the Republican proposal that was before the Senate yesterday, this decrease would have been accelerated for 3 million seniors in that program because the employers would not receive any of the assistance they need to retain them.

So the 10 million who have the employer sponsored are going down. We have the 13 million who have none and 10 million who are employer sponsored. They are increasingly at risk every single day.

Well, you say, we still have 4 million who have HMO coverage. Look at the bottom line here. Look at the Medicare HMOs, reducing the level of drug coverage. This is going down every single year—70 percent of the HMOs limit their drug coverage to $750. So even if you have some coverage up to $750, you are paying higher and higher costs. That wasn't the case 5 or 7 years ago, but it is the case now. Fifty percent of the Medicare HMOs with drug coverage only pay for generic drugs. So this is what is happening now. The HMOs the 4 million people who have some kind of coverage are being restricted, they are being limited, they are being conditioned every single day.

Increasing numbers of our seniors are not being taken care of. This is what we are facing in our country. The answer we had before the Senate yesterday was a comprehensive program built upon Medicare, which is affordable, which is dependable, which is reliable, which is defensible, and which the overwhelming majority of the elderly support. We have 52 votes for it. We would like to build on that. We are attempting to do so. Now, with the Republican program—as I pointed out, I didn't agree with it, I didn't support it. But at least those who did support it made the case that it was going to be able to provide universal coverage. They said, look, we can do it through the private sector, and if the private sector won't provide the coverage in remote areas, we are going to continue to fund them until at last they do.

I suppose at the end of the day you can find someone who will sell a prescription drug program in a remote area of Alaska if you pay them enough to do so. Our concern is that with the amount of money we are spending to pay the private sector, we ought to be using it in the benefit package, ought to be enhancing the benefit package, providing additional kinds of relief for our senior citizens.

Now along comes a proposal that is opposed by the AARP. Here is a letter that was circulated yesterday. It says:

Given these concerns, the AARP opposes your amendment.

The reason the seniors oppose it is they don't really believe that this will be any substantial or significant help, or even a little help, to the seniors in this country. They believe what we ought to do is build upon the Medicare system, a system that has been tried and tested, and has performed over the test of time. As the leading organization of the elderly finds, this proposal is completely inadequate. At least we ought to live up to our hopes and our dreams for our seniors, and that is to cover all of them.

We ought to cover all of them. What happens to those seniors who are making $7,000 or $8,000, $9,000? They have to pay out $1,500. Think of this: An elderly person who has worked all of his or her life and has $9,000 in income. Now they have to pay out all of this money. They have to pay out $1,500 before they get any assistance at all. On what are they going to live? Think of the difficult choices and decisions they have to make to come up with that $1,500. Then they will have to pay a copay after that.

A low-income person with only $18,000 in income will have to pay $3,500, 20 percent of their meager income before they get any help. This is well above what any average senior citizen is paying at this time. The average citizen is paying somewhere around $2,000. A person with an income of $18,000 will have to pay $3,500. They are making $18,000 a year and we are calling that moderate income.

How do people get along with $18,000 a year to pay for a mortgage, pay for the heating of their home, pay for their food, pay perhaps for a summer camp for their children or grandchildren? How do people get along on that $18,000? The fact is, people are hard-pressed, and I think for us in this body to accept the concept that we have done something for our seniors with this is a complete misstatement. I just do not see how we can support this proposal.

Nothing in this proposal deals with the cost of prescription drugs—this limited program is unworthy of what we in this body ought to be about. 52 Members of the Senate on our side, and 48 Members on the Republican side voted for a universal plan. Now, we are back in less than 24 hours talking about a catastrophic program that will only reach a small number of people and will put people through the wringer to do so. I think this institution, this body, can do better.

I strongly believe that seniors, who are faced with this national challenge and who are suffering and experiencing these extraordinary choices every single day deserves a great deal better. That is why I hope eventually that this amendment will not be accepted.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Madam President, I am the designee of the Senator from Nebraska. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I wish to address some of the concerns of the Senator from Massachusetts. First, there are many States, at the income levels he is talking about—$9,000, $10,000, $11,000, and even in my State of Nevada up to the $22,500 a year level—that are already providing some help for senior citizens.

The Republican Governor of my State was very visionary and put together something called the Senior Rx Program using part of the money from the tobacco settlement. For people with an income of $21,500 or less—they are non-Medicaid-eligible people—as long as they have been a resident of Nevada for at least 12 months, they can have a maximum benefit of $5,000 a year. They have no premium. They pay $10 for generic drugs and a $25 copay for preferred drugs.

In the State of Nevada, that person Senator KENNEDY was talking about who makes $9,000 a year is taken care of. In fact, that person does very well. That person does better than under the Democrat proposal—much better.

Also, if you go out and talk to seniors—I have been in a couple of very time-consuming and all-encompassing campaigns 2 out of the last 4 years—I talked to seniors all over our State, and if you say to them they are going to be limited to about $100, $120 a month of out-of-pocket expenses for those low-to moderate-income people, they are ecstatic; they will jump at that. They will say: Sign me up, as long as they are limited from losing everything or from being bankrupted

based on prescription drugs or not being able to pay their rent.

I say to the Senator from Massachusetts that maybe he ought to encourage the people in his State to take a look at what the people in the State of Nevada have done for their seniors, because the seniors in Nevada who truly need help, under this plan, are taken care of.

Those who are higher income seniors—by the way, most seniors have their mortgages paid for. Most of them have their cars paid for, compared to young people. That is what a lot of this argument is about. Tell someone who is making $30,000 a year and has a couple of kids that in the future they are going to have to pay a lot higher taxes; they are already paying high taxes now, but in the future they are going to pay higher taxes because of what we are setting up today, especially if the plan the Senator from Massachusetts supports became law. If the plan the Senator from Massachusetts supports became law, taxes in the future are guaranteed to go up, otherwise our Medicare system will be bankrupt.

Part of that is because of what I already talked about. When you take the patient out of any kind of accountability for what they are receiving, costs are going to skyrocket. We have seen that in our health care system today. A lot of the issues about which the Senator from Massachusetts was talking and the charts he was showing with drugs going out of sight is because people are not accountable for what they are getting. Insurance is taking care of it.

Let us look at what we have before us today. Let us do something for those seniors, and I want to give a couple of examples. I want to show you real-life examples of senior citizens with real-life diseases who are paying real dollars out of their pockets for prescription drugs.

The first example I want to use is a guy named James. He is about 68 years old with an income of about $16,000 a year. He is taking these following medications: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zoloft, for a total cost of close to $500 a month, $5,700 a year.

Under the three major competing proposals, that person with $16,000 in income, under the plan the Senator from Massachusetts supports, would pay $2,900 a year out of pocket. Under the tripartisan plan, $2,340, and under the Hagel-Ensign plan, $1,923 a year. That is what this person would pay. So this person who is really sick who needs the help the most is actually going to get the benefit they need, but yet will still have some accountability, and that is the balance in the plan that we have done.

We feel this kind of an example is the reason that people should support our plan.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, to correct my colleague and friend, he mentioned $8,000 or $9,000. That falls within 135 percent of poverty. So under our program, they would not be paying any out-of-pocket expenditures.

Mr. ENSIGN. If the Senator will yield.

Mr. KENNEDY. Beyond this, he mentioned his own program in his own State as support. We are representing all the people of all the States. Quite frankly, I do not intend to get into a debate about his program in Nevada, although there are people who have talked about that program. Some of our colleagues who are former insurance commissioners have talked about the history of that particular program.

I do not happen to get into that program. Let me point out my program in the State of Massachusetts. The annual out-of-pocket spending limits for deductibles and copays are $2,000, or 10 percent of income, whichever is less, and everyone over 65 is eligible for it.

This program is better than the Hagel-Ensign program. No one would benefit from that program in Massachusetts. I do not know which States or individuals would benefit and which would not benefit.

We are concerned about all of our seniors. That is what we are trying to address. Even if one State does a little better and one State does worse, we are looking at the challenge which all of our seniors face. I must say that I think I could go to places in Nevada or places in Massachusetts or any State, to find hard working, decent people, who play by the rules and were guaranteed, through Medicare, that their health care would be secure. That is what we said in 1965. No ifs, ands, or buts; it will be guaranteed. But it is not guaranteed, and the principal reason it is not guaranteed is because we do not have prescription drug coverage. That is the reason. We want to try to deal with that.

Thinking you are giving health security to people who have incomes of $9,000 who are going to still have to pay out the $1,500—and people with incomes of $18,000 who will have to pay $3,500—does not measure up. I know the Senator and I differ on that, but it just does not seem to measure up.

We are not talking about a comparison of particular States. We should be trying to look at this generation and what happens to people who move from State to State.

Speaking about the overutilization of health care, the people who overutilize it are the wealthy individuals. Most people who are working 40 hours a week and taking care of their children do not have time to sit in a doctor's office or the resources to pay a copay. I can give study after study that reflects that.

The greatest overutilization of health care and prescription drugs is by wealthy individuals who can take all the time in a day to go to the doctor's office and who have unlimited resources to pay for the prescription drugs.

Five dollars still makes a big difference to people in my State down in New Bedford, Fall River, and Holyoke. They have seen their water bills go up because of the pollution that has been done over a period of years, and this administration has backed out of making the polluters pay and is now shifting that onto the backs of those water users and water rate payers.

They are seeing their fixed incomes dwindling gradually as they pay out and try to deal with those issues. They see the prescription drug costs going up and the Senator is not doing anything. The Senator is not talking about it. The Senator has not even talked about the escalation of costs. What is he going to do about that?

When are we going to see from the other side an amendment that is going to bring prices down? Where is it? We are waiting for it. We have been on this bill for 5 days. We have not had a single amendment from that side to do something about the costs of prescription drugs—not one. We have not had any. We have had complaints and criticisms of efforts that have been made on this side of the aisle to do something about those prescription drugs. Now we are being asked to sign onto a program that will be presented to the people in my State, or the people that could not afford it, to show that we have done something for them. But this program is not as good as the one in my own State. We ought to be dealing with this program for all Americans. That is what a majority of the Senate voted on yesterday, and almost a majority voted for the Republican program. Not trying to take the small numbers of individuals who are paying every single year was universal across the board.

I would ask the Senator, this is not a lifetime expenditure, is it? They are going to have to pay $1,500 this year, $1,500 next year, $1,500 the year after—$1,500, $1,500, $1,500 every single year, or $3,500, $3,500, $3,500. Does anybody believe people on fixed incomes at those levels can afford that kind of expenditure? They cannot.

So I hope we keep our sights higher in terms of trying to meet the challenges and needs of our people.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Madam President, I ask that I be notified when I have spoken for 5 minutes.

The PRESIDING OFFICER. The Senator will be so notified.

Mr. HAGEL. Madam President, I want to cover some areas of concern and questions that have been addressed, appropriately so, regarding the amendment, but let me generally make a comment in response to my friend from Massachusetts.

One of the results the distinguished senior Senator from Massachusetts is not factoring in in our amendment is the discount that all Medicare beneficiaries would derive. The estimates of

those discounts, which are real, which, in fact, are in existence now, those discount card programs, are anywhere from 25 to 40 percent. That is one piece of this that has not been addressed, and it is important to factor that back in. That is but one part of our complete prescription drug program. Obviously, another part is the catastrophic cap.

I have been asked about pharmacies and how this legislation might affect pharmacies, because, as the Senator knows, we do not invent a new bureaucracy. I am sorry to have to say that again to some people who like big government, who think big is better, and the more money we throw at anything always makes everything better. That is aside from the debate about deficits in this country, which I hear an awful lot about in this body, about irresponsible spending.

We do have to ask a question about the affordability. That may be painful for some of my colleagues but, in fact, that is reality. This program is not just about addressing what we must address—and the senior Senator from Massachusetts is exactly right; we need to address this. For too long we have deferred it. It is not just about addressing the problem.

The other end of that is, who pays for the program? Who eventually is going to wind up paying the bill for the program? We have tried to develop a program that focuses on those who need it most.

I know most people would like to have a program where they pay nothing; let somebody pay for it all. Well, that is not a bad life, I suppose, but the reality is someone is going to pay for this. When we look at the huge numbers that we are dealing with in this country today on entitlement programs, everybody better stop for a moment and think through the consequences of what we are doing. There is a consequence to whatever action we take, and the consequence is going to be on the next generation and the next generation, as we add a new entitlement program to Medicare.

We need to do this, but it must be done in some way that is responsible and accountable for those who now have no say in it but we are saddling them with this burden. We cannot just merrily skip along and say, well, we have given you everything free, aren't we great, let's send out a press release out and hold a press conference: oh, Senator HAGEL, you are so good to us.

I have a 9-year-old and an 11-year-old. Many of my colleagues have children and grandchildren. They are the ones who will pay. When we look at the numbers—Senator GRAMM was on the floor yesterday, talking about those numbers—they are significant. With a $2 trillion Federal budget today in this country, about two-thirds is consumed by entitlement programs. We cannot do anything about that. The growth path we are on, even if we do not add any new programs, is immense. I don't know how we are going to ask this next generation and the generation after that to carry that burden. Something will happen. The choices are either that you cut benefits at some point or you continue to raise taxes on the workers, the young people, to pay for my drugs.

We have tried to accomplish some center of gravity, some responsible balance in addressing the problem. It is real. We need to address it but at the same time address the consequences. Who pays? That is the painful part of this process. Who pays? We don't like to talk about that.

When I talk about using a market system in place, not developing or building a new Government program, what do I mean? I mean using the market system in place. It is imperfect. Absolutely. But it is the market system in place today that has given America this remarkable lifestyle, quality of life, longevity. Imperfect and flawed? Absolutely. Are there people who do not benefit from some of this because they are at the bottom? Absolutely; that is what we are trying to deal with. But do not destroy the system that has produced this remarkable quality of life. Why would we throw out a market system that works pretty well?

We use the existing structure in place: Pharmacies, pharmacy benefit managers, insurance policies, systems, programs, administrators to administer the program at the direction of the Secretary of Health and Human Services. Pharmacies are a big part of this. They must be a big part of it. In this system, we have worked with the pharmacist. We preserve that beneficiary/pharmacy relationship. Seniors and other Medicare beneficiaries will continue to get most of their drugs at the pharmacy.

Any proposal that seriously disrupts that relationship would not work for Medicare beneficiaries. I point this out because beneficiaries' relationships with pharmacies will be strengthened. A system such as this could not work without bringing in the pharmacies. There will be a greater emphasis on discounts provided by pharmaceuticals and manufacturers than the pharmacy discounts. It is the pharmaceutical companies that provide the discounts. Those are negotiated by the private plans at the direction of the Secretary.

Pharmacies would be free to choose whether or not to participate. It would be voluntary. Right now, pharmacies are involved in many of these discount drug plans. They do well. It brings in traffic. They have consulting fees. They are a big part of the process. Our bill would make them more a part of a process.

Our legislation prohibits mail-order-only programs; therefore, it does not eliminate pharmacists. That is an option. Pharmacies could directly compete as administering entities. Pharmacies, as some pharmacies do today, could administer these programs. I make this point because there have been questions raised about the role of pharmacies. I understand that. We have spent a lot of time listening to pharmacists from all over the country. I understand their concern. The way we have crafted this, it would enhance the pharmacists.

I yield the floor to my colleague from Nevada for 3 minutes.

Mr. ENSIGN. Madam President, I will address a couple of matters the Senator from Massachusetts talked about. First of all, the Senator said the plan in Massachusetts was more generous than this plan. It is a different plan in that it is a first-dollar coverage plan. I don't know if the numbers have been updated, but according to the report from the GAO, in Massachusetts, if you are 150 percent of poverty or below, you are covered up to a maximum out of pocket of $1,250. That is according to this report.

The bottom line is the difference is Massachusetts covers the first dollars, but it caps the amount that Massachusetts will pay. Our plan caps the amount the seniors will pay. That is the difference. If they want to do first-dollar coverage in Massachusetts—and that is what we do in the State of Nevada—that is up to the State. What we want to do is say to the seniors, you will have the amount capped that you can actually pay out of your pocket so you don't end up going into poverty.

Why didn't the State of Massachusetts make a more generous benefit? They only did it up to 150 percent of poverty. Why? Are people making more than $12,000 a year rich? Can they afford some of the outrageous drug costs? Of course they cannot. The reason they did that is because that is all the State of Massachusetts believed they could afford at the time.

Do what you can with the money you have. The Federal Government is not unlimited in its resources. We have to be fiscally responsible to the next generation.

Yesterday the amendment that the Senator from Massachusetts supported was outlandish. It would bankrupt this country and bankrupt Medicare. I believe it was irresponsible in the long run to the next generation. This bill we present today is responsible, but it provides the coverage seniors really need. When you combine it with the help the States are giving, those low-income seniors, those sad stories we have heard, those people are truly going to be helped.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. KENNEDY. Madam President, first of all, I ask my good friend from Nevada to get current with regard to the Massachusetts plan. I will try and get current with regard to his if he gets current with regard to ours.

Massachusetts residences not on Medicaid, 65 or older, are eligible.

Every one is eligible. The annual out-of-pocket spending for deductible and copay is limited to $2,000 or 10 percent, whichever is less for individuals.

It is a good deal different from what the Senator described.

I am not here to offer this as an amendment. Some States do a little better than other States. Massachusetts is clearly a good deal better than what we are being offered with the amendment of Senator HAGEL and Senator ENSIGN. Senator HAGEL has pointed out the real problem is the issue of cost. Now we have cut to the bone. There are a lot of costly programs. Medicare is costly. Yet this country made the decision that for our elderly, who was going to try to offset the cost for frail elderly men and women who worked hard all during their lives? Would it be the individuals who will have an average income of $13,000, and two-thirds below $25,000, or are we going to recognize that as a nation we are going to provide help and assistance?

We made the judgment and decision that we would do that as a country. We did the same on Social Security. Many believe we ought to do it on prescription drugs. My good friends do not believe so.

What are we asking? There was a comment that some of the elderly are asking for something for nothing. Who are these people? They are parents, people who took care of everyone in this room. Asking for nothing? These are the people who fought in the wars. They are the frail elderly, asking for nothing, who have sacrificed for this country, sacrificed for their children, sacrifice, sacrifice, sacrifice. And they are accused in the Senate of trying to get away with something for nothing.

Are you asking them to give up going to the movies once in a while? Or taking their grandchildren out to dinner once in a while? How much can you squeeze from someone with a $9,000 income? How much can you squeeze them?

Defend the market system. Defend the market system. Defend the market system. Prescription drug companies are violating the market system by jiggling the patent system so that there cannot be competition.

Why aren't we hearing something about the market system over there on the underlying amendment? No, we don't hear anything about that. We just hear something about the frail elderly trying to get something for nothing.

What about States being able to use the power of all their people to try to get a better drug price? That is the market system. We don't hear anything about that. No, no, we don't hear about that. We just hear about these frail elderly, all these greedy elderly senior citizens who are trying to rip off the system. Come on. That is the heart of the Republican program. You just heard it out here.

That is what this decision is about. It is priorities, whether you want to have a massive tax cut that is going to go to the wealthy, or do we as a country and society put the value of our senior citizens ahead of that. It is a value issue. And I believe it is a moral issue as well, as long as we can do something about it and help these senior citizens. That is what the issue is about. We just heard it. We just heard it.

Somehow, we are against the market system when we are trying to stop the kind of violations of patents to let competition get in? We are in violation of the market system when we are trying to let States get better deals for their fellow citizens? We are against the market system?

Senator, that is just wrong. I do not know how much more we can do in terms of our senior citizens; how much more we can squeeze them; how much more, when they are paying out that 15 percent, 18 percent, 20 percent of their income every single year, watching their total life savings go right on down. How much more can we squeeze them so we can give tax breaks for the wealthiest individuals, who have had the greatest profitability over the period of recent years? How much more can we squeeze these men and women who have built the country, suffered, and done such an extraordinary job?

This country has been built by our parents and our grandparents. If it is a great country, and it is, it is because of them. They are the ones who are frail. They are the ones who need the help and assistance. And I reject the fact that we are trying to speak of them as individuals who are trying to rip off the system and get something for nothing. That is not what this debate is about, and it should not be.

I yield 10 minutes to the Senator from New York.

Mr. SCHUMER. I came after the Senator from North Dakota so, if it is OK, I will take my 10 minutes after him.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I joined my colleague earlier on the third floor of the Capitol at a press conference to talk about the generic bill. That bill is very important and one about which I have held a hearing.

In terms of prescription drugs, we need to do two things that are important. We need to have a prescription drug benefit, and we need to do something that puts some downward pressure on prescription drug prices. We must find a way to put a prescription drug plan in the Medicare Program, one that works, works for all beneficiaries, and provides them with the ability to access the medicine they need when they need it.

I said earlier that there is nothing lifesaving about drugs if you cannot afford them. There are no miracles in miracle drugs if you can't afford them.

I just heard my colleague talk about those people who helped build this country. Tom Brokaw's book described some of them who went to war in the Second World War as ''the greatest generation.''

I had a fellow come to a meeting a while back, who is a member of the greatest generation. He served in the Air Corps in the Second World War. He was in his late seventies and he needed new teeth and didn't have any money for them.

I arranged for a dentist and I also helped him get some teeth. Here is a fellow who fought in the Second World War, who ends up with nothing, who needs a new set of teeth and has to come nearly begging people to help him get his new teeth.

Senator KENNEDY is right. We have a lot of people in this country who have needs. They reach their declining income years, their retirement years, and they discover the things they need such as new teeth or prescription drugs, cost a fortune.

Senior citizens are 12 percent of America's population and they consume one-third of all prescription drugs. Is it because they want to be sick? Is it because they like to take prescription drugs? I think not.

You meet them at town meetings and various locations around the State, and they come up to you and say: You know, Mr. Senator, I am 80 years old and I have diabetes. I have heart trouble. I have to take seven different prescription medicines. Mr. Senator, I can't afford it. I don't have the money. I wish I didn't have to take the drugs, but I need them and can't afford them.

A doctor in Dickensin, ND, told me one day about a cancer patient who had breast cancer, a senior citizen. After the surgical removal of her breast he told her about the drugs she was going to have to take to try to minimize the chance of recurrence of her cancer.

He said she looked at me and said: Doctor, what will these prescription drugs cost? And when he told her what they would cost, she said: Doctor, I couldn't possibly afford those prescription drugs. I don't have the money. I'll just have to take my chances. I'll just have to take my chances.

We can do better than that. We need to put a prescription drug plan in the Medicare Program, one that works—one that really works. At the same time as we do that, it has to be complemented by a couple of other provisions we—the generic bill offered by my colleague, Senator SCHUMER and the Canadian reimportation bill, both of which will put downward pressure on prices. If we do not do that, we just break the bank. I am not interested in breaking the bank, hooking a hose up to the tank and just sucking all the money out. We can't do that. I am interested in making sure we have a prescription drug benefit plan that works. No, not some sliver of a plan, that says to a poor person: By the way, spend a lot of your money first, and then we'll give you a little help.

No. 1, let's have a plan that works; No. 2, a plan that includes in it downward pressure on prices, not just for

senior citizens but for all Americans. That is why this is so important.

I imagine some members of this body could come up with a dozen reasons not to do this. In fact, the negative side of the debate is always the easiest. I think it was Mark Twain who was asked if he would engage in a debate of some sort. He said: Of course, as long as I can take the negative side.

When it was pointed out to him that he hadn't been told the subject of the debate, he said: It doesn't matter. The negative side takes no preparation.

It is easy to take the negative side. It is much more difficult to come up with a positive approach. That is what we are trying to do here. Yesterday, 52 Senators in a very important vote, for the first time in over 40 years, said we would like to put a prescription drug benefit in the Medicare Program. Fifty-two Senators said that. It takes 60 votes.

The question now is, Will the minority of the Senate block it in the next couple of days? The answer is, I hope not. I hope all Members of the Senate understand this is not just some run-of-the-mill issue. This is not just some issue of convenience. This is life or death issue for those who have reached their declining income years. Those who in many cases are living in or near poverty and who are told by their doctor they must take five or seven different kinds of prescription drugs. And they do not have the ability to pay for those drugs. That is why this issue is important.

Let's do this and let's do it right. Let's not take slivers of policy here or there and pretend that we have constructed something meaningful. Let's put a real plan together, one that adds up, one that makes sense, and one that provides real benefits.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. SCHUMER. I thank my colleague. He spoke so poignantly of the doctor in Dickinsin and the senior citizen who had breast cancer and could not afford the drugs.

Again, I appreciate the approach that my colleagues from Nebraska and Nevada have taken. It is an honest approach, but it is a minimalist approach. It is based on the theory that we do not have enough money to do more, even though 52 people in the Senate voted to do significantly more.

I would just ask my colleague this: Isn't this part of the same budget where they take $600 billion over 10 years to reduce the estate tax? Isn't it true that estate tax reduction does not go to people whose income is $17,000 or $35,000 or $350,000, but to people whose estates will eventually rise, I believe it is, to $2 million or $4 million? That is a minimum amount. This is not an abstract discussion.

I ask my colleague if I am right. Do you want to give somebody who is a millionaire, who has an estate worth over $2 million, a total exemption from any tax and deprive patients in North Dakota their desperately needed medicine? It isn't either/or. In my judgment, it is not that we can't afford it. If tomorrow the President and his budget friends on the other side in their budget say we are not going to make the estate tax reduction permanent, there would be more than enough money to afford the plan that we voted for on the floor yesterday.

Am I wrong? Is this a question of choices? This is not simply an abstract discussion about how much we should spend. My colleagues on the other side of the aisle have said they would like to do more, but we can't afford it. But, all of a sudden, when it comes to estates of $10 million, $20 million, $100 million, or $1 billion, that should come ahead of the senior citizen about whom the doctor in Dickensin talked. And we have thousands—tens of thousands—of the same people in New York—poor senior citizens who are struggling and don't have the money for their desperately needed medicine.

Mr. DORGAN. Mr. President, the Senator from New York is certainly correct.

One-hundred years from now we will all be gone. Everyone in this room will be dead. And historians will look at the choices we made in terms of our values and systems and evaluate what we thought was important.

My colleague Senator FEINGOLD offered an amendment on the estate tax which said, let us have an estate tax and we will exempt everybody under $100 million. The only estates that will bear a tax will be those above $100 million.

That lost, because some here believe that the estate tax must be abolished for everybody—even those at the top who are billionaires. Good for them and their success. But I happen to think that when they die part of their wealth should be used to help deal with some of our other needs.

The point is, as the Senator from New York pointed out, we are forced to make choices. What is important? What are the right choices for our country? People are living longer and living better. It is not unusual to find 80-year-olds. My uncle is 81 years old. He runs 400s and 800s in the Senior Olympics. He has 43 gold medals. It is not unusual to see people living longer in our country but not all of them are as healthy as my uncle. Most of the elderly need prescription drugs to deal with medical conditions. And many of them don't have enough income or assets to pay for them. They simply don't have the means to purchase them.

If we were writing a Medicare bill today, there is no question that we would have a prescription drug benefit in that bill. It would be a benefit that works—one that is thoughtful, reasonable, and helps all senior citizens. That is what we ought to pass. It is not acceptable, in my judgment, just to grab slivers here and slivers there, and say, oh, by the way, we can't afford much because we decided we wanted to have other things such as an estate tax repeal for the largest estates in the country.

These are choices that we have to make. I believe we must make the right choices today and tomorrow as we go about our business on behalf of senior citizens and all Americans.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. HAGEL. Mr. President, I yield to my friend and colleague from New Mexico 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, fellow Senators, first, I thank the Senator from Nebraska for yielding time. Second, I compliment him and the senior Senator from Nevada for offering this proposal which gives us a chance to do something very significant for our senior citizens.

Let me go back and trace a little bit of modern history so everybody will know what caused the predicament we are in and why we can't do much more than this for our seniors at this point in time.

First, the last budget resolution that passed was a budget resolution when we were in control by one or two votes. That budget resolution provided for a reform of Medicare and a prescription drug benefit that did not cost more than $300 billion over 10 years. We didn't use that because the history has it that the last President got in a very big argument with a bipartisan committee and told them to vote with him and out the window went a bipartisan reform bill. It went, because the last President—President Clinton—wanted Medicare reform, but only his, even though he had appointed a commission.

There is one. Chalk that one up. Who is responsible for that one? President Clinton, without a doubt.

Now comes the time when we are supposed to pass a budget resolution. The last time I heard it was the responsibility of the majority party to report one out and to take one up on the floor. They didn't have to report it out but to take it up and do the business of the Senate by passing a budget resolution.

What happened in the middle of all this was that a Senator left our side of the aisle and joined their side of the aisle for votes and they became responsible for passing a budget resolution.

For the first time, since we had a Budget Act 27 years, we are operating without a budget. We are operating without a new budget that suggests how much money the Senate wants to spend in the next 10 years on prescription drugs. There is no current budget that says that. If they would have put one in place, guess what. It would only require 51 votes. That is not our fault. That is their fault. They did not do it. Consequently, 60 votes are required to get the seniors of America a Medicare bill.

I am not sure that some people think that is good and others think that is

bad. I am just stating the facts. That is the reason 60 votes are required. The seniors ought to know that.

That is not the Republicans. That is not our President. That is the Democratic leadership here which said, That budget is getting too tough, let us just not do one.

I did 27 in my life; 12 of them as the chairman when we had to produce them. We always produced them. Believe you me, they were tough. Some took 2 weeks. Some took 80 votes. One time we did 37 votes in a row with Howard Baker sitting right at that table, all of which we had to win and all of which we had to fight for, because under the old rules you could offer almost anything.

Here we come at the end of the year and the leadership on that side of the aisle promises a Medicare bill for the seniors of America, but they cannot pass one because they did not do a budget. Therefore, 60 votes are required—not 51.

I repeat: That is not the Republicans' fault. It is not the President's fault.

I can vividly recall some leading Democrats when they were asked, Why aren't we doing a budget resolution? Oh, well, one of them said, It is too hard this year. Maybe we don't need one. Now here is where we are as a result of that.

I compliment the two Senators. They have a third Senator. I am very lucky. I joined them yesterday. I am a cosponsor of theirs.

Frankly, I went with the tripartisan bill yesterday. If that had passed, we would be finished. But it didn't pass because it only got 48 votes, or 47. It needs 60. That is a pretty good chunk of votes, however, to get you started.

What do I say? I look at all of this and I ask, Is there anybody who has an amendment that does not require 60 votes and still will do something good for the seniors? This amendment will not exceed $300 billion. I do not know the number exactly, but I am going to guess with you that it is between $285 billion, $290 billion, or $295 billion. So this amendment clearly only needs 51 votes. If you want to give the seniors something, 51 votes is all that is necessary.

From what I can tell, it is a very good approach to get the seniors something this year. It will take care of the seniors who are in the biggest trouble with expensive drug bills. For those who have expensive drug bills now, it will take care of them and all of the people who are poor under anyone's definition of poverty. It will take care of them.

What is wrong with that? About $295 billion, or $280 billion—just what the budget resolution said you ought to spend on the whole program just 18 months ago.

I thank the Senators for what I think is a rather ingenious bill. I don't think it carries with it any acrimony. If the Democrats don't want any bill at all, they can look right there to the seniors and say this is what they are going to get.

The Hagel amendment does not have a 60-vote requirement in terms of cost because it comes in under the cost. However, it was not produced by the Finance Committee because they were not permitted to produce any bill. So it probably needs 60 votes.

Clearly, if we have the sufficient votes to adopt this, there would be some way of getting it back to committee, and getting it out of there.

I urge a vote for it because there is a real chance we will send the right signal, and set before us a way to get a bill this year.

I thank the Senator, again, for yielding. And I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to address further this proposal before us. I was glad my colleague from New Mexico finally mentioned that it would take 60 votes. So we are dealing with 60 votes, and 60 votes, and 60 votes, because of the variety of the very technical, detailed, and sometimes tortuous reasons for the Senate rules, which have a wisdom to them way beyond my ken. But I would like to make a couple points.

First, I would add to the RECORD, if it has not been added already, the CBO estimate of the Hagel-Ensign amendment. I think last night we were talking about $160 billion. Now CBO—and the Senator from New Mexico has stated it correctly—estimates this bill costs $294.7 billion. However, if the Schumer-McCain bill were added to it, it would reduce the cost by $13 billion to $284 billion. That is within the budget resolution. My friend from New Mexico is exactly correct.

It is also $130 billion more than we were talking about last night. With that money, the close to $300 billion, I just want to remind my colleagues of who it covers and who it does not cover.

Again, a senior citizen, poor, with an income of $9,000, would have to first pay $1,500 before they would get a nickel from this bill. I will tell you, $9,000 does not buy much. It buys even less in New York than it would buy in Nebraska or in Nevada, but it does not buy much anywhere—and to ask that person to have to pay $1,500 first?

This amendment does nothing to take away the conundrum that poor senior citizens have: prescription medicines, wonderful drugs that they desperately need, or an adequate meal on the table, a plane ticket to see the grandchildren maybe at Christmastime, whom they have not seen in 3 or 4 years. This amendment does nothing to relieve that burden.

A senior citizen making $18,000 now—that is not a poor senior citizen, but it sure as heck isn't a rich one—would have to pay $3,500 before they got a nickel from this action. That is enormous. That is a huge burden to them. Yet we are spending $300 billion for that.

I remember when we dealt with prescription drugs a couple years ago, and there was a general conclusion that if you are going to do this, do it right, really help people, do not bite around the edges. And this proposal does just that.

And then let's go to a senior citizen who is doing OK. They have a $35,000 income. They are almost never going to get benefits. They have an income of $35,000, and they would have to first spend $5,500 on their prescription drugs before they would get a nickel from the amendment.

I think I know what is going on here. There is a demand that we do something. Everyone wants to say: I am for a bill. I would bet my bottom dollar, if you could get 280 million Americans in an auditorium, if you could get the—how many senior citizens do we have in America? About 40 million, 45 million. If you could get every senior citizen in an auditorium and ask, for $300 billion, should we adopt an amendment that helps so few, they would say: No. Go back. Do it better.

And then again my colleagues will say—I will make the point again because it just gnaws at me—we don't have the money to do more.

The Senator from New Mexico, my good friend, knows the budget, studies it. He is almost a priest of the budget, God bless him. He says: We don't have a budget.

I will tell you why we don't have a budget. It is because of the insistence of the other side and the White House that we continue the tax cuts for the very wealthy, that we can't afford in the President's budget proposal—I repeat, $670 billion to eliminate the estate tax. Many of my same colleagues who are supporting this proposal were on the floor talking about how that is important.

Go ask those 40 million senior citizens. Go ask the 280 million Americans do they want a better benefit than the very measly benefits in this amendment or do they want the estate tax repealed. When? Right now, if your estate is in the millions of dollars, it is taxed, but if it is below that, you are not taxed.

Ask them if they want us to say, let's say anyone with $20 million should pay an estate tax, and we would get a lot more benefits in the bill.

So whom are we kidding? We know there is enough money to do this, if we want to. But if we are going to play trickle down, if we are going to say, first, let's reduce the estate tax, and then work in the confines of that, and provide some dribbles to the senior citizens, to the lady in Dickinson who has breast cancer and cannot afford the drugs. Whom are we kidding?

Where would 90 percent of the American people be? If the cupboard were

bare, if we had no dollars for anything else, if we needed it all for our war effort or for Social Security, maybe we would have to come up with this amendment.

But when we hear the priorities of the other side are tax cuts, particularly the estate tax cut, first, and then whatever is left over we will sort of craft into a plan that makes someone whose income is $9,000 pay $1,500 first before they get a nickel from the benefit, whom are we fooling?

So the whole argument that I have heard from my good friends from Nebraska, Nevada, and others is: We don't have enough money to do more. This is fiscally responsible. Is it fiscally responsible, then, to call for $600 billion in cutting the estate tax? And that, of course, is eliminated—I need to get the right number. I know we go up to $2 million or $4 million per estate, but I think right now it is somewhere between $1 million and $2 million where estates are eliminated.

Whom are we kidding? We all have priorities. We have a Senate because not everyone has the same priorities. We have a House of Representatives for the same reason. And our priorities are different. But admit the truth. It is not that we do not have the money to do better, it is that people have other priorities.

I will tell you where the priorities of the senior Senator from New York are. They are for a plan that got 52 votes on the floor of the Senate yesterday above cutting the estate tax for the very wealthy. How many of you will join us in saying that? I doubt very many. And if not, then the underpinning of the argument that we can't do better is false.

We can do better. We can pass a better bill, by rearranging our priorities, and telling that senior citizen who makes $9,000, you don't have to wait until you spend $1,500 before you get a benefit; telling the senior citizen who makes $18,000, you don't have to wait until you spend $3,500 before you get a benefit.

If this were an honest debate about priorities, then there would not be a need for the minimalist plan that my colleagues have offered.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield my colleague from Nevada 1 minute.

Mr. ENSIGN. Mr. President, I want to clear up a couple points the Senator from New York talked about. He said no benefit for somebody until they pay out-of-pocket expenses. He forgets the drug discount card which will save seniors somewhere from 20 up to 40 percent because of volume buying. So they immediately benefit, anybody who signs up for the plan.

Our plan fits really well—I talked about this before—with those State plans that are already out there. The State of Nevada has a great plan using tobacco money. Other plans in States work very well with our plan. Those seniors who need help the most will get the help under this plan.

Let's be honest about this plan. It is fiscally responsible to the next generation but also truly does get the help to the seniors who need it today.

Mr. HAGEL. Mr. President, I yield 6 minutes to the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleagues from Nebraska and Nevada for bringing to the floor what is a valuable piece of legislation to address the issue of prescription drugs.

As chairman of the Republican Policy Committee, I had not engaged in this debate on the floor from the time it began several days ago largely because, while it is a phenomenally important debate, it was a play, a drama to be acted out and ultimately to close with no result. That does not mean that those who come to the floor, such as my colleagues from Nebraska and Nevada, to put forth a substantive piece of legislation aren't well meaning. It does not mean that at all. It means that the majority leader of the Senate set up this play with the purpose of never accomplishing anything in the end but to allow those who wish to make a political statement and to shape themselves for the November election to have that opportunity.

That in itself is a tragedy in the formation of public policy. It allows those to come to the floor and talk about all kinds of other things except that which is very meaningful; that is, a good prescription drug program for the seniors of America.

If this bill had been formed by the Finance Committee in a bipartisan manner, it would be on the floor. It would receive a majority vote, it would be in conference with the House to work out our differences, and the seniors of America would have a drug prescription policy. That is not a statement of myth; that is a statement of fact. It would not be a drama; it would not be a play with all the characters hustling down to the curtain call; it would in fact be an action of positive legislative effort to produce a bill.

The Senator from New York has talked about tax cuts. My goodness, what he has suggested is die and take everybody's money and put it into a social welfare program. No, sir, not on my watch. You bet the Senator from New York and the Senator from Idaho are different people, coming from different States. I don't believe in that.

Mr. SCHUMER. Will my colleague yield?

Mr. CRAIG. I will not yield at this time. I do believe that people who work hard all their life and build an estate ought to have a right to take a little of it, because it is after tax money that builds an estate, and they want to pass it on to their children. That is right. That is reasonable. We call it the American dream. I don't think we ought to step back in and swoop it up for the Government to spend, all in the name of a social welfare state. That is wrong. It is fundamentally un-American.

Debate it, if you wish. The reality is, use that as an excuse. That is law today. It is only an excuse not to have to face the reality of why we are here and not getting anything done.

The reality of why we are not getting anything done is that the majority leader would not allow the chairman of the Finance Committee to do what he should have done at a very important time in American history, at a time when pharmaceutical drugs have become a part of the American health care culture. The seniors of America who are living longer and healthier today are finding that a very important part of their lifestyle. Medicare doesn't address that issue.

The Senator from New York and the Senator from North Dakota said it right: If we were writing a Medicare Program today, prescription drugs would be in it. It would be in it, and I would vote for it, and they would.

At the same time, we are not going to cram in a proposal that costs hundreds of billions of dollars, to the tune of $700 or $800 billion, doesn't take effect until 2004, terminates in 2008 or 2009, and call that something we want to take home and say: Look what we have done for you.

Why not something that our country can afford, that our seniors will find a reliable approach toward acquiring the necessary pharmaceutical drugs to deal with their health care in a way that will not break them? That is not going to be allowed to happen in the Senate in the 107th Congress.

There are 40 million-plus seniors. Put them all in one room and ask them this question: Do you want a pharmaceutical drug program now? The answer is: Yes, we do. We want it now, not 2004. No, we don't want it to terminate in 2008. Most importantly, we don't want it to bankrupt our country. Yes, we would pay a small deductible and, yes, we would even pay a small premium because a small deductible of maybe $100 a month to pay for a $400 drug bill is a right and reasonable thing to ask.

The Senator from Nevada put it well when he said there are State programs—that wasn't counted—that can offset the truly needy. And there are many. Those who have little to no money—and there are many seniors in this position—could have full access. It wouldn't have to come through the Medicare Program or, I should say, the Medicaid Program that oftentimes is administered by the State.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CRAIG. I ask for 1 more minute.

Mr. HAGEL. I yield 1 minute to the Senator from Idaho.

Mr. CRAIG. I thank the Senators from Nebraska and Nevada for bringing a realistic amendment to the floor, one that could take effect now, one with

which we could go home to New York or Idaho and say to our seniors: We have cut your drug bills well over a half or two-thirds. You have it now, not wishes 4 years from now, not wishes 3 years from now, a program that won't bankrupt the country and won't demand that those who have saved and earned all their life have to give up their estates so that you can live well.

That is not what this country ought to be about. More importantly, that is not what this debate ought to be about. It ought to be about a substantive, affordable program that truly allows America to say to its seniors: We have changed the dynamics of health care from a 30-year-old model to a modern model that allows pharmaceutical drugs to be affordable, to be fitted into the program.

I strongly support the effort of my colleagues from Nebraska and Nevada.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will speak for a minute. I want to make some comments to my friend from Idaho. He keeps talking about, we are going to take everybody's money. No, we are not going to take everybody's money in the estate tax. We are not even taking most people's money. We are not even taking 5 percent, the wealthiest 5 percent of people's money. We are taking only from people who have estates certainly over $1 million and probably somewhat more than that.

That is how this debate often gets off track. We are not saying to the plumber who built up a little business: We are taking your money. We are not saying to the steelworker who has a pension: We are taking your money.

Yes, we are saying to the very wealthiest: God bless America, you have made a great living, you have lived well. Are you willing, in this social compact we call America, to tell the senior citizen who can't afford to pay for these drugs, and it is life or death, that you have to keep it all—and not even keep it all, pass it all on to your heirs?

That is the issue. It is not everybody. It is not half of the people. It is not a quarter of the people. It is not 5 percent of the people. What is driving the estate tax is the very wealthiest people in America who somehow have won over the other side. But they never talk about them. They say ''everybody's'' money. Not so. Then the other side of what my good friend said—he said take everybody's money and put it in a social welfare program. The definition of what my friend said, the Hagel-Ensign amendment, is a social welfare program. Social Security is a social welfare program. Medicare is a social welfare program.

Yes, in America, we believe in those things. Back in the 1870s, we did not. The life expectancy was 40 years; one out of every four children died in childbirth; people lived in slums, tenements; farmers went bankrupt every year. Yes, America has changed, and it is not a country that should be run exclusively for the wealthiest people and you give the crumbs to the others. We learned that in the 1890s, in 1912, and in the 1930s. We learned it in the 1960s, and we have learned it since then.

So I reiterate my point. It is a choice of priorities. In this context, yes, you are right, as long as there is a budget deadlock—primarily because we would not go along with reducing taxes even further on the very wealthiest Americans while doing nothing for the middle class—we don't have enough to do a prescription drug bill in the right way. We are left debating whether we should do one that the vast majority of Americans would agree doesn't solve their problems.

So, yes, I regret that the debate has come to this. I don't think it is where the American people are. I think they are much more on the side of the bill that got 52 votes yesterday. But because of the rules of the Senate and, more importantly, because we don't have enough Senators who have the priorities I am enunciating, we will not get that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield to the Senator from Pennsylvania 1 minute.

Mr. SANTORUM. Mr. President, I thank Senators HAGEL, ENSIGN, and GRAMM. They have put forth a plan that focuses in on exactly the problem most Americans understand, which is that we have people who have a high cost of drugs but simply don't have the ability to afford them. They have to make difficult decisions about how to provide for themselves as well as provide the medicine they need.

Secondly, they provide a focused attempt to help the lower income people, who may not have that high of a drug cost, but even with a small amount of the prescription drugs they need, they don't have the resources to pay for them. This is a commonsense approach. This is a focused approach. This is a good first step. It gets us very far down the playing field.

To me, it is a little bit frustrating to see a proposal that makes so much common sense, is within the budget framework that has been worked out, and we find opposition to going way down the field in a proper direction. Some will say no because it doesn't give us everything we want, it doesn't get us the whole loaf, and somehow that is not good enough.

This is a very solid proposal. I think it is something that should have very strong bipartisan support.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield 3 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank our dear colleague from Nebraska for his leadership on this issue. I think the best proposal that has been presented to the Senate is the Hagel-Ensign proposal. It is the only proposal that is rational. It is the only proposal that is organized in such a way as to give most of the help to the people who need it the most. It is the only proposal that is affordable.

My strong suggestion and my recommendation to my colleagues is that we adopt this proposal. This proposal basically says if you have a moderate income and you have high drug bills, you are going to receive assistance from Medicare. A simple guideline is that if you have a family income, in retirement, of less than $23,000 a year, if this bill goes into effect, you will spend only slightly more than $100 a month on pharmaceuticals before you receive assistance. The amount that people would have to spend before they hit the critical level where they would receive assistance rises with people's incomes, so that at $46,000, you would have to spend $3,500, or about $300 a month; at $69,000 of income, that amount would be $5,500.

So what does this do? It does two things. Immediately, it provides assistance by setting up a program whereby we can use the ability to negotiate prices. Medicare does not buy competitively. It is estimated that by allowing people to choose among selections that will be available through Medicare and by utilizing a purchasing cooperative, whereby they will enter into an agreement with private companies to purchase their pharmaceuticals and find the cheapest price for them, every senior will save between 25 percent and 40 percent on their drug bills. That benefit will start immediately—not in 2004 as the Democrat alternative does, not in 2005 as the tripartisan alternative does, but upon adoption. The other parts of this bill will go into effect as of January 1, 2004.

So this bill helps everybody now, brings efficiency in purchasing health care for every senior, and provides assistance to people who need it the most. I urge my colleagues to vote for this amendment.

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

Mr. SCHUMER. Mr. President, I yield myself 2 minutes.

Mr. President, I have heard about the generosity of this plan. Well, I think we all can admit it is the least generous plan on the floor. Any plan that tells someone making $9,000 that they have to spend $1,500 first, I don't think most people would call generous. I would say any plan that says to someone making $18,000 that you have to spend $3,500 before you get a nickel is not a generous plan. Again, if that were the best we could do, fine. But it is not. We here on this floor are not in sync with the American people's priorities.

Go back to the issue I have been bringing up this last hour, the estate

tax—$670 billion to repeal the estate tax only for estates of over $1 million or even more. Most of that money comes from estates of $50 million. Are you going to tell that person, you get your tax cut, or are you going to tell our senior citizens, you don't have to spend $1,500 of your $9,000 income before you get a bit of benefit?

My colleagues, again, this is a question of choices. We can say that we will keep the status quo, that we will continue the tax cuts on the wealthiest of Americans. All things being equal, I would like to get rid of the estate tax. But if telling the senior citizens of New York State that they don't get a benefit before we take the taxes of people making $50 million down a few more notches, you know what side I am on. I ask my colleagues which side they are on.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield 6 minutes to the Senator from Nevada.

Mr. ENSIGN. Mr. President, we are coming to the close of this debate. A couple of things need to be cleared up. There has been talk about the estate tax versus prescription drugs. Medicare is a program that is paid for out of the payroll tax. It has always been that way. Hopefully, it will always be that way. Payroll taxes pay for Medicare.

Our amendment, we believe, is responsible. The difference between our bill is that the seniors pay their first dollar out of pocket for coverage. The other bills, the seniors pay a portion of the first dollar out of pocket. The reason for that is we thought it was important to keep the senior in the accountability loop. I mentioned that earlier in the debate, but it needs to be reemphasized.

When seniors or any other patients in health care do not have to think about the financial aspects of their care, whether it is in purchasing drugs or in getting their health care, if they are only paying a small portion, they do not even think about that. But if they are paying the first dollars—and in our plan, if they have up to $17,700 in income, they will pay out of pocket $1,500—they are going to think about prescription drugs. This is about $120 a month.

Seniors with whom I have talked literally would jump at knowing they would be limited to about $120 a month for prescription drugs. They just do not want to be bankrupt. They do not want to think they are going to lose their house. Many are concerned about long-term care, and that is their biggest fear—that they have to lose everything to get long-term care.

It is the same with prescription drugs. They do not want to lose everything before they are so poor that they have to go on Medicaid to get prescription drugs from the Government. Our amendment is basically limiting out-of-pocket expenses.

The other misconception of our amendment is that you do not get any help if you have, say, $9,000 in income. You absolutely do. That is what our prescription drug discount card is all about. Every senior on a voluntary basis—if they want to sign up—because of group buying, this cooperative-type buying, similar to what HMOs do today, can save about 40 percent. Most HMOs say you save 40 percent versus retail on their prescription drugs. Every senior who signs up for our plan would be able to save up to 40 percent on their prescription drugs, regardless of income. Regardless of where in any of these ranges they fit, they save up to 40 percent.

When we combine that prescription drug discount card with limiting out-of-pocket expenses, along with what many States have done—if States want to be more generous, they can be. My State of Nevada is more generous. The State of Massachusetts, as we have learned today, is more generous. The State of West Virginia has a drug discount card that is working very well. Other States have put these programs into effect. Our plan fits with most of the plans that are already working across the country. So for those seniors who truly need the help, they will get it.

I wish to close my time today with a couple real-life examples. Doris is a patient. She is 75 years old. We changed her name, obviously, for privacy reasons. She has an income of about $17,000 a year. This is a real-life case. She is being treated for diabetes, hypertension, and high cholesterol. She is on Lipitor, Gloucophage, insulin, Coumadin, and Monopril. These are common medications. These are $300 in monthly expenses, about $3,600 per year.

To compare the various plans on a real-life case, under the Graham-Miller-Kennedy plan, the leading Democrat proposal, she would have out-of-pocket expenses of $2,200. Under the tripartisan plan, it is about $2,100. Under our plan, it is $1,700. Ours is more generous to the person who is really sick, who has a low to moderate income.

Example No. 2: Betty is 68 years old with $15,500 per year in income. She has breast cancer, not uncommon for a lot of senior women. She takes morphine, Paxil, dexamethazone, Acifex, trimethobenzamide, and Nolvadex. These cost almost $670—almost $8,000 per year.

Let's compare what happens under the various plans. Under the leading Democrat proposal, she would pay $3,180 out of pocket. Under the tripartisan plan, she would pay about $2,600, and under the Hagel-Ensign plan, she would pay $2,150.

Once again, in a real-life example, the person who is sick who needs the most would do better under our plan, and that is why we are asking people to support this plan.

Mr. GRASSLEY. Mr. President, last night and earlier today the Senate debated the Hagel-Ensign prescription drug amendment. During the course of that debate, some Members on the other side made a comparison of the cost of the Graham-Kennedy prescription drug amendment and the revenue loss of a proposal to repeal the ''sunset'' of death tax relief provisions in last year's bipartisan tax relief bill.

The essence of the argument was that the budget effects of these proposals are roughly equal. As we heard many times, the Senate was supposedly making a choice between these two proposals. Senator SCHUMER claimed, during the argument, two different figures for repeal of the sunset. At one point, the Senator from New York claimed the revenue loss was $670 billion. At another point, a few moments later, the Senator from New York claimed the revenue loss was $600 billion.

The Congressional Budget Office scored the Graham amendment as a spending increase of $594 billion. This figure covers the 8-year proposal's 10-year budget effect. Now, if you accepted Senator SCHUMER'S figures as is, then there might be some basis for his argument. That is, if, in fact, the Joint Committee on Taxation scored the proposed permanent death tax relief proposal at $600 billion or $670 billion, then Senator SCHUMER's argument might be worth debate.

The facts are different. I don't know where Senator SCHUMER got his figure. Maybe it was a liberal think tank, such as the Center on Budget Policy and Priorities. Maybe it was a partisan liberal communications shop, like the Senate Democratic Policy Committee. I don't know where he got the number.

I do know this: The number doesn't apply. For purposes of the Congressional Budget Act, tax provisions are to be scored by the nonpartisan Joint Committee on Taxation.

According to Joint tax, the permanent death tax relief proposal scores at $43.6 billion if you use the fiscal year 2002 budget resolution. That is the one the Senate is currently operating under. If you use the fiscal year 2003 budget resolution, the one under which the House is operating, permanent death tax relief scores at $99.4 billion.

So the real number is, at most, $99.4 billion, for permanent death tax relief. That is one-sixth the cost of the Graham amendment.

It is interesting to note that during last month's debate on the death tax that the Senator from New York supported Senator DORGAN'S amendment. That amendment was scored by Joint Tax as losing $111 billion over 10 years. Basically, Senator SCHUMER voted for death tax relief of $11 billion more than the proposal he criticized last night and today.

So if we are talking about choices between resources for prescription drugs and death tax relief, let's review the record. Let the record reflect that Senator SCHUMER and 39 other members of the Democratic Caucus voted for $11 billion more in death tax relief than

their colleagues. For reference, that's rollcall vote No. 149. It is set out in page S5412 of the CONGRESSIONAL RECORD of June 12, 2002.

The Senator from New York's use of erroneous data on the bipartisan tax relief package is unfortunately part of a coordinated strategy on the part of the Democratic leadership. It is also data unchallenged by many in the media. In fact, many in the media parrot another of the Democratic Leadership's equally erroneous statistics. We keep hearing and reading that the bipartisan tax relief package yielded 40 percent of its benefits to the top 1 percent of taxpayers. This statistic, like Senator SCHUMER's other tax relief statistics, is dramatically at odds with Joint Tax, the official scorekeeper for Congressional tax relief.

According to Joint Tax, the bipartisan tax relief package makes the Tax Code more progressive.

I make this statement for one basic reason. The issues of prescription drugs and death tax relief are important matters. Certainly every one of us hears about both of these issues when we are back home. They are issues that our constituents expect us to resolve. Folks back home expect us to be intellectually honest in debating these important matters. When we debate these issues, we ought to use intellectually honest figures.

I ask unanimous consent to print the Joint Committee on Taxation's revenue estimate of the proposed estate tax relief and the distribution analysis in the RECORD.

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

ESTIMATED REVENUE EFFECTS OF H.R. 2143, "PERMANENT DEATH TAX REPEAL ACT OF 2001", FISCAL YEARS 2002–2012

[Billions of Dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2002–07	2002–12
Make Permanent the Repeal of the Estate Tax and the Generation-Skipping Transfer Tax.	dda & gma 12/31/10	.....	−1.2	−1.5	−1.8	−2.3	−2.5	−2.7	−2.8	−4.0	−24.9	−55.8	−9.2	−99.4

Note: Details may not add to totals due to rounding. Legend for "Effective" column: dda=decedents dying after; gma=gifts made after.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836

(Prepared by the staff of the Joint Committee on Taxation, May 26, 2001)

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective tax rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
CALENDAR YEAR 2001								
Less than $10,000	−$75	−1.0	$7	0.4	$7	0.4	8.7	8.6
10,000 to 20,000	−2,989	−11.5	26	1.5	23	1.4	7.5	6.7
20,000 to 30,000	−5,790	−9.4	62	3.5	56	3.3	13.4	12.2
30,000 to 40,000	−5,674	−6.4	89	5.1	83	4.9	16.1	15.1
40,000 to 50,000	−5,490	−5.4	102	5.9	97	5.7	17.4	16.4
50,000 to 75,000	−11,546	−4.5	256	14.6	244	14.4	19.1	18.3
75,000 to 100,000	−8,488	−3.5	244	13.9	235	13.9	21.7	21.0
100,000 to 200,000	−10,488	−2.6	408	23.3	397	23.5	24.2	23.6
200,000 and over	−6,997	−1.3	555	31.7	548	32.4	27.8	27.4
Total, All Taxpayers	−57,536	−3.3	1,748	100.0	1,690	100.0	21.4	20.7
CALENDAR YEAR 2002								
Less than $10,000	−75	−1.0	7	0.4	7	0.4	9.2	9.1
10,000 to 20,000	−3,596	−13.3	27	1.5	23	1.3	7.6	6.6
20,000 to 30,000	−7,124	−11.3	63	3.4	56	3.2	13.5	12.0
30,000 to 40,000	−6,849	−7.6	91	4.9	84	4.8	16.1	14.8
40,000 to 50,000	−6,198	−5.8	106	5.8	100	5.7	17.5	16.5
50,000 to 75,000	−13,251	−5.0	267	14.5	254	14.4	19.0	18.0
75,000 to 100,000	−10,227	−4.0	255	13.9	245	13.9	21.7	20.8
100,000 to 200,000	−14,416	−3.3	442	24.1	427	24.3	24.2	23.4
200,000 and over	−16,557	−2.9	578	31.5	562	32.0	27.9	27.1
Total, All Taxpayers	−78,294	−4.3	1,836	100.0	1,758	100.0	21.5	20.6
CALENDAR YEAR 2003								
Less than $10,000	−83	−1.1	8	0.4	8	0.4	9.7	9.6
10,000 to 20,000	−3,516	−12.9	27	1.4	24	1.3	7.6	6.6
20,000 to 30,000	−7,135	−11.0	65	3.3	58	3.1	13.6	12.1
30,000 to 40,000	−6,946	−7.5	93	4.8	86	4.6	16.0	14.8
40,000 to 50,000	−6,155	−5.7	108	5.6	101	5.5	17.4	16.4
50,000 to 75,000	−13,554	−4.9	279	14.4	266	14.3	18.9	18.0
75,000 to 100,000	−10,553	−4.0	265	13.7	255	13.8	21.7	20.8
100,000 to 200,000	−15,487	−3.2	479	24.8	464	25.1	24.2	23.4
200,000 and over	−17,453	−2.9	609	31.5	591	31.9	28.1	27.3
Total, All Taxpayers	−80,882	−4.2	1,933	100.0	1,852	100.0	21.5	20.6
CALENDAR YEAR 2004								
Less than $10,000	−69	−0.9	8	0.4	8	0.4	10.0	9.9
10,000 to 20,000	−3,429	−12.6	27	1.3	24	1.2	7.6	6.6
20,000 to 30,000	−7,121	−10.8	66	3.3	59	3.1	13.6	12.2
30,000 to 40,000	−6,964	−7.3	96	4.7	89	4.6	16.0	14.8
40,000 to 50,000	−6,320	−5.8	110	5.4	103	5.3	17.4	16.4
50,000 to 75,000	−15,049	−5.2	288	14.2	273	14.2	18.7	17.8
75,000 to 100,000	−12,913	−4.6	279	13.8	266	13.8	21.5	20.5
100,000 to 200,000	−22,095	−4.3	512	25.2	490	25.3	24.1	23.0
200,000 and over	−21.671	−3.4	642	31.6	620	32.1	28.2	27.3
Total, All Taxpayers	−95,630	−4.7	2,028	100.0	1,932	100.0	21.6	20.6
CALENDAR YEAR 2005								
Less than $10,000	−76	−1.0	8	0.4	8	0.4	10.1	10.0
10,000 to 20,000	−3,867	−14.0	28	1.3	24	1.2	7.6	6.5
20,000 to 30,000	−7,937	−11.6	68	3.2	60	3.0	13.7	12.1
30,000 to 40,000	−7,720	−7.9	98	4.6	90	4.4	16.0	14.7
40,000 to 50,000	−6,945	−6.2	112	5.3	105	5.2	17.2	16.2
50,000 to 75,000	−16,630	−5.5	303	14.2	286	14.1	18.7	17.6
75,000 to 100,000	−14,709	−5.1	287	13.5	273	13.5	21.4	20.3
100,000 to 200,000	−24,654	−4.5	547	25.7	522	25.8	24.0	22.9

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]—Continued

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective tax rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
200,000 and over	−21,182	−3.1	678	31.9	657	32.4	28.3	27.4
Total, All Taxpayers	−103,720	−4.9	2,129	100.0	2,025	100.0	21.6	20.6
CALENDAR YEAR 2006								
Less than $10,000	−76	−0.9	8	0.4	8	0.4	10.4	10.3
10,000 to 20,000	−3,789	−13.6	28	1.2	24	1.1	7.6	6.6
20,000 to 30,000	−7,853	−11.4	69	3.1	61	2.9	13.7	12.2
30,000 to 40,000	−7,839	−7.9	99	4.4	91	4.4	16.0	14.7
40,000 to 50,000	−7,570	−6.5	116	5.2	108	5.2	17.2	16.0
50,000 to 75,000	−18,755	−6.0	313	14.0	294	14.0	18.6	17.5
75,000 to 100,000	−17,212	−5.8	297	13.3	280	13.3	21.3	20.0
100,000 to 200,000	−30,208	−5.1	588	26.3	558	26.6	23.9	22.7
200,000 and over	−44,177	−6.1	719	32.1	675	32.1	28.3	26.6
Total, All Taxpayers	−137,476	−6.1	2,238	100.0	2,100	100.0	21.7	20.3

[1] Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phaseout, the standard deduction, 15% bracket and EIC for married couples, deductible IRAs, and the AMT.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

[3] Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

[4] the effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

UPDATED DISTRIBUTION OF CERTAIN FEDERAL TAX LIABILITIES BY INCOME CLASS FOR CALENDAR YEAR 2001

(Prepared by the staff of the Joint Committee on Taxation, August 2, 2001)

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, shows the update distribution for calendar year 2001 of certain Federal tax liabilities of individuals by income class. This distribution has been updated to reflect changes enacted in the Economic Growth and Tax Reconciliation Relief Act of 2001 (Public Law 107–16).

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income (''AGI'') plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad.

The first table shows the distribution of the Federal individual income tax, including the outlay portion of the earned income credit (''EIC'') and the child credit. The table shows, by income category, (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, (3) the aggregate individual income taxes paid and the percent of all individual income taxes paid by the category, and (4) the number of returns with zero or negative tax liability and the percent of all returns with zero or negative tax liability represented by the category.

The second table show the distribution of the combined Federal individual income tax (including the outlay portion of the EIC and the child credit), Federal excise taxes, and Federal employment taxes (those taxes required under the Federal Insurance Contributions Act and Federal Unemployment Tax Act). The table shows (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, and (3) the aggregate Federal taxes paid and the percent of all Federal taxes paid by the category.

DISTRIBUTION OF FEDERAL INDIVIDUAL INCOME TAX LIABILITY[1]—CALENDAR YEAR 2001

[Updated August 2, 2001]

Income category[2]	No. of returns[3]		Income		Individual income tax		No. of returns with zero or negative liability	
	Millions	Percent	Billions	Percent	Billions	Percent	Millions	Percent
Less than $10,000	19.9	14.0	$83	1.0	−6	−0.7	18.9	37.4
10,000 to 20,000	23.3	16.4	347	4.2	−13	−1.3	16.4	32.4
20,000 to 30,000	18.5	13.0	460	5.6	3	0.4	8.5	16.9
30,000 to 40,000	15.8	11.1	549	6.7	22	2.4	3.8	7.5
40,000 to 50,000	13.1	9.2	589	7.2	33	3.5	1.8	3.7
50,000 to 75,000	21.9	15.4	1,337	16.4	100	10.6	1.0	2.0
75,000 to 100,000	12.9	9.1	1,121	13.7	110	11.6	0.1	0.2
100,000 to 200,000	12.8	9.0	1,683	20.6	226	23.9	(4)	0.1
200,000 and over	3.8	2.7	1,999	24.5	471	49.7	(4)	(5)
Total, All Taxpayers	142.0	100.0	8,168	100.0	948	100.0	50.6	100.0
Highest 10%	14.2	10.0	3,431	42.0	670	70.7	(4)	0.1
Highest 5%	7.1	5.0	2,556	31.3	559	59.0	(4)	(5)
Highest 1%	1.4	1.0	1,402	17.2	357	37.6	(4)	(5)

[1] Includes the outlay portion of the EIC and child credit.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

(3) Includes filing and nonfiling units. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded.

(4) Less than 50,000.

(5) Less than 0.005%.

Source: Joint Committee on Taxation.
Detail may not add to total due to rounding.

DISTRIBUTION OF FEDERAL TAX LIABILITY[1]—CALENDAR YEAR 2001

[Updated August 2, 2001]

Income category[2]	No. of returns[3]		Income		Federal tax liability	
	Millions	Percent	Billions	Percent	Billions	Percent
Less than $10,000	19.9	14.0	$83	1.0	$7	0.4
10,000 to 20,000	23.3	16.4	347	4.2	23	1.4
20,000 to 30,000	18.5	13.0	460	5.6	56	3.3
30,000 to 40,000	15.8	11.1	549	6.7	83	4.9
40,000 to 50,000	13.1	9.2	589	7.2	97	5.7
50,000 to 75,000	21.9	15.4	1,337	16.4	244	14.4
75,000 to 100,000	12.9	9.1	1,121	13.7	235	13.9
100,000 to 200,000	12.8	9.0	1,683	20.6	397	23.5

DISTRIBUTION OF FEDERAL TAX LIABILITY [1]—CALENDAR YEAR 2001—Continued

[Updated August 2, 2001]

Income category [2]	No. of returns [3]		Income		Federal tax liability	
	Millions	Percent	Billions	Percent	Billions	Percent
200,000 and over	3.8	2.7	1,999	24.5	547	32.4
Total, All Taxpayers	142.0	100.0	8,168	100.0	1,689	100.0
Highest 10%	14.2	10.0	3,431	42.0	890	52.7
Highest 5%	7.1	5.0	2,556	31.3	686	40.6
Highest 2%	1.4	1.0	1,402	17.2	391	23.2

[1] Federal taxes are equal to individual income tax (including the outlay portion of the EIC and child credit), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

[3] Includes filing and nonfiling units. Individuals who are dependents of other taxpayers with negative income are excluded.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

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

Mr. HAGEL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Five minutes forty-five seconds.

Mr. HAGEL. I yield myself such time as I consume.

Mr. President, this debate in which our body has engaged over the last 5 days I believe has been helpful for our country because it has focused on a critical need, a need to come forward with a Medicare prescription drug plan, a plan that is focused on those who need it most and that is responsible.

None of the programs we have debated over the last few days have been perfect. The proposal that Senator ENSIGN and I and others have brought to the floor is not perfect. We were not given much of an opportunity to work through these issues where we normally have opportunities to work through issues, and that is in committee. So we debated something so critical to our seniors, to the future of our country on the floor of the Senate. When we do it that way, we have to rush. We slam things together. There are imperfections in that process, but nonetheless, again, I believe this has been an important, enlightened, educational, and helpful process.

We now have one option before us. We voted down two options yesterday. We have the Hagel-Ensign plan that we will vote on within the hour. What this plan does is give our seniors a very significant benefit. I ask: Would we really deny our seniors not only the benefit—the real, practical, relevant, tangible benefit—of this program, but also something maybe more important, and that is the peace of mind that they will not be ruined by catastrophic drug costs? Let's again review quickly what this amendment does.

This is immediate. It can be up and running on January 1, 2004. It is permanent, unlike the Democratic plan that we voted down yesterday.

It offers discount drug card programs with 20- to 40-percent discounts for all who enroll.

It is affordable. Seniors pay only a $25 annual fee and then a small copayment after they have reached their out-of-pocket expense level.

It provides catastrophic coverage. We use the market system. We do not invent more government, bigger government, impersonal government. We propose a real-world solution to a real-world problem with this proposal.

This bill gives our seniors the protection they need and for those who need it most. I encourage my colleagues to look seriously and closely at what we are proposing today.

It is accountable, it is responsible, it fits within the $300 billion budget resolution that we passed last year for a prescription drug plan over the next 10 years. We are giving the seniors an opportunity for peace of mind and real benefits that will enhance their quality of life and enhance the ability for not just this senior generation but future generations to pay for their health care costs, at the same time taking into consideration the generations ahead who will have to pay for this program.

Someone will pay for this program. We need a program, but let us use some common sense. Let us find a center of gravity, an equilibrium, and do it right. We believe our amendment accomplishes that.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Massachusetts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM THE RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 4775. The clerk will report the conference report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of July 19, 2002, at page 4935.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, how much time is allotted for debate on the conference report?

The PRESIDING OFFICER. Thirty minutes equally divided between the chairman and the ranking member.

Mr. BYRD. I thank the Chair. Madam President, Senator STEVENS is on his way. He is the ranking member on the Appropriations Committee and he will share the time with me. I have been informed he has indicated I should proceed immediately with my statement, and he will shortly reach the floor and speak on the conference report himself.

The Senate will then vote on the conference report for the fiscal year 2002 supplemental appropriations bill. This conference agreement provides critical investments in national defense, both at home and abroad. Let me say that again. This conference report provides critical investments in national defense, both at home and abroad. So let the world know that the Appropriations Committee has acted expeditiously, working with the House Appropriations Committee in conference, and that Senators on both sides of the aisle have worked hard with their staffs to provide for these investments in the Nation's defense, both at home and abroad.

This agreement is the result of true bipartisan, bicameral cooperation, and I urge its adoption.

Last fall, America was in shock. The World Trade Center and the Pentagon had been attacked. Thousands of Americans had lost their lives to the brutal terrorist attacks. Our eyes were opened to the new reality of war in the 21st century, a different kind of war. No

longer were we immune from attack on the homeland that we all love. No longer did the great oceans shield our country from the violence that had scarred so many nations elsewhere in the world. The danger was real. The enemy was among us, not just in some foreign land on another continent. We could not ignore the massive gaps in our security any longer.

In response, within days of the attacks, Congress adopted a $40 billion emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home. I say that again. Within 3 days, Congress adopted a $40 billion—not million but $40 billion—emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home.

That funding helped our U.S. troops to bring the downfall of the Taliban, the shakeup of the terrorist al-Quida network, and the start of worldwide commitment to end terrorism—wherever it could end, if we could end it at home, that initial funding paid for more than 2,200 agents and inspectors to guard our long, porous borders with Canada and Mexico. The foreign student visa program, which has been identified as one of the Immigration and Naturalization Service's chief loopholes, is undergoing a tighter tracking system because of funding that Congress this body and the House included in that initial funding package.

Across the country, local police officers, firefighters, and emergency medical teams are receiving new training and equipment to handle threats that, before last fall, they hardly considered possible. Who would have imagined that their community fire department and paramedics would need training on how to respond to a chemical or biological or radiological attack? Bake sales and bingo nights could not possibly fund terrorist response efforts. Congress had a responsibility to respond, and Congress did respond. We responded within 3 days. We knew what our duty was. We knew where our duty lay—and we acted.

Federal law enforcement also benefited from the work of this Congress, from the work of this committee, this Appropriations Committee. Because of the funding contained in the initial supplemental bill, the FBI started to hire hundreds of new agents. Because the Appropriations Committees in both Houses appropriated the moneys, more than 300 additional protective personnel were hired to protect the Nation's nuclear weapons complex. Air marshals are coming on board to protect our planes. Madam President, 750 food inspectors were hired to ensure the safety of the meals served at America's kitchen table because—and they were able to do this—because this Appropriations Committees, which I chair, and which Senator TED STEVENS of Alaska has chaired before me, and on which he now sits as the ranking member, because this committee acted in a bipartisan way. No split; no aisle between the two parties on the Appropriations Committee. We joined together. We did not have to be told. We did not have to be ordered. We knew where our duty lay. So 750 food inspectors were hired.

These are just a few, just a few of the examples of the good work that came about because of the investments, the infusion of funds by Congress, starting with the Appropriations Committees, because of the commitment of the men and the women of this body to identify the gaps in homeland security and invest funds—your money, the taxpayers' money—to close those gaps.

In the months that followed that first supplemental, many congressional committees held hearings on homeland security. In the Senate Appropriations Committee, Senators STEVENS of Alaska and I convened 5 days of hearings. They were long. They were arduous. They were time consuming. They were tiring. Members heard from mayors. Members heard from Governors. Members heard from county officials. We received testimony from police officers, from firefighters, from local health officials, from terrorism experts, from experts on port security, from experts on water security and nuclear security. Seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency, FEMA, appeared before this Appropriations Committee. The House Appropriations Committee did not hold a hearing. The Senate Appropriations Committee held a hearing. And Senator STEVENS and I joined in selecting everyone. Everything was done in a bipartisan way. So seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency appeared before the Committee, as well as two former colleagues—Senator Sam Nunn of Georgia and Senator Warren Rudman of New Hampshire.

What we learned was eye opening. What we learned was that despite all of the efforts of Congress and of the men and women at the local level, the task before us was massive. As a result of the incredible backlog of homeland security needs, one truth was clearly evident; namely, this country was not prepared. We are vulnerable today.

Earlier this summer, it seemed the administration issued another terrorist warning to the American people almost daily. Those warnings only underscored the fact that the new enemy lives in our midst—here among us. So, as Christopher Wren would say, if you seek my monument, look about you. If you seek the enemy, look about you. He is somewhere. He is invisible. But he is sure in our midst.

So the enemy, the new enemy, lives among us, moving through our society with ease, crafting life-threatening weapons with everyday aspects of life: Tanker trucks, postal mail, airplanes, waste radiological material from hospitals and energy plants. Any of these, and more, we are told can be fashioned into weapons to cause death, destruction, fear, panic.

The Appropriations Committee of the Senate heard testimony that indicated America's adversaries could cripple the U.S. economy without great difficulty. That was one of the main objectives of the enemy. They could cripple the economy, but at a far greater cost than any corporate scandal even. The enemy can disrupt the economy without great difficulty and at far greater cost than even any corporate scandal, and the roots of a corporate scandal are running deep, as we know.

Yet what we do not know is the most vexing: Where will the terrorists attempt to strike next? And when? We may not know the answer to those questions until it is too late and the attacks are upon us.

What this Congress has a responsibility to do is to invest in protections that work to prevent attacks before they can occur, and we must help to train our emergency responders to be prepared should another attack strike within our border. We need to do more. We need to do more now. That is why the conference report before the Senate is so critical.

This afternoon, the Senate Governmental Affairs Committee is writing legislation to create a new Department of Homeland Security. But that Department, no matter how well crafted, will take time before it can be an effective tool against terrorism. I am thankful for the fact that the ranking member of the Senate Appropriations Committee, Senator STEVENS, sits on that committee.

We all know where the holes are in our protections—borders, ports, at our nuclear facilities, and throughout our transportation system. If we know where those holes are, then surely the terrorists know, don't you think?

We should not wait—we must not wait—for the next fiscal year or the next calendar year to plug the holes in our homeland security. Congress and the President should make the critical investments that will protect Americans now—today!—without delay.

This conference report makes those investments. It directs $6.7 billion for homeland security initiatives, including $3.85 billion for the Transportation Security Administration. Another $14.4 billion will allow the men and women in the Armed Services to continue to track down those responsible for the terrorist attacks almost 11 months ago. The conference report also fulfills Congress's promise to the people of New York to provide $20 billion to help them recover from the attacks on the World Trade Center with a final installment in this bill of $5.5 billion. The remainder of the funding will go toward other national emergencies including fire suppression in the West, flood recovery efforts in the Midwest and South, and veterans' health care. The shortfall in the Pell Grant program is resolved, and Amtrak, the nation's passenger rail service, will be

able to stave off bankruptcy, because there are $2.5 billion included in this conference report for Amtrak.

This is a balanced bill, a responsible bill, and one that I hope the President will sign. I hope he will sign all of this emergency funding into law quickly.

Why do I say ''all of this emergency funding''? I say that because Congress gives the President a choice. We have stated that it is the Congress's position that these investments are an emergency and they should be made. If the President signs this bill, he will have 30 days to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he does not make the emergency designation, the funds cannot be spent.

How much time do I have?

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

Mr. BYRD. Madam President, I ask unanimous consent that I may proceed for an additional time not to exceed 7 minutes and that my partner, my fellow Senator, my colleague, may be also allowed that time, and that the time for the vote be changed accordingly.

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

Mr. BYRD. Within the $5.1 billion there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security, and airport security, search and rescue teams, food safety, drinking water safety.

Let me back up just a moment. The self-imposed interruption might cause listeners to lose sight of just where we were.

So we say the President has 30 days in which to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he doesn't make the emergency designation, the funds cannot be spent—I am talking about the President. If he doesn't make the designation, the funds can't be spent. Within the $5.1 billion—that is what we are talking about—included as emergencies, within that $5.1 billion which the President must agree to if it is to be spent, there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security and airport security, search and rescue teams, food safety, drinking water safety.

If the President does not make the emergency designation, he will block nearly $2.5 billion in homeland security investments. I hope that the President will join with Congress in this bipartisan approach to homeland security, declare these items to be an emergency, and make these important investments immediately to protect the American people from terrorist attacks.

In addition, if the President decides not to make the emergency designation, he also will block funding for the National Guard and Reserves; election reform; combating AIDS, tuberculosis; and malaria overseas; flood prevention and mitigation; embassy security; aid to Israel and disaster assistance to Palestinians; wildfire suppression; emergency highway repairs; and veterans health care.

These critical appropriations for the American people have been delayed for too long, sometimes as a result of Administration intervention, and the time has come for its speedy passage and the President's signature.

Once again I want to thank my Ranking Member, Senator STEVENS, the former chairman of this committee, for his dedication, his assistance, and, indeed for his leadership on this bill. If it were not for Senator STEVENS, his work, this bill would not be here today. Without his hard work and constant efforts, we would not be here to present this conference report to the Senate today. I also thank our House colleagues, Chairman BILL YOUNG of Florida and Ranking Member DAVID OBEY of Wisconsin, for their cooperation and commitment to the well-being of the American people.

Between the supplemental bill last fall and this conference report, Congress has approved $15 billion for homeland security initiatives, $5.3 billion above the President's request. This legislation is a real victory for the American people. It speeds protections that are so desperately needed at our borders and our ports. It provides vital training for police, firefighters, and emergency medical personnel. Through this legislation, Congress is making investments today that will help to protect Americans from terrorist attack for many years to come.

I urge my colleagues to support this conference agreement, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am pleased to join the Chairman of our Committee, Senator BYRD, in recommending this conference report to the Senate. The consideration of this conference report today in the Senate, following its overwhelming adoption in the other body yesterday, reflects the true consensus that surrounds this agreement.

While not an easy process, the compromises reached on this bill meet the most vital Defense and Homeland Security needs facing our Nation.

In addition, this agreement fulfills the commitment of the Congress and the President to meet the needs of the victims of the attacks of September 11 of last year.

While passed in very different forms by both Houses of Congress, this conference report adheres to the priorities submitted to Congress by the President. With the funds added by Congress in the form of contingent emergency appropriations, the President will have even greater flexibility to address challenges not fully foreseen when his request was transmitted on March 21, if he approves the emergency designation.

Additional funds for the Department of Defense will address the mobilization of National Guard and Reserve personnel from around the Nation.

Funds for port security grants and the Coast Guard will protect our Nation's maritime commerce and trade.

Funds added in this bill for aids response in Africa will jump start the international effort to address that scourge.

The House and Senate Both included additional funds to assist Israel, and those prepared to join Israel in seeking a permanent and lasting peace.

The conference report makes an initial down payment to respond to dramatic flood and fire emergencies in several states, particularly in the West.

While many activities were reduced during the conference to meet the funding limit sought by the President, and the OMB, one component not touched was support for New York.

Governor Pataki and Mayor Bloomberg deserve our continued support for their leadership and determination to recover from the attacks last year. This bill keeps our word to New York and to those officials.

Despite suggestions from OMB, the conferees rejected any cut to the funding for reconstruction and renovation of the Pentagon.

Restoration of the sector of the Pentagon damaged on September 11 is on track for re-opening on the one year anniversary of the attack—really our Nation's center of military strategy. We will keep faith with those who died defending our Nation at the Pentagon as well as those in New York.

I want to commend our Chairman, Senator BYRD, and the House Chairman, BILL YOUNG, for their exceptional work to bring this conference report before the Congress.

Along with House Ranking Member OBEY, I have worked to ensure completion of this bill prior to the August recess and in time to make a difference during the remainder of this fiscal year.

If the President makes the certification that he has the authority to do within 30 days after passage of this bill, the moneys will be available to use for the contingent emergencies we have specified. The sooner that happens, the better it will be for our Nation.

But above all, I urge all Members of the Senate to approve this conference report and send it to the President as quickly as possible so it will be possible to get this money to our people—particularly to the Department of Defense and all our people in uniform—by the beginning of August.

Mr. KYL. Madam President, I rise today in support of an improved supplemental appropriations bill for fiscal year 2002. I am glad to see that the Senate conferees have reassessed their position and agreed to reduce the amount they had originally sought by more than $2.5 billion. The conference report now totals $28.9 billion, which is

only $1.8 billion over the President's request, and an amount he said he would support.

Additionally, the vast majority of the funds will now be appropriated as a contingent emergency, giving the President discretion on whether they should be spent, instead of forcing him to designate ''all or none'' of the non-defense funding items as emergency items.

The bill has been improved in other areas as well, signifying a marked realignment of priorities by the conferees. For example, I am pleased that this report increases defense funding by $330.9 million. Although this is an increase over the President's request, the conferees used updated Department of Defense execution data to make many of their adjustments. They also made rescissions to un-executable programs and took back unobligated funds resulting from revised economic assumptions in order to offset much-needed increases to the defense budget. I note that the increase is primarily focused on operations and maintenance, $723.6 million, an area most critical to the Department.

Specifically, I support increases to the Navy flying hour account by $140 million, the ship operations account by $225 million, the Air Force airlift account by $626 million, and the Army's logistical support account by $1.03 billion. These increases will go a long way in helping our troops around the globe. In the procurement line, much of the funding is related to purchasing advanced C3I equipment. And in the Research and Development line, the conferees provided additional funds to upgrade existing C3I programs, increases that will be crucial to the successful execution of our war on terror.

Additionally, this bill includes the American Service Members' Protection Act language that was proposed by both Chambers, and it maintains the Senate's provision giving our military the flexibility to conduct operations in coordination with international efforts to pursue foreign nationals accused of war crimes, crimes against humanity, and genocide.

On the domestic front, I would also note that the conference report includes $100 million in disaster assistance for fires and floods, funds that are critically important to the State of Arizona. I strongly believe that this amount of funding is still woefully inadequate to address the dire circumstances surrounding the fires in the Western States; however, I am confident that there will be other legislative opportunities in which to adequately fund these firefighting efforts.

While this bill has improved in many ways, I still believe it spends too much money on low-priority programs that are not truly emergencies, for example, provisions dealing with another Amtrak bailout and numerous non-emergency pork projects such as coral reef mapping. That said, especially given the need to support our war on terrorism, the merits of this legislation now outweigh its deficiencies. Although not perfect, the bill deserves the support of my colleagues. President Bush has asked that we get this bill to his desk before August recess. I am glad that we will be able to do so.

Mr. WELLSTONE. Madam President, I support this important supplemental appropriations bill, which primarily contains crucial spending that is immediately needed for homeland security purposes. I commend the managers for their efforts on it. I know that the chairman of the Appropriations Committee and the ranking member worked hard and diligently, as did others, to complete this bill. And I know that they are not responsible for its delay. I am glad the bill will now go to the President, and this funding can go quickly to meet urgent national security needs.

I would like briefly to highlight three topics touched upon by the bill, items which are not the largest matters dealt with here, but which I consider to be very important. The issues are workforce development, disaster assistance and veterans' health care.

First, as chair of the Employment, Safety and Training Subcommittee, with jurisdiction over workforce development issues, I want to address the elimination of emergency funding for job retraining services through the Workforce Investment Act, WIA, which occurred late during the conference on this bill.

What has happened in connection with WIA programs is, I fear, just the tip of the budgetary iceberg. Although confronted with severe economic distress and uncertainty and record unemployment, we are being told by the administration that we lack the resources for key job-training services. Having spent our surplus on tax cuts for the well to do, we do not have the resources to fund services that are essential in helping displaced workers train for and find new employment and in helping businesses find the skilled workers they need to stay competitive in our global economy.

Yet investments in a skilled workforce are precisely what we need right now. As former Treasury Secretary Rubin recently said, to rebuild confidence in our financial markets and economic system, ''[b]udgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy . . . ''

The irony is that additional support for WIA was in the President's initial fiscal year 2002 supplemental request. He proposed $750 million for WIA, including the restoration of last year's $110 million rescission of dislocated worker formula funds. The Senate and the House followed, both including WIA funding at lower levels.

But then, in the quest to reach the overall target the President and OMB Director Mitch Daniels set for the emergency supplemental, all of the WIA funding was cut.

Frankly, this seems to contradict what the President is saying elsewhere. Just yesterday the President was quoted as saying that his biggest concern about Sunday's record bankruptcy filing by WorldCom was the effect on employees who lose their jobs. Well, the best thing we can do for people who have lost their jobs through Enron, WorldCom, and the other bankruptcies is to help them retrain and retool to find new jobs.

And earlier this year when he submitted his supplemental request, we were told: ''The President's supplemental budget request provides the urgent assistance that is needed now to ensure that affected workers get the assistance and jobs they need.''

This decision is a harsh one for the tens of thousands of workers who will not get the training they need to retool their careers. Already they are finding that the courses they want to take are closed or they are put on endless waiting lists. Workers dislocated because of the impact of trade and certified to receive Trade Adjustment Assistance find they are unable to get training because States have run out of resources and the National Emergency Grant funds that typically see the States through such shortages are themselves depleted

It is harsh as well for businesses that cannot find the skilled workers to stay competitive and take advantage of market opportunities to help fuel our economic recovery.

And it also threatens to undercut WIA's key reforms. States and localities, along with their private sector partners are now at a critical stage in the process of building the new systems called for in WIA. Without adequate funding and without stable funding this essential systems building will be undermined.

Moreover, all of this is happening while the new WIA infrastructure is being stretched to its limits with demands for services triggered by the catastrophic after effects of September 11, the highest unemployment in years, and the continuing dislocations from the largest bankruptcies ever seen in this Nation's history.

This is why I am concerned. This is why I felt I had to speak out. I understand that we are not going to change the fiscal year 2002 emergency supplemental to address this problem. But I do want my colleagues to understand the full impact of the decisions that have been made in this bill concerning some very important priorities. I urge my colleagues to reflect on these implications so that when we take up the fiscal year 2003 Labor/HHS Appropriations bill, we will be especially careful not to further undermine the WIA programs that are so critical to American workers, businesses, and our economic recovery.

The second topic I would like to address is disaster assistance. As a result of severe flooding in Northwestern Minnesota 17 counties are under a federally declared disaster: Becker,

Beltrami, Clay, Clearwater, Itasca, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, McLeod, Norman, Pennington, Polk, Red Lake, Roseau, and Wright.

In the 17 counties that are currently included in the federally declared disaster, 1,785 homes were damaged. In Roseau alone over 1,180 homes were damaged.

I am pleased that the supplemental includes some much needed funding for FEMA. The disaster assistance included here represents a down payment in terms of the assistance that the families, businesses and communities in my State will need as they move forward and begin the process of rebuilding their homes, offices and cities.

The Minnesota Recovers Task Force estimates that there will be over $85 million in disaster funding needs as a result of this spring/summer flooding. Of this amount, nearly $50 million will be eligible for FEMA funding. That will leave approximately $35 million in recovery needs that will not be covered by existing FEMA and SBA assistance programs.

I am working closely with my colleagues, Senator DAYTON and Representative PETERSON, to secure additional flood recovery funding in the fiscal year 2003 HUD Appropriations bill. This funding will be used for the distinct purpose of meeting unmet needs for buyouts, relocation, rehabilitation, long-term recovery, and mitigation to aid the business community of Roseau, MN and the surrounding counties that have received a Federal disaster declaration. The funding will be used in coordination with other Federal, State, and local assistance.

While these FEMA programs are very important, unfortunately they are not geared to handle agricultural losses. In Northwest Minnesota an extraordinary rich agriculture region now lies devastated. According to the Farm Service Agency, this season's crop losses are estimated at more than $267 million across 14 counties. Overall, total agricultural flood losses, including damage to agricultural small businesses, are estimated at more than $370 million.

That is why Senator DAYTON and I introduced legislation to provide disaster assistance to agricultural producers last week. This legislation is a starting point to providing the needed assistance to farmers, many of whom, without this emergency assistance will be driven off their farms.

I believe the supplemental appropriations bill would have been the appropriate place to add emergency agricultural disaster assistance to cover weather-related losses. However, the Bush administration continues to oppose any emergency appropriation to provide disaster assistance to farmers. The administration's position is that in order to provide any relief to family farmers who lost their crop due to a flood or drought, money must be taken away from commodity program supports that assist other farmers. In other words, they are saying that when the President signed the farm bill, that was going to be all farmers could expect until 2008, no matter what.

That doesn't work for Northwestern Minnesota. The farm bill was not a disaster-assistance bill. It is a 6-year policy to help stabilize farm income and rural economies. Its funding is absolutely needed for that purpose.

We tried to include separate, emergency weather-disaster assistance in the farm bill, but the administration opposed that, too. They also opposed it when we tried to include it in the supplemental appropriations bill. When Congress decides to help areas affected by hurricanes or fires, we don't tell people to pull their emergency assistance out of somebody else's highway fund. Sometimes the Federal Government just needs to be there for people. The President needs to change his position and help us get some assistance to Northwestern Minnesota.

Finally, the supplemental appropriation bill includes $417 million for veterans health care that I requested which was included in the Senate's bill. These funds are critically important to the veterans in Minnesota. The need for services has simply overwhelmed the VA and in some ways there is more of a crisis now in VA health care now than there was even during the era of flat-lined budgets.

The $417 million for Veterans health care in this bill will mean that Minnesota's Network, VISN 23, will get an additional $19 million to reduce waiting times, keep clinics open, open new clinics, and improve the quality of healthcare. This is very badly needed.

I want to thank Senators MIKULSKI and BOND on the VA–HUD Subcommittee especially, because I know they fought to keep this money in conference, as well as Senators BYRD and STEVENS. We did right by veterans in this supplemental.

Mr. DODD. Madam President, I rise to comment briefly about Title II, the American Service Members Protection Act of H.R. 4775 in order to clarify the Senate''s intent in insisting on the retention of Sec. 2015 of that Title which was added during Senate consideration of the supplemental.

I read with interest the remarks of Chairman HENRY HYDE during House consideration of the conference report on July 23. I am certainly not in any position to dispute his comments concerning the first 14 sections of Title II relating to the American Service Members Protection Act, ASPA, as I was not a party to those discussions. I leave it to the administration and to others involved in those discussions to make that judgment.

I do, however, know something about the intent behind Sec. 2015 as I was the author of the amendment that was ultimately included in the Senate passed version of ASPA. A review of the Senate debate makes clear that I was offering the second degree amendment because of my concern with respect to the complexity of the House passed language which was offered as a first degree amendment by Senator WARNER. As written, I was concerned that it unduly restricted the ability of the President to cooperate with international efforts to bring to foreign nationals accused of genocide, war crimes or crimes against humanity to justice if he chose to do so.

Sec. 2015 makes clear that regardless of the other sections contained in Title II, the President is not prohibited from rendering assistance to any such international efforts, including to the International Criminal Court. An amendment to exclude cooperation with the ICC was proposed during the conference on H.R. 4775, but was rejected by the conferees. Therefore, as the language now stands the President has the discretion to cooperate with any and all international efforts to bring such criminals to justice.

I thank my colleagues for the opportunity to clarify an important addition to the House version of ASPA.

FUNDING OF HUMANITARIAN GOODS THROUGH COMMERCIAL SHIPPING

Mr. STEVENS. Madam President, the supplemental provides language supporting the shipment of humanitarian supplies to poor nations. My friend from Alabama was the initiator of this language and I was hoping he could provide the Senate with more information on this topic.

Mr. SESSIONS. Madam President, I would be glad to discuss the national Forum Foundation's TRANSFORM Program. With the help of my good friend from Alaska, I offered an amendment to the supplemental that was accepted by the Senate. I understand that it was modified during conference—but will now permit organizations, such as the National Forum Foundation's TRANSFORM program, to receive the much needed authority to receive funds to pay for administrative expenses.

TRANSFORM began 3 years ago as a natural extrapolation of the Denton Program. The Denton Program allows U.S. Air Force Transport aircraft under the control of CINCTRANS to deliver overseas on a space available basis, humanitarian aid donated by 501(c)(3) charity organizations.

In analyzing the transportation of humanitarian aid, the National Forum Foundation has learned that commercial ships have 2000 times the space than our Air Force aircraft and with the export-import imbalance, are usually relatively empty departing our ports.

The TRANSFORM program brings the 501(c)(3) charitable organizations, which collect and wish to distribute these goods, to the commercial shipping lines willing to carry them space-available. The charity has to be indoctrinated to conform to the loading dates and times, port locations and the

specific loading manner required by the ship-line. TRANSFORM exercises special means to ensure no delays in ports or customs issues.

Finally, TRANSFORM's system has a leverage of 250–1 meaning that for every dollar of its budgetary expenses, TRANSFORM gets $250 to needy recipients.

Mr. STEVENS. Madam President, may I make an inquiry to my friend from Alabama? Is it correct that the TRANSFORM program recently gained global recognition of its activities at a transportation conference hosted by USAID? I understand that in speaking of its activities, the World Food Programme's representative praised the program and offered it the use of spare space on their ships. This spurred others to offer their vessels—such as American President Line, Maersk and CSX.

Mr. SESSIONS. My friend from Alaska is correct. And I must commend him for the work that he did with the help of the House foreign Operations Subcommittee on this issue. The conferees were able to ensure that organizations that are working for the benefit of developing communities on behalf of the United States government and charitable organizations receive the assistance they need to execute their much laudable goals. I am very grateful to him for this support.

Mr. STEVENS. I am optimistic that the larger this program becomes, the more humanitarian aid will be delivered to those in need around the world. Gain, I thank my friend for bringing this amendment and look forward to its future success.

(At the request of Mr. STEVENS, the following statement was ordered to be printed in the RECORD.)

• Mr. HELMS. Madam President, I commend Senators BYRD and STEVENS and the entire Appropriations Committee, as well as the leadership of Senators WARNER and MILLER for ensuring that American soldiers, sailors, aviators and marines will not be subject to the jurisdiction of the International Criminal Court (ICC). (I, unfortunately, could not be here to offer an amendment on June 6 as I was recovering from surgery to replace a valve in my heart.) With inclusion of the American Servicemembers Protection Act, ASPA, in the emergency supplemental appropriations bill we can all be proud that the Congress put these brave men and women at the top of our priority list.

During Senate action on the emergency supplemental appropriations bill, Senator WARNER offered a unanimous consent request to include section 2015 in ASPA as generous gesture in the face of concerns raised about the spirit of the legislation. I have been assured by Senator WARNER that he did not intend to limit in any way the applicability of the bill or the binding nature of its substance. The hortatory nature of section 2015 was plain at the time it was adopted, and confirmed by the fact that, during debate shortly before ASPA was overwhelmingly approved, no Senator uttered a word—not a single word—to suggest that section 2015 made any substantive change to ASPA whatsoever.

Section 2015 was not part of ASPA language negotiated with the Administration. It merely reiterates that ASPA applies only to the International Criminal Court. It does not apply to other international efforts to bring to justice foreign nationals accused of genocide, war crimes, or crimes against humanity.

Section 2015 must be read in line with ordinary canons of statutory construction. Our courts have long affirmed that in interpreting laws the specific controls the general unless otherwise provided. There are many very specific provisions in ASPA about what is permitted and what is forbidden regarding the International Criminal Court. Had the Senate wished to weaken ASPA's restrictions through section 2015—thereby weakening its protections for American servicemembers—it would have had to amend them, strike them, or not withstand them directly. However, this would have been completely inconsistent with the plain language of the legislation, and the intent of its supporters.

The full text of sections 2004, 2006, and 2011, along with other provisions of the American Servicemembers' Protection Act, was adopted by the Senate by a vote of 78–21 when I offered an amendment to the Defense Appropriations for fiscal year 2002 bill on December 7, 2001. When Senator WARNER offered these same provisions as an amendment to this supplemental appropriations bill, the Senate had essentially the same debate it had on December 7th of last year. No Senator suggested that section 2015, which was included by voice vote during the final minutes of debate, was intended to alter the legislation that passed the Senate previously. The final vote in favor of the ASPA amendment, 75–19, reflected complete uniformity with the December 7, 2001 legislation.•

Mr. MCCONNELL. Madam President, the conference agreement includes bill language recommending that $1 million should be provided by the Administration for programs and activities which support the development of independent media in Pakistan. This action was taken by the conferees in recognition of the important role independent media will play in improving democracy in Pakistan. I am aware of the excellent work that has been done by Internews in this area and urge that their experience be used in the development of this project.

I also want to note that the agreement includes report language encouraging the United States Agency for International Development and the Department of State to provide $1 million for programs and activities that provide professional training for journalists from the Middle East. My colleagues and the Administration should know that Internews and Western Kentucky University have jointly conducted similar training for journalists from Indonesia and Southeast Asia. This has been a very successful partnership, and I expect that funding provided in the supplemental bill will be used to expand these efforts to the Middle East, particularly Egypt.

Mr. HARKIN. Madam President, I come to the floor today deeply disappointed by the outcome of the final agreement on the supplemental appropriations bill, which deleted the Senate recommendation of $400,000,000 for dislocated worker assistance under the Workforce Investment Act.

I know that to break the impasse with OMB to get this supplemental enacted, with vitally important items for national defense and homeland security, the leadership of the House and Senate had to agree to reduce the overall size of this supplemental. Our leadership was hard-pressed by the administration to accept unpopular cuts. Sadly, the final agreement eliminated all supplemental funding for dislocated worker assistance.

Most disturbing was the elimination of the $110,000,000 component which had been requested by the administration, and included in both House and Senate versions of the supplemental, to restore last year's rescission of dislocated worker funding. This rescission was enacted when it appeared there was sufficient unspent carryover funding in a brandnew workforce system, and Congress needed to offset an emergency supplemental for Low-Income Home Energy Assistance. Since that time, spending by local workforce agencies has accelerated, while the economic downturn has resulted in a continuing, nagging rise in unemployment. In the last year, more than 2 million workers have lost their jobs.

Fortunately, July marks the beginning of a new program year under the Workforce Investment Act, and $1,549,000,000 in new dislocated worker funding will be available for the next 12 months. Of this amount, the law provides that the States receive $1,239,200,000, or 80 percent, with the remaining $309,800,000 available for the Secretary of Labor to target areas particularly hard hit by mass layoffs. Nevertheless, I am fearful that the deletion of supplemental funding will send the wrong message to local sponsors of job training projects that will cause them to slow down spending of funds that are so desperately needed by the growing numbers of dislocated workers. As chairman of the Labor-HHS-Education Appropriations Subcommittee, I intend to do my best to send a strong message that Workforce Investment Act funding will be maintained despite the attempt of the President to slash more than $500 million out of the fiscal year 2003 budget. At my recommendation, the Senate Appropriations Committee has fully restored these proposed cuts in the fiscal year 2003 budget, recommending a total of $5,633,364,000 for job

training for the program year beginning in July of 2003. We rejected the President's proposal to cut dislocated worker assistance by $177,500,000, maintaining the appropriation at $1,549,000,000. We also fully restored the President's proposed cuts of $362,000,000 in youth job training programs, recognizing that young adults, ages 16 to 24, have been disproportionately affected by the decline in total employment over the past year. I wish we could have done more, but our subcommittee's allocation was extremely tight.

In conclusion, let me say I am not at all satisfied with the level of resources devoted to employment and training services, and I intend to work with my colleagues to explore every means to further augment assistance for the more than 8 million Americans who are now unemployed.

Mr. MCCAIN. Madam President, I rise today to speak about the conference report for the Supplemental Appropriations bill for fiscal year 2002. When we debated the Senate version of this bill in June, I stated my strong opposition to any item included that was not for the stated purpose of the bill: the ''further recovery from and response to terrorist attacks on the United States.'' As I said before, using the guise of responding to the terrorist attacks of September 11th to spend federal funds on items that obviously have nothing to do with fighting terrorism is war profiteering.

The conference report before us today contains $28.9 billion in federal spending. That is about $1.8 billion over the President's budget request of $27.1 billion—a request, I might add, he made over three months ago—but at least it is lower than the $31.4 billion in the Senate-passed bill.

Even so, I have reviewed the conference report to determine whether the bill contains items that are low-priority, unnecessary, wasteful, or have not been appropriately reviewed in the normal, merit-based prioritization process. I understand that some of these provisions may be meritorious, or included in unfunded priority lists for certain agencies. However, I have listed them because they were not requested by the President or should not be considered an ''emergency'' for funding purposes on this bill or are unrelated to our war on terrorism and should be considered for funding in the regular appropriations process. All told, I have identified approximately $5 billion in such spending in the conference report.

Before I proceed, I want to especially commend the Director of the Office of Management and Budget, Mitch Daniels, for his valiant charge to reign-in the free-spending ways of Congressional appropriators. In this town, the louder the opposition gets, the more sense you are making, so keep up the good work Mr. Daniels—and let them howl.

In the absence of a Senate-passed budget resolution, we need fiscal discipline now more than ever. Where we once saw surpluses as far as the eye could see, now we have mounting deficits, a national debt clock that is again ticking, and both houses of Congress voting to raise the government's debt limit by $450 billion. You don't have to be a five-time Jeopardy winner to grasp the bottom line: With the tremendous demands on the federal budget today and with the coming retirement of the Baby Boom generation, we must be even more prudent about where we devote limited taxpayers' dollars.

According to the Congressional Budget Office, the government is running a deficit of $122 billion for the first nine months of this fiscal year, a sharp reversal from the $169 billion surplus recorded for the same period a year ago. And the Office of Management and Budget recently unveiled their mid-year review of the budget showing that there will be a $165 billion deficit for the entire fiscal year. It doesn't take an Nobel Prize-winning economist to conclude that at the rate we are increasing spending, this sizable deficit will increase proportionately in the years to follow.

It is unfortunate that in a time of war, my colleagues cannot curb their appetite for non-emergency, wasteful spending. At this moment, the national interest must prevail over politicians' parochial concerns. Unfortunately, as this conference report and the recent Farm Bill attests, this message has still not gotten through to Congress.

For example, the recent Farm Bill contained an astounding $83 billion above the baseline in new spending for farm programs. This increase brought the total level of spending in the legislation to a mammoth $183 billion for the 10-year life of that bill. It ranks amongst the most expensive in recent history for farm legislation. As has been the trend of previous farm bills, this legislation lacked any payment restrictions to prevent most of the subsidy funding from continuing to benefit large farms and agribusinesses. Widely available information has also shown the overwhelming disparity of farm payment distributions. The General Accounting Office has shown that over 80 percent of farm payments primarily benefited large and medium-sized farms. Other studies have similarly found that the top 10 percent of big farmers and agribusiness consumed about 80 percent of farm benefits, leaving small farmers out in the cold. And yet, despite the evidence of the great inequity in distribution of the farm payments and their whopping price tag, the Senate passed it by a vote of 64–35.

Now the bulk of the supplemental conference report does contain provisions that have been designated as emergencies in response to the terrorist attacks of September 11th, but the story doesn't end there, Mr. President. Can anyone say with a straight face that everything in this conference report, which is officially titled the ''2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States,'' is directly related to the bill's stated purpose?

There is a long list of items under the Commerce Committee's jurisdiction that were not requested by the President or have been earmarked.

I am particularly concerned about the funding allocation and directives made by the appropriators with respect to the Transportation Security Administration, TSA. The funding level provided falls short of the President's request for $4.4 billion. Further, the conference agreement would take away the TSA's flexibility to allocate the funds to areas its considers to be transportation security priorities and instead earmarks nearly $1 billion for expenditures considered important to the appropriators.

While these directives may not sound unreasonable, much of the funding is being directed toward unauthorized programs. How do the appropriators know if these are the most important transportation security priorities and that the level of funding they provided is correct?

The conference report goes so far as to prohibit TSA from using federal funds to recruit or hire the personnel the Administration says it needs to meet the statutory directives in the Aviation Security Act, including the directive to, by year end, inspect all baggage. If we do not give them the resources, how can we possibly expect the TSA to meet its statutory directives?

Yesterday, Secretary Mineta testified before the House Aviation Subcommittee expressing grave concerns over the fact that TSA is not being provided its full request and that the earmarks will have a serious impact on TSA's ability to meet its statutory obligations with regard to baggage screening and other directives. Specifically, Secretary Mineta said in his prepared statement:

> The Administration's Emergency Supplemental request was the amount we needed to do the job. No more, no less. Last Friday, the appropriations Conference Committee voted to cut $1 billion from the $4.4 billion requested by President Bush and to impose new restrictions on our ability to get the job done. Here are five facts about the Conference report:
>
> First, it eliminates $550 million off the top; second, it sets aside $480 million in a so-called contingency fund that may not be available to TSA; third, it imposes $445 million in numerous earmarks not requested or supported by the Administration; fourth, it limits the total number of full-time TSA employees to 45,000—at least 20,000 employees short of what TSA needs to meet its statutory mission; and finally, report language severely restricts my discretionary authority to manage TSA.
>
> In short: TSA's budget was cut by at least $1 billion, possibly up to $1.5 billion. That is a whopping 34 percent cut from the President's request.
>
> Here is the dilemma Congress has created. You have not yet changed TSA's mission,

yet the budget to do the job is apparently on the way to being radically diminished while new restrictions and mandates are being imposed. What can be done? The amount of money Congress is about to approve simply will not support the mandates and timetables for aviation security that Congress set last Fall for TSA.

Less money with no flexibility means fewer TSA employees, less equipment, longer lines, delay in reducing the hassle factor at airports, and/or diminished security at our nation's airports. Frankly, these conflicting signals sent by Congress have forced us to regroup and revise the TSA business plan. That will likely take several more weeks. It will involve complex negotiations, and a review of literally thousands of TSA commitments and plans.

These are not my words. These are the words of the Secretary of Transportation. I hope my colleagues pay close attention to the Secretary's concerns. When the TSA is unable to meet its statutory deadlines and fully address critical security issues, we should all know it will largely come back to this funding measure.

Other questionable provisions regarding the TSA should also be mentioned. For example, in the Statement of Managers, the appropriators have earmarked money for the field testing of a particular security technology referred to as Pulsed Fast Neutron Analysis (PFNA). There is only one company that has developed this technology: Ancore Corporation of Santa Clara, California. Unfortunately, earlier this month, the National Research Council (NRC), concluded that PFNA is not ready for airport deployment or testing. Even though the main role for PFNA is the detection of explosives in full cargo containers, the appropriators are directing money for field testing on checked bags. This earmark could be a total waste of critical research money that should be contributing to our effort to increase aviation security.

Further, the Statement of Managers directs that the TSA ''be attentive to the needs'' of Seattle-Tacoma International Airport, Anchorage International Airport, and Kansas City International Airport when allocating resources provided above the Administration's request for the costs of physical modifications of airports for installing explosive detection systems. This directive is just another thinly veiled attempt at earmarking. I am sure there are many airports that have significant needs in terms of physical alterations that must be made to permit the effective use of bomb detection machines. We should not elevate three airports for special attention. The TSA should be attentive to the needs of all airports and should have the flexibility to establish priorities on how best to meet those needs.

I note that the conference report would take $150 million out of the Airport and Airway Trust Fund to reimburse airports for costs associated with new security requirements imposed on or after September 11. Let me point out there is no statutory authorization to use the Trust Fund for such purposes, nor was this funding requested by the President. While I'm not opposed to reimbursing airports, if it is for emergency purposes it should come out of the General Fund, as was authorized in last year's aviation security bill. Once again, the jurisdiction of the Commerce Committee is being circumvented.

It comes as no surprise that there is funding in the bill for Amtrak $205 million to keep Amtrak operating through September. We all know Amtrak is again in financial crisis, nearly $4.6 billion in debt. Amtrak's independent accountant concluded this year—after 31 years of losses—that a company that loses over a billion dollars annually is not a going concern. Imagine. The upshot is that Amtrak hasn't been able to access a line of credit from its banker, so once again, Congress must make up the shortfall.

I accept, although reluctantly, that Congress must provide assistance. It would not be in the best interest of the country for Amtrak to shut down its entire system in the next few weeks, particularly since Amtrak has not prepared any type of contingency plan to keep its corridor trains, which are paid for by the states, and commuter operations, which are also paid by the states, in operation even if it were to shut down its intercity service. But I regret that the conferees opted to give more money directly to Amtrak in the form of a straight appropriation.

After providing a $100 million loan earlier this month, the Administration requested that it be allowed to provide Amtrak another loan in the amount of $170 million. By providing a loan rather than a grant, the Administration could better control how the funds are used and at least try to protect the interests of the American taxpayers. Instead, Amtrak is being given another infusion of cash without any real restrictions on how it is spent.

Not only are we not holding Amtrak and its Board of Directors responsible for the current crisis, we're not even making an attempt to ensure these funds are spent wisely. I question the need to expend emergency funds for planning a new route to Las Vegas or investing in high-speed rail projects when the Northeast Corridor has a capital backlog of over $5 billion and the tunnels under New York's Penn Station need $1 billion in safety and reliability improvements. But Amtrak is spending its emergency funds on the Las Vegas route and other projects that sure don't sound like emergency expenditures to me.

While I support the intent of the conferees to ensure that Amtrak provides Congress the same information it is now required to supply DOT as a condition of its $100 million loan, I believe this information should also be coming to the authorization committees, not just the appropriators. The Senate Commerce Committee and the House Transportation and Infrastructure Committee are responsible for setting policy with respect to Amtrak not the Appropriations Committees.

Perhaps one of the more egregious provisions in the conference report deals with earmarked highway projects. My colleagues may recall the enormous controversy raised late last year when the appropriators took the unprecedented action in the FY 2002 DOT Appropriations Bill in which every state lost a portion of their highway funding that was to be allocated by formula under the Transportation Equity Act for the 21st Century, TEA–21. The appropriators redirected the states' formula funding to projects primarily in the appropriators' home states. Well, they are at it once again.

The conference report includes language making eligible 49 projects earmarked in the FY 2002 DOT Appropriations Bill that, under TEA–21, are not eligible to receive the earmarked funds. It is very troubling that the authorizing Committee of jurisdiction is not more concerned about maintaining the integrity of the multi-year highway funding formula law. Even more than I, the members whose states lost the predominant share of their formula and RABA funds to projects in the appropriators' states, should be vehemently objecting to this latest overreach.

Does anyone even know how their state fared as a result of the appropriators' handiwork last year? Of course, it should come as no surprise that the big winner was the state of West Virginia, which received $96.7 million in highway funding earmarks through the funding re-directives. This is followed by Kentucky which received $70 million; Washington which received $61 million; Mississippi which received $60.7 million; and Alabama which received $60.6 million.

Compare this to other states, such as Delaware, which received $100,000 but suffered a reduction of its formula funds of $2.496 million. Many other states also took substantial hits because of the appropriators' funding redirection efforts, including:

State	New Earmarks (millions)	Cut in Formula/RABA funds (millions)
Wyoming	+$1	−$4.387
Georgia	+8.2	−22.4
Michigan	+17.3	−21.397
New Jersey	+16.1	−18.153
North Carolina	+15.9	−17.598
North Dakota	+2.9	−3.684
Ohio	+20.5	−24.624
Oregon	+7.750	−9.815
Pennsylvania	+13.97	−40.325
Tennessee	+10.6	−16.656

I will ask at the end of my remarks that two charts showing the winners and losers based on information provided by the Federal Highway Administration be printed in the RECORD. I will also include the list of the projects being deemed TEA–21 eligible projects in the conference report.

The conference report would also ensure funding distributed under the highway trust fund for the upcoming fiscal year will not be reduced by the

statutory requirements under TEA–21 to adjust the program based on adjustments to the revenue aligned budget authority provisions of the Act. Instead of following the law, the conference report provides for an additional $4.4 billion over the President's budget request for fiscal year 2003. I think all of us have known this funding would be provided even though the President's budget request actually fulfilled the requirements that so many members voted for when TEA–21 was passed in 1998. But why does this provision need to be included in this emergency supplemental legislation?

With respect to funding provided for the Coast Guard, the conference report directs $12.1 million, above the President's request of $26 million, to acquire, repair, renovate or improve vessels, small boats and related equipment. The Statement of Managers further indicates the funding shall be used for the procurement of additional 87-foot Barracuda class coastal patrol boats. The conference report further directs $200 million, not requested by the President, to acquire new aircraft and increase aviation capability; and $50.171 million above the President's request of $12 million, for shore facilities and aids to navigation facilities. Unfortunately, we are provided little other information to explain the purpose of these funds. $200 million is a significant funding level and we have no clear understanding of this provision.

The conference report provides $33.1 million over the President's request for ''Scientific and Technical Research and Services'' for emergency expenses resulting from new homeland security activities and increased security requirements of which $20 million is for a cyber-security initiative.

It is also worth noting that a provision pertaining to the Advanced Technology Program at the Department of Commerce was also included. The supplemental bill would change the program which currently imposes a ceiling of $60.7 million on the amount of new grants that can be awarded by the end of the fiscal year, to establishing a floor of $60.7 million that can be awarded in new grants by the end fiscal year 2002. The President did not request this change and why it is necessary, I do not know.

The conference report also includes $400 million for election administration reform, contingent upon completion of the ongoing conference on election reform legislation. Since it is highly unlikely a conference agreement can be reached before the August recess, I question why we need to include this funding in this emergency supplemental measure. Instead, we should appropriate the funding upon completion of the conference report and as part of the Fiscal Year 2003 Appropriations process.

The conference report would provide so-called technical corrections for the Fisheries Finance Program Account. Specifically, it would authorize up to $5 million for Individual Fishing Quota Loans and up to $19 million for traditional loans under the direct loan program authorized by the Merchant Marine Act of 1926. As I mentioned when the Senate considered the supplemental in June, these are authorizations which have not been considered by the Senate Commerce Committee. Further, with some limited exceptions, Individual Fishing Quota Programs are not allowed under current law. Therefore, this funding will only help fisheries where a Quota Program already exists, such as the halibut fishery in Alaska.

The conference report also amends the Oceans Act of 2000 to extend the deadline for the Ocean Commission's report by an additional 11 months. The Oceans Act of 2000 was drafted in the Commerce Committee and any amendments should start there, yet we were not even consulted on this provision.

The conference report directs $2.5 million of funding provided in the Commerce, Justice State Appropriations Bill for Fiscal Year 2002 to now be dedicated to conducting coral mapping in the waters of the Hawaiian Islands. We debated this issue on the floor in June. While my amendment to strike the earmark failed, that doesn't mean the funding proposal is meritorious. This directive was not requested by the President and the funding would be earmarked for the National Defense Center of Excellence for Research in Ocean Sciences.

The conference report also includes $2 million to address what the appropriators call ''critical mapping and charting backlog requirements'' and $2.8 million for backup capability of the National Ocean and Atmospheric Administration, NOAA, satellite products and services. None of this funding was requested by the President and even though it falls within the jurisdiction of the Senate Commerce Committee, again we were not consulted. Moreover, this funding has no relation that I can see to address emergency homeland security needs which is the purported purpose of this bill.

The conference report also includes a total of $11 million for economic assistance to New England fishermen and fishing communities. This funding was not requested by the President, although I understand it is in response to unforeseen circumstances resulting from a federal court order which restricts the number of days that fisherman can fish. The Statement of Managers then earmarks that funding based on the Senate report, as follows:

Maine, $2 million; New Hampshire, $2 million; Massachusetts, $5.5 million; and Rhode Island, $1.5 million.

The conference report places a limitation on apparel articles that are eligible for preferential treatment under the Caribbean Basin Initiative, CBI, and the Andean Trade Preferences Act, ATPA. Under this provision, all dyeing, printing, and finishing of knit and woven fabrics must take place in the United States in order for nations under CBI and ATPA to benefit from reduced-rate treatment.

This measure is one in a series of protectionist actions recently undertaken by the United States. The U.S. textile industry has carved out a protective shell around itself to avoid competition at all costs. In this case, the Caribbean Basin and the Andean region nations are the victims along with American consumers.

Due to recent political and special interest pressures, House appropriators inserted this protectionist provision into the supplemental limiting the dyeing, printing and finishing of certain apparel articles to United States manufacturers, with no objection from the Senate appropriators. Caribbean nations received greater access to the United States' apparel market through the Caribbean Basin Economic Recovery Act. This law granted the Caribbean Basin nations similar privileges as those afforded Mexico under the North American Free Trade Agreement, NAFTA.

This provision will scale back the Caribbean Basin Initiative, preventing their growing industry access to the U.S. apparel market. In addition, it would preclude the Andean Trade Preferences Act, ATPA, beneficiary nations from entering the apparel market to begin with.

Moreover, this is yet another example of the appropriators legislating on an appropriations bill. While a trade bill that would, among other things, extend and expand the expired ATPA, sits mired in conference, the appropriators have reached their own conclusions regarding provisions of that bill which would hopefully allow Andean beneficiary nations greater access to U.S. apparel markets. Despite a letter objecting to the actions of the appropriators from the Chairman and Ranking Member of the Senate Finance Committee, the Committee that holds jurisdiction over ATPA, this provision remained.

This is an unfortunate turn of events that is becoming all too common: Leaders of the U.S. rhetorically expounding their commitment to free trade while actively pursuing protectionist policies.

The reorganization of our armed services was, of course, an extremely important subject before September 11th, and it is all the more so now.

In the months ahead, no task before the Administration and the Congress will be more important or require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork barreling of military funds, if we are to best serve America in this time of rapid change in the global security environment.

Again, I question the requirement for certain items in the defense portion of

this supplemental appropriations bill. We are waging war against a new enemy. The dangers in Afghanistan to our service members are real. However, I do not believe that our ''special forces'' units are threatened by any perceived torpedo attack that would cause the appropriators to include in the conference Report a provision to include $1 million for the Tripwire Torpedo Defense Program or $1 million for the Undersea Warfare Support Equipment AN/SLQ 25A.

The conference report improves on the Senate-passed language regarding U.S. policy in Colombia by providing the Departments of State and Defense with the authority to support the Colombian government's unified campaign against narcotics trafficking and terrorism. However, I regret that the final language imposes a burdensome requirement on the President of Colombia to commit in writing to a series of benchmarks regarding his policy and reform plans. I also regret that the conferees have seen fit to cut the President's peacekeeping requests by nearly $28 million—at a time when America's global presence, and the importance of standing shoulder to shoulder with our allies in defense of our common interests, matters.

I do applaud this legislation's requirement for reports setting forth a strategy for meeting the security needs of Afghanistan to ensure effective delivery of humanitarian aid, build the rule of law and civil order, and support the Afghan government's efforts to bring stability and security to its people. History shows that America cannot walk away from Afghanistan if we are to protect our interests there. Our first requirement in this post-war phase must be to help the Afghan government bring basic security and order to all parts of the country. America must do more, not less, to consolidate our victory in Afghanistan by helping to build an environment in which our values can flourish.

Let there be no doubt that this war will be long. Therefore, we should not frivolously spend today like there is no tomorrow. For when tomorrow comes, we must have the fiscal resources to not only fight this war to victory, but to provide for our nation's other priorities including tax relief for the lower- and middle-income Americans, adequate funding for Social Security and Medicare, and significant debt reduction.

I ask unanimous consent to print in the RECORD the information I earlier referenced.

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

FY2002 Designated Discretionay Projects -- Statutorily Ineligible

State	Project	Amount	State Total
Alabama	I-10 Irvington Interchange	$ 800,000	
	I-65 and Valley Dale Road interchanges	$ 8,000,000	$ 8,800,000
Arkansas	Great River Bridge	$ 7,500,000	$ 7,500,000
California	I-10 Riverside Avenue interchange	$ 500,000	
	I-5 Corridor arteries	$ 1,000,000	
	I-5 HOV/general purpose lanes	$ 4,000,000	
	Tippecanoe/I-10 interchange	$ 2,500,000	
	Gerald Desmond	$ 4,000,000	$ 12,000,000
Connecticut	Cross Road	$ 3,500,000	
	Peral Harbor Memorial Bridge	$ 5,000,000	$ 8,500,000
Florida	A. Max Brewer	$ 3,000,000	$ 3,000,000
Hawaii	Sand Island	$ 5,000,000	$ 5,000,000
Illinois	US-30 Morrison/Whiteside County expansion, IL	$ 750,000	$ 750,000
Iowa	US 34/Plattsmouth	$ 1,500,000	$ 1,500,000
Kansas	Topeka Avenue	$ 2,000,000	$ 2,000,000
Louisiana	I-49 southern extension from I-10	$ 1,000,000	
	I-12 interchange at LA 1088	$ 1,500,000	
	I-12/Northshore Blvd. interchange	$ 2,000,000	
	US 167/I-20 interchange	$ 1,000,000	
	Kerner	$ 1,000,000	
	Leeville	$ 3,000,000	$ 9,500,000
Maine	City of Brewer waterfront redevelopment shoreline stablilization, ME	$ 1,000,000	
	I-95 Northern Maine	$ 4,500,000	
	I-295 Connector, Commercial Street	$ 500,000	$ 6,000,000
Massachusetts	Padanarim	$ 1,500,000	$ 1,500,000
Michigan	Pennsylvania Avenue	$ 3,300,000	$ 3,300,000
Nevada	I-215 Southern Beltway to Henderson	$ 500,000	$ 500,000
New Jersey	Sandy Hook ferry terminal, NJ	$ 1,000,000	
	Jersey City Pier redevelopment and terminal construction project	$ 2,000,000	$ 3,000,000
New York	145th Street	$ 5,800,000	
	I-84/Delaware	$ 2,000,000	
	Warren County scenic byway	$ 30,000	$ 7,830,000
Ohio	Cleveland Trans-Erie Ferry Service	$ 800,000	$ 800,000
Oklahoma	I-40 crosstown expressway realignment	$ 5,500,000	$ 5,500,000
Pennsylvania	I-180 Lycoming Mall Road interchange	$ 2,000,000	
	I-79/SR 910 interchange	$ 250,000	
	I-79/Warrendale Technology Park Interchange	$ 1,750,000	
	I-80 Exit at Stoney Hollow Road	$ 3,000,000	
	State Route 0039 & I-81interchange	$ 750,000	
	Route 113 Heritage Corridor, PA	$ 170,000	$ 7,920,000
Rhode Island	Sand Point dock, RI	$ 250,000	$ 250,000
South Dakota	US 61/Missouri River	$ 1,000,000	$ 1,000,000
Texas	Leon River	$ 1,500,000	$ 1,500,000
Vermont	Blueberry Lake road improvements, Green Mountain National Forest, VT	$ 500,000	
	Missiaquoi	$ 4,000,000	$ 4,500,000
Washington	Oak Harbor Municipal Pier terminal, WA	$ 200,000	$ 200,000
West Virginia	I-79 Bridgeport to Meadowbrook	$ 10,000,000	
	I-79 Connector	$ 4,800,000	
	I-81 South Martinsburg I/C Bridge, Berkeley County	$ 7,000,000	$ 21,800,000
TOTAL		**$ 124,150,000**	**$ 124,150,000**

State-by-State Earmarks of Revenue Aligned Budget Authority (RABA) Funding in the Transportation Appropriations Act Shifted from States Highway Formula Programs & Allocated Highway Programs

(Chart reflects total earmarked amount and number of projects per state per program)

	Ferry Boats & Ferry Terminal Facilities	National Corridor Planning & Development & Corridor Border Infrastructure	Transp. & Community & System Preservation Pilot Program	Interstate Maintenance Discretionary	Bridge Discretionary	Public Lands Discretionary	Total for Allocated Programs Earmarks with $ Bolstered by RABA cuts to State formula programs & Allocated Programs	Total Number of Projects
AL		$27 m; (6)	$24 m; (13)	$ 8.8 m; (2)		$ .825; (2)	$60.625 million	23 projects
AK	$10 m; (1)	$16 m; (2)	$ 1.6 m; (2)			$ 6.8 m; (7)	$34.4 million	12 projects
AZ						$11 m; (2)	$11 million	2 projects
AR		$27.750 m; (4)	$ 3.250 m; (3)		$ 7.5 m; (1)		$38.5 million	8 projects
CA	$ 2.9 m; (3)	$22.5 m; (8)	$16.925 m; (18)	$ 8 m; (4)	$ 6.3 m; (3)	$10 m; (4)	$66.625 million	40 projects
CO			$ 2.250 m: (2)	$ 5 m ; (1)		$ 4.2 m; (2)	$11.45 million	5 projects
CT	$ 1.5 m; (1)	$2.3 m; (1)	$ 4.750 m (5)	$1.5 m; (1)	$ 8.5 m; (2)		$18.55 million	10 projects
DE			$ .100; (1)				$ .100	1 project
FL	$ 1.6 m; (3)	$28.5 m; (4)	$13 m; (10)	$ 2.5 m; (1)	$ 3 m; (1)	$ 1 m; (1)	$49.6 million	20 projects
GA	$ 1 m; (1)	$ 1 m; (1)	$ 6.2 m; (2)				$8.2 million	4 projects
HI			$ 6 m; (2)		$ 5 m; (1)	$ 6 m; (1)	$17 million	4 projects
ID		$10 m; (2)	$ .105; (1)			$ 4.5 m; (2)	$14.605 million	5 projects
IL		$17.5 m; (4)	$ 6.420 m; (10)		$ 6 m; (1)	$ .750; (1)	$30.67 million	16 projects
IN		$ 7.836 m; (5)	$ 3.915 m; (4)	$ 2.5m; (1) (includes KY)			$14.251 million	10 projects
IA		$ .700 m; (1)	$ 3 m; (1)	$ 6 m; (1)	$ 1.5 m; (1)		$11.2 million	4 projects
KS		$ 5 m; (2)	$ 2.6 m; (2)		$ 2 m; (1)	$ 1.5 m; (1)	$11.1 million	6 projects
KY		$43.220 m; (18)	$18.567 m; (15)	$ 2.375 m; (2)		$ 5.895 m; (4)	$70 .057 million	39 projects
LA	$ 1.2 m; (1)	$30.8 m; (5)	$1.665 m; (4)	$ 5.5 m; (4)	$ 4 m; (2)		$43.165 million	16 projects
ME	$ 1 m; (1)	$ 3.5 m; (1)	$ 1.6 m; (2)	$ 5 m; (2)	$5 m; (1)	$ 1 m; (2)	$17.1 million	9 projects
MD		$ 1 m; (1)	$ 3.5 m; (2)	$ 8 m; (1)			$12.5 million	4 projects
MA	$ 1.45 m; (1)	$ 5.5 m; (2)	$ 2.3 m; (5)		$ 3 m; (2)	$ .963; (2)	$13.213 million	12 projects
MI		$ 9 m; (1)	$ 1.5 m; (2)	$ 3.5 m; (1)	$ 3.3 m; (1)		$17.3 million	5 projects
MN		$10 m; (2)	$ 7.350 m; (3)		$ 7 m; (1)		$24.35 million	6 projects
MS	$ .500; (1)	$34.500 m; (7)	$ 8.4 m; (5)	$ 8.9 m; (1)		$ 8.4 m; (2)	$60.70 million	16 projects
MO		$15.250 m; (5)	$ 8 m; (2)	$20 m; (4)	$ 2.5 m; (2)		$45.75 million	13 projects
MT		$ 3.5 m; (1)	$ 2.9 m; (4)	$ 1 m; (1)		$10.9 m; (6)	$18.3 million	12 projects
NE			$ 4.6 m; (3)			$ .325; (1)	$4.925 million	4 projects
NV				$ .500; (1)		$12 m; (2)	$12.5 million	3 projects
NH		$ 1 m; (1)	$ 3.550 m; (5)				$4.550 million	6 projects
NJ	$ 3 m; (2)		$ 7.150 m; (11)		$ 5 m; (2)	$ 1 m; (1)	$16.150 million	16 projects
NM		$ 1 m; (1)	$ 5 m; (1)	$ 6.5 m; (2)		$ 3.150 m; (4)	$15.65 million	8 projects
NY	$ 9.34 m; (8)	$10.350 m; (4)	$16.275 m; (19)		$ 9.6 m; (3)	$ .280; (1)	$45.845 million	35 projects
NC	$ 2.139 m; (2)	$3.5 m; (1)	$ 5.35 m; (5)	$ 5 m; (2)			$15.989 million	10 projects
ND			$ 1.5 m; (2)			$ 1.4 m; (2)	$2.9 million	4 projects
OH	$ 1.3 m; (2)	$ 7 m; (3)	$ 7.5 m; (4)	$ 1.5 m; (2)	$ 2.750 m; (2)		$20.5 million	13 projects
OK		$ 1.5 m; (1)	$ 1.450 m; (3)	$ 5.5 m; (1)			$8.45 million	5 projects
OR		$ 5 m; (1)		$ 1.0 m; (1)		$ 1.750 m; (1)	$7.750 million	3 projects
PA	$ 2 m; (2)	$1 m (includes NY); $.550;(3)	$ 2.5 m: (4)	$ 7.750 m; (5)		$ .170; (1)	$13.97 million	15 projects
RI	$ .250; (1)		$ 1 m; (1)	$ 4 m; (2)	$ 4 m; (1)	$ 2.150 m; (2)	$11.4 million	7 projects
SC			$17 m; (5)		$ 7 m; (1)		$24 million	6 projects
SD		$12 m; (1)	$ .250; (2)		$ 1 m; (1)	$ 5.650 m; (3)	$18.9 million	7 projects
TN		$ 1 m; (1)	$ 9.6 m; (5)				$10.6 million	6 projects
TX	$ .200; (1)	$20.4 m; (9)	$ 6.790 m; (9)	$25.9 m; (5)	$ 1.5 m; (1)	$ 5.5 m; (2)	$60.29 million	27 projects
UT			$ 2 m; (1)	$ 6 m; (2)		$ 2.250 m; (3)	$10.250 million	6 projects
VT			$ 4.5 m; (3)		$ 4 m; (1)	$ .500; (1)	$9 million	5 projects
VA		$ .600; (2)	$2.480 m; (4)			$14.150 m; (6)	$17.23 million	12 projects
WA	$ 4.2 m; (2)	$34 m; (5)	$10.3 m; (6)	$ 2 m; (2)	$10.5 m; (3)		$61 million	18 projects
WV		$54 m; (4)	$ .400; (1)	$21.8 m; (3)	$17 m; (2)	$ 3.5 m; (1)	$96.7 million	11 projects
WI		$17 m; (3)	$13.5 m; (4)		$ 7.5 m; (1)		$38 million	8 projects
WY			$ 1 m; (1)				$ 1 million	1 project
DC			$ 2.5 m; (2)				$2.5 million	2 projects
TOTAL FY02 Approps	$43,579,000	$492,256,600	$276,092,600	$176,025,000	$134,450,000*	$127,508,000	$1,249,910,600	540 projects

TOTAL FY02 Approps	$43,579,000	$492,256,000	$276,092,600	$176,025,000	$134,450,000*	$127,508,000	$1,249,910,600	540 projects
FY02 Funding includes:								
TEA21 auth. for FY02	$18,000,000	$140,000,000	$25,000,000	$100,000,000	$100,000,000	$82,385,400	$465,385,400	
TEA-21 RABA for FY02	$ 5,059,012	$ 18,633,932	$3,324,822	$13,310,772	$13,310,772	$0	$ 53, 639,310	
**Additional RABA $ per DOT Approps.	$20,519,988	$333,622,068	$247,767,778	$62,714,228	$21,139,229	$45,122,600	$730,885,890	
	33 projects; 17 states	123 projects; 38 states	221 projects; 47 states + DC	55 projects; 27 states	*38 projects; 25 states	70 projects; 30 states	100% Earmarked	

*Chart does not include two earmarks in the Bridge Discretionary Program (totaling $28 million) which are not designated for site/state specific projects.

**Additional RABA funding was also provided for Long-term Pavement ($10,000,000) and for State Border Infrastructure ($56,300,000) programs, but is not designated for site/state specific projects.

Note, depending on final computation of the funds available to stay within the total obligational authority available for FY'02, the actual amounts distributed, in all likelihood, will be less than the specific amounts shown.

Total RABA dollars shifted: $825,185,890 (comprised of $449,445,030 from state highway formula programs and $375,850,860 from allocated programs (including $236,671,037 from High Priority Projects and $139,179,823 from other allocated programs). Note, it can also be viewed in the context of this chart as $730,885,890 + $28,000,000 + $10,000,000 + 56,300,000 = $825,185,890.

State-by-State Impact of Transportation Appropriations Cuts of Revenue Aligned Budget Authority (RABA) Funding from State Highway Formula Programs & TEA-21 High Priority Projects

	RABA Reductions from State Highway Formula Programs	RABA Reductions from TEA- 21 Projects	TOTAL RABA reductions: State Highway Formula & TEA 21 Projects
AL	(8,461,327)	(5,190,512)	(13,651,839)
AK	(5,829,941)	(1,741,836)	(7,571,777)
AZ	(7,729,419)	(1,531,711)	(9,261,130)
AR	(5,955,806)	(3,875,677)	(9,871,483)
CA	(41,475,828)	(22,334,954)	(63,810,782)
CO	(6,092,240)	(1,721,986)	(7,814,226)
CT	(7,149,904)	(3,237,793)	(10,387,697)
DE	(2,268,322)	(224,234)	(2,492,556)
FL	(20,220,425)	(7,154,508)	(27,374,933)
GA	(15,251,592)	(7,177,923)	(22,429,515)
HI	(2,171,286)	(1,286,515)	(3,457,801)
ID	(3,112,998)	(2,964,757)	(6,077,755)
IL	(13,965,042)	(9,389,587)	(23,354,629)
IN	(10,772,904)	(5,111,418)	(15,884,322)
IA	(5,489,664)	(2,762,724)	(8,252,388)
KS	(4,893,976)	(2,812,739)	(7,706,715)
KY	(7,342,459)	(3,842,350)	(11,184,809)
LA	(7,652,445)	(4,475,708)	(12,128,153)
ME	(2,247,308)	(1,188,431)	(3,435,739)
MD	(7,989,589)	(3,340,023)	(11,329,612)
MA	(8,220,727)	(5,584,742)	(13,805,469)
MI	(13,612,972)	(7,784,478)	(21,397,450)
MN	(6,767,624)	(4,508,409)	(11,276,033)
MS	(5,923,344)	(2,914,185)	(8,837,529)
MO	(10,584,023)	(6,488,102)	(17,072,125)
MT	(5,123,563)	(503,313)	(5,626,876)
NE	(3,367,832)	(618,977)	(3,986,809)
NV	(3,104,508)	(860,500)	(3,965,008)
NH	(2,397,302)	(1,715,640)	(4,112,942)
NJ	(10,818,293)	(7,334,770)	(18,153,063)
NM	(4,570,032)	(2,016,540)	(6,586,572)
NY	(22,418,882)	(15,062,102)	(37,480,984)
NC	(11,947,529)	(5,651,117)	(17,598,646)
ND	(3,162,499)	(521,848)	(3,684,347)
OH	(15,893,797)	(8,731,177)	(24,624,974)
OK	(6,534,095)	(3,018,793)	(9,552,888)
OR	(5,434,066)	(4,381,392)	(9,815,458)
PA	(20,095,856)	(20,229,756)	(40,325,612)
RI	(2,755,082)	(728,053)	(3,483,135)
SC	(7,883,348)	(2,694,477)	(10,577,825)
SD	(3,304,789)	(2,153,254)	(5,458,043)
TN	(11,222,191)	(5,434,368)	(16,656,559)
TX	(33,430,729)	(12,506,040)	(45,936,769)
UT	(3,266,491)	(2,040,562)	(5,307,053)
VT	(2,301,880)	(535,249)	(2,837,129)
VA	(13,052,845)	(5,093,819)	(18,146,664)
WA	(7,348,768)	(5,020,263)	(12,369,031)
WV	(5,010,811)	(4,620,722)	(9,631,533)
WI	(8,393,502)	(4,126,031)	(12,519,533)
WY	(3,656,131)	(731,619)	(4,387,750)
DC	(1,659,044)	(785,066)	(2,444,110)
Total	(449,335,030)	(235,760,750)	(685,095,780)[1]

[1]Chart does not include $910,287 in RABA cut from American Samoa, Puerto Rico, and the Virgin Islands. Further, Chart does not include $139,179,823 in RABA cut from other allocated Federal-Aid Highway Programs which are discretionary programs that cannot be broken out on a state-by-state basis.

Total RABA dollars shifted: $825,185,890 (comprised of $685,095,780 + $910,287 + $139,179,823)

Mr. GRASSLEY. Madam President, today, I rise to object to the Dyeing and Finishing Provision found in the 2002 supplemental appropriations bill, H.R. 4775, that is now going through the conference process within the Senate and will soon be voted on by this body.

This provision is of serious concern to me because it falls within the jurisdiction of the Finance Committee and it was not voted on nor reviewed by the committee.

Senator BAUCUS and I sent a joint letter in June expressing our deep concern about the inclusion of this provision in the bill and asked the chairman of the Appropriations Committee to oppose this provision due to our jurisdiction concerns.

Section 1405 of the House bill pertains language that will amend two U.S. trade preference programs: the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act.

The amendment requires certain fabric to be dyed and finished in the United States in order for apparel sewn from such fabric in the Carribean or Andean region to enter the United States duty-free.

Regardless of how my colleagues feel about the requirement for fabric to be dyed and finished in the United States to qualify for duty-free treatment they should respect the jurisdiction of the Finance Committee under the trade laws of this Congress.

Our committee has oversight over carefully balanced programs that were developed after years of close study and deliberations in the Finance Committee and the House Committee on Ways and Means.

During the debate of the Bipartisan Trade Act of 2002 when Senator BYRD asked for Senator BAUCUS and I to respect the jurisdiction of the Appropriations Committee by striking all authorization language in the trade bill while we were debating the legislation on the floor.

Senator BAUCUS and I addressed the Senator's concerns by stopping the debate and revising the legislation so as to not encroach upon the jurisdiction of the Appropriations Committee.

I am deeply dismayed about the Finance Committees' concerns not seriously being considered about the dyeing and finishing provision which is clearly in our jurisdiction.

I would hope my colleagues would be more considerate of the problem we have with the House being able to slip provisions in the supplemental hoping to sneak it through the legislative process otherwise the legislative process will become a free-for-all.

If the provision is a good piece of legislation then my colleagues in the House should be willing to have an open dialogue with the Finance Committee members and address our concerns.

Alarms should go off when people try to slip legislation by hoping that no one will catch it.

I am disappointed because this is not the way we are suppose to do business around here.

There are several good reasons why committees were established and given jurisdiction over specific issues.

The Finance Committee members are the experts on trade, therefore all issues involving trade should come through our committee.

I am just asking my colleagues to respect the rules established by the Senate. I am disappointed that the chairman of the Appropriations Committee did not respect our jurisdiction.

This is bad policy and I oppose it.

I also want to strongly emphasize how important it is that we do not set a precedent allowing Members to thwart the committee process and smuggle legislation through the Senate under the radar screen.

Mr. STEVENS. Madam President, a provision I have worked on with my Alaska colleagues, Congressman DON YOUNG and Senator FRANK MURKOWSKI, is included in this bill as section 3002. In conversations with air carriers in Alaska and the Postal Service, we have found that there are serious problems with mail delivery to rural Alaska under the current bypass mail system. This provision, titled the Rural Service Improvement Act of 2002, is derived from S. 1713 in the Senate and H.R. 3444 in the House. It contains several technical changes that will resolve these problems.

The bypass mail system is unique to my State: It was created by section 5402 of title 39 of the U.S. Code, and attempts to ensure reliable and affordable passenger service and the delivery of food, goods, and basic consumer necessities to rural Alaska communities.

I have stated on numerous occasions during Postal Service hearings before the Senate Governmental Affairs Committee that the establishment and maintenance of post offices and post roads applies to my State as it does the rest of the Union. As a member of the committee with oversight over Postal operations, I take the responsibilities of the Postal Service very seriously. As an Alaskan, I am even more concerned. Almost every item found on the shelf of a rural Alaska general store arrives via the bypass mail system. This system was created through legislation originated by the Senate in 1970 and today it is the lifeline of rural Alaska.

In addition to ensuring delivery of food and goods, the bypass mail system assured that passenger seats would be available to rural Alaskans. The revenues paid to air carriers to transport the bypass mail helps underwrite the cost of this passenger service. The Federal Government's vast ownership of lands in Alaska and the limited access to those lands means that air transportation is the only way to reach most rural communities in Alaska. We are prohibited by the Federal Government from building roads to connect most of our communities and this system assures access by air.

In recent years there has been an explosion in the number of carriers eligible to carry bypass mail in Alaska because the threshold requirements for eligibility have been very low. However, few of these new carriers operate in ways that reflect the intent behind the bypass mail program. Instead of providing air transportation to passengers, these carriers use the system to underwrite a portion of their total business plan. Other mail-only carriers use it as the basis of their entire operation. They provide little to no passenger service to Alaska's rural communities.

The bypass mail system is divided into two categories: mainline routes and bush routes. Mainline routes are flown by carriers operating larger aircraft capable of carrying many pallets of food and goods. These pallets usually weigh a minimum of 1,000 pounds. To be qualified as a mainline carrier under the current regulations, carriers must operate aircraft certified to carry at least 7,500 pounds of payload capacity. These mainline carriers take bypass mail from one of two acceptance points, Anchorage or Fairbanks, and carry it to ''hubs'' such as Bethel, Barrow, and Nome. From these hubs the mail is distributed to bush communities by smaller bush aircraft. To operate properly and efficiently the system needs healthy mainline and bush carriers.

The Rural Service Improvement Act of 2002 resolves many of the problems with mainline operations. It clarifies who is eligible to be a mainline carrier, stabilizes mainline markets, and supports increased passenger service. It limits the entry of new all-cargo carriers to mainline markets where current cargo service is deficient. This bill also gives existing carriers 30 days to correct problems with mail delivery, schedule adherence, or repeated mail damage that the Postal Service deems unacceptable. If no improvements are made new mainline carriers would be eligible to offer service on these routes.

In addition, the bill allows new carriers to enter otherwise closed mainline routes if they provide substantial passenger service. This determination will be made on a route-by-route basis. To qualify, a new carrier must regularly make available to the public at least 75 percent of the number of passenger seats on the largest carrier on a give route for 6 consecutive months. After a new carrier is certified as a mainline carrier it must carry 20 percent of the actual passengers on the route to remain qualified. Carriers will design their business plans around passenger service, not just bypass mail. This will enable the bypass mail system to fulfill our original intent: to provide mail and air transportation to Alaskans.

The bill also addresses a current problem on routes that receive subsidies from the Department of Transportation's Essential Air Service, EAS, program. Currently DOT establishes a

subsidy rate based on a combination of factors, including the size of the community, the desired level of service an show much revenue the EAS carrier can expect to earn from other sources. However, DOT has no role in determining how much mail is carried by EAS carriers. This act addresses this flaw by requiring all nonpriority mail and nonpriority bypass mail be tendered to the contracted EAS carrier on each route, as long as the needs of the Postal Service are being met. This will reduce the cost of the EAS program in Alaska and ensure mail is delivered in a timely fashion. First class and priority mail will still be carried by the Postal Service's preferred provides based on premium delivery standards on these routes.

This bill also ensures adequate passenger service for under served communities. Under this act, a new passenger carrier may immediately be tendered bypass mail on a mainline route if all passenger carriers operating under Federal Aviation Rules part 121 leave the market or no part 121 passenger service is available. These provisions mean that under such conditions a new 121 carrier will not have to wait 6 months to provide services. It will get bypass mail immediately in mainline markets with no passenger service. This change will provide mainline communities with quality passenger service as mail revenues underwrite passenger transportation.

In addition, this bill addresses a serious problem for rural Alaska. Currently, some rural markets are classified as mainline by the Postal service but have no mainline passenger or bypass mail service. This bill allows bush carriers currently serving those routes to continue carrying bypass mail even if a mainline carrier begins service there. The bush carriers will be paid the lower mainline rate which will reduce costs for the Postal Service while preserving existing passenger service on the those routes. To preserves bush passenger and non-mail freight service on rural routes, if a mainline carrier beings providing service on a traditional bush route, existing bush passenger and on-mail freight carriers may continue to receive bypass mail if they agree to be paid the lower mainline rate.

This act allows for equalization on those mainline routes with no current mainline service and on traditional bush routes where a mainline carrier enters. It specifically prohibits bush carriers from entering or operating on mainline routes with existing mainline service, except under specialized circumstances, to ensure that larger aircraft capable of carrying many pallets fly full to the hubs. The act allows the Postal Service to tender bypass mail to bush carriers on mainline routes with existing mainline service if three conditions are met. First, the bush carrier must meet the minimum technical requirements of the operating statute. Second, no similar service is available on the route by the existing mainline carriers. Third, the Postal Service determines that the tender of mail to a bush carrier on the mainline route will not decrease the efficiency of the hub or increase costs for the Postal Service. This test will be applied by the Postal Service on a case-by-case basis.

Another feature of the bill is the explicit authorization of ''composite equalization,'' to protect and enhance passenger service. Currently almost all bypass mail flows from an acceptance point to a hub and then on to a bush point. This act allows bush carriers to receive mail at the acceptance point for a direct flight to bush villages without first stopping in the hub. Bush carriers are paid based on what they would have flown to the hub point at the lower mainline rate and then based on what they would have flown from the hub point to the bush village at the lowest bush rate. The provision also recognizes routes where composite equalization or direct flights bypassing the hub exist today. The intent is to promote additional savings for the Postal Service and to preserve existing direct flights for rural Alaskan residents.

The act also allows for the creation of future routes at composite rates if carriers meet a four-part test. First, a carriers seeking tender at composite rates must meet the minimum passenger service requirements of the bill. Second, the carriers must qualify to be tendered mail in the hub point being bypassed by the proposed direct route. Third, the carrier must prove that carrying bypass mail on direct routes will not reduce the efficiency of the entire hub operations. Lastly, the Postal Service must determine that allowing the direct flight will save money for that portion of the system. The Postal Service will take into account the cost of flying the mail directly to the bush village from the acceptance point along with the cost of not flying the mail through the hub in terms of payments to other carriers, especially the mainline carriers.

The act restricts entry of new cargo-only capacity in mainline markets. All new mainline carriers must also meet the passenger requirements of the bill to be tendered mainline bypass mail. A carrier otherwise qualified to be tendered non-priority bypass mail on January 1, 2001, but not engaged in the regular carriage of mainline bypass mail on that date, is not qualified as an existing carrier. A carrier not qualified as a mainline carrier on January 1, 2001, which has since become qualified does not fulfill the definition of an existing carrier for the purposes of carrying mainline bypass mail. Likewise, a carrier that was tendered mainline bypass mail on January 1, 2001 in improperly sized aircraft does not qualify as an existing carrier.

The Rural Service Improvement Act of 2002 also resolves problems with bush community operations. Currently any carrier meeting very minimum qualifications may be tendered bush bypass mail. In a community with 10 qualified carriers each carrier receives approximately 10 percent of the bypass mail on that route. Not all of those carriers also provide passenger or non-mail freight service. This act intends to change this situation by establishing rural mail pools on a route-by-route basis.

First, 70 percent of the mail will be tendered to those carriers which provided at least 20 percent of the passenger service on a given route. Twenty percent of the mail will go to non-mail freight carriers which provide at least 25 percent of the non-mail freight service on a given market. The remaining 10 percent of the bypass mail will go to the remaining carriers on the route. After 3 years this 10 percent mail pool will terminate and its mail will be divided among the remaining two pools. The amount of mail in the passenger pool should increase to 75 percent; the remaining 25 percent of bypass mail will go to non-mail freight carriers. The creation of these pool for passenger and non-mail freight carriers should ensure competition in each market without having the mail revenue split between an infinite number of carriers.

Based on advice from the department of Transportation, this act includes provisions to increase safety standards. It permits markets to convert from operations under part 135 of the Federal Aviation Rules to part 121 if a part 121 carrier becomes qualified to receive bypass mail in a given market. If this happens, all 135 carriers in the market have 5 years to convert to operations under part 121 in order to continue receiving bypass mail. The bill defines part 121 operations as aircraft carrying passengers and non-priority bush bypass mail on aircraft type certificated to carry at least 19 passengers, which according to the Department of Transportation, are the most efficient aircraft on an air-ton-mile basis that are still reasonably sized for use in rural Alaska. For the purposes of part 121 operators, the bill focuses on the aircraft which actually carry the mail.

All carriers in Alaska are put on notice of the requirements of conversion from part 135 to part 121. After a 6-year period if a 121 carrier becomes eligible for bypass mail on any route, 135 carriers on that route have one year to convert to part 121 to continue receiving mail.

Saving the Postal Service money by requiring the use of more efficient and larger aircraft, because of conversion to part 121 is an important goal of this bill. This also improves passenger service and safety. In a market which can physically support 121 operations, all passenger carriers in that market should be encouraged to provided increased safety and efficiency.

Some markets in Alaska may not receive 121 passenger service due to a lack of ground infrastructure or the population base to support 19-seat passenger aircraft. In these communities

smaller airplanes operated under part 135 are an integral part of the Alaska transportation system. Also, if a 121 carrier begins service in a market and withdraws, 135 carriers in that market need not convert 121 in order to carry bypass mail in the market.

The bill encourages passenger competition in bush markets. Where there is only one qualified passenger carrier under the bill, meaning it carries at least 80.01 percent of the passengers on a given route, then no other carrier could qualify as a passenger carrier in that market. As an incentive for other passenger carriers to enter the market to become the second largest carrier, thus increasing competition, the act requires the Postal Service to tender 20 percent of the 70 percent mail pool to the next largest passenger carrier during the first three years of the act, 14 percent of the overall bypass mail volume for the market. After the first 3 years the Postal Service may provide 20 percent of the 75 percent pool to the next largest passenger carrier, or 15 percent of the bypass mail for the market.

As previously stated, carriers operating under part 121 must use aircraft type-certificated to carry at least 19 passengers. Carriers operating under part 135 must use aircraft type-certificated to carry at least five passengers. Finally, recognizing the special needs of markets with water-only airports the bill requires water-landing aircraft to be type-certificated to carry at least three passengers. These requirements do not require these seats to be installed at all times. Rather, carriers must use minimum sized aircraft to increase efficiencies for the Postal Service and, passenger seats must be installed and insured when needed on such aircraft. A carrier may fly an extra section with only cargo or mail as long as the plane meets the minimum size requirements and the carrier otherwise qualifies to carry mail as a qualified passenger or non-mail freight carrier under the Act.

Under provisions in the bill, to avoid over-concentration in the markets, no carrier which qualifies both as a passenger carrier and a non-mail freight carrier may get mail under both the 70 percent—75 percent pool in 3 years—and the 20 percent pool—25 percent in 3 years—at the same time unless no other carrier qualifies in the market.

A substantial amount of the savings for the Postal Service comes from the creation of new bush rates for the carriage of mail. After collecting all of the carriers' cost data the Department of Transportation should first calculate the costs for all bush part 121 passenger carriers, then for 135 carriers, and finally for 135 carriers where only water landings are available to create a new rate for each class of carrier. In markets with qualified 121 carriers, all passenger carriers will be paid the 121 rate, including all 135 passenger carriers operating in those markets. For markets with only 135 carriers and water landing markets the new 135 rate will be applied evenly.

The act provides significant penalties for carriers which substantially misstate data just to qualify for bypass mail. However, it also gives DOT and the Postal Service the flexibility they need. Under this bill, both DOT and the Postal Service may grant waivers for otherwise unqualified passenger carriers if the carriers are operating in good faith, meaning they are making great efforts to provide passenger or non-mail freight service and are not using the bypass mail revenues as the primary means of their business. In addition, if the Postal Service or DOT determines a carrier meets all of the technical qualifications to operate in the system, but is not providing another substantial service, i.e. passenger or non-mail freight service, then it may be removed from the system. When making this determination DOT and the Postal Service should look at the quantity and quality of existing service in the community, including passenger carriage, and the proposed quality and quantity of service for the carrier seeking a waiver, to allow a 121 passenger carrier to become qualified if it reduces costs for the Postal Service and improves passenger service in a market, even if it has not provided a full 12 months of service in the market at the required levels under the Act.

To allow the Postal Service and DOT to collect 12 months of T–100 data from the carriers before establishing the new tender policy and setting new rates, most of the bush provisions will not take effect for 15 months from the date of enactment. Also, the bill requires the DOT to review the need for a bush rate case at least every 2 years. To maximize the savings for the Postal Service initial rate reviews by DOT should be performed expeditiously. All carriers in the State are allowed at least 1 year to begin providing additional services to the communities before reductions in mail tender go into effect.

Stating 6 months after the enactment date, the act permits the Postal Service and DOT to remove a carrier from the bypass mail program if the carrier was not attempting to qualify as a passenger or non-mail freight carrier.

The bill intends to promote safety by empowering the Secretary of Transportation to shut down any operation where substantial evidence exists that the carrier is flying in an unsafe manner to qualify for the tender of bypass mail. Such evidence includes flying in unsafe conditions or without proper training and equipment, especially with passengers on board.

The bill allows for the merger or acquisition of airlines. If two or more airlines merge, the two carriers' data for the previous period of time may be counted together for the purpose of qualifying for bypass mail. The merged carrier must show it is otherwise qualified to carry bypass mail under the provisions of the act. Also, where two or more air carrier certificates merge into one certificate, the carriers cannot later be split up and operated separately.

To allow the Postal Service to deliver the mail in the most efficient manner possible, under the provisions of this act, and under its internal statutory and regulatory provisions, the Postal Service may remove a carrier from the bypass mail system if it does not meet the requirements of this act. The act states previous carriage of bypass mail does not create a contract for guaranteeing future tender of bypass mail. Rather, the tender of bypass mail is only a contract for the carriage of each particularly batch of mail.

In summary, this bill intends to reduce the Postal Service's losses on the bypass mail program while improving safety and stabilizing passenger service. The full Senate Governmental Affairs Committee agreed, unanimously voting to pass the bill out of Committee on May 22, 2002. While some may argue this is re-regulation of the airline industry in Alaska, it is not. This bill requires carriers seeking eligibility to carry the bypass mail in Alaska to meet basic tests and minimum requirements. This is the time to correct the problems with the Alaska system before it collapses completely. To do otherwise would be to turn our backs on the rural communities of Alaska and the commitments the Federal Government has made to them as a result of broad Federal land ownership in Alaska.

Mr. CONRAD. Madam President, I rise to offer for the record the Budget Committee's official scoring of the conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery and Response to Terrorist Attacks on the United States.

The conference report provides $29.356 billion in net, new discretionary budget authority, of which $14.492 billion if for defense activities and $14.864 billion is for nondefense activities. That additional budget authority will increase outlays by a total of $7.8 billion in 2002. Of the total spending authority provided, H.R. 4775 designates $29,886 billion as emergency spending, which will increase outlays by $7.783 billion in 2002. Per section 314 of the Congressional Budget Act, I have adjusted the Appropriations Committee's allocation for 2002 by the amount of that emergency funding. The conference report is within the committee's revised section 302(a) and 302(b) allocations for budget authority and outlays.

The conference report to H.R. 4775 is subject to several budget points of order. First, by including language increasing the 2003 cap on highway spending, the conference report violates section 306 of the Congressional Budget Act, which requires that such language be reported by the Budget Committee. Second, by amending the Caribbean Basin Economic Recovery

Act, H.R. 4775 decreases revenues by $60 million in 2003 and $785 million over the 2003–2012 period. Because the Congress has already breached the revenue aggregates under the 2002 budget resolution, the conference report violates section 311 of the Congressional Budget Act. Finally, H.R. 4775 violates section 205 of H. Con. Res. 290, the Concurrent Resolution on the Budge for Fiscal Year 2001, by including a number of emergency designations for spending on nondefense activities.

I ask for unanimous consent that two tables displaying the Budget Committee scoring of H.R. 4775 be inserted in the record at this point.

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

TABLE 1.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparison—302(a) Allocations to Appropriations Committee)

[In millions of dollars]

	Current Level Plus Supplemental	Senate Allocations	Difference
General purpose:			
BA	733,597	734,126	−529
OT	694,579	700,500	−5,921
Highways:			
BA	0	0	0
OT	28,489	28,489	0
Mass Transit:			
BA	0	0	0
OT	5,275	5,275	0
Conservation:			
BA	1,758	1,760	−2
OT	1,392	1,473	−81
Mandatory:			
BA	358,567	358,567	0

TABLE 1.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparison—302(a) Allocations to Appropriations Committee)—Continued

[In millions of dollars]

	Current Level Plus Supplemental	Senate Allocations	Difference
OT	350,837	350,837	0
Total			
BA	1,093,922	1,094,453	−531
OT	1,080,572	1,086,574	−6,002

Note: Details may not add to totals due to rounding. The conference report includes $29,886 million in emergency BA and $7,783 million in emergency outlays.

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)

[In millions of dollars]

	Defense	Nondefense	Mandatory	Total
Conference Report: [1]				
Emergency:				
Budget Authority	15,008	14,878	0	29,886
Outlays	5,444	2,339	0	7,783
Nonemergency:				
Budget Authority	−516	−14	0	−530
Outlays	−100	117	0	17
Total:				
Budget Authority:	14,492	14,864	0	29,356
Outlays	5,344	2,456	0	7,800
Senate-passed bill:				
Emergency:				
Budget Authority	13,932	17,690	0	31,622
Outlays	5,286	3,161	0	8,447
Nonemergency:				
Budget Authority	0	−107	0	−107
Outlays	0	190	0	190
Budget Authority	13,932	17,583	0	31,515
Outlays	5,286	3,351	0	8,637
House-passed bill: [2]				
Emergency:				
Budget Authority	16,074	12,955	0	29,029
Outlays	5,632	2,441	0	8,073
Nonemergency:				
Budget Authority	−54	1,112	0	1,058
Outlays	−7	261	0	254
Total:				
Budget Authority	16,020	14,067	0	30,087
Outlays	5,625	2,702	0	8,327
President's request: [3]				
Emergency:				
Budget Authority	14,048	13,095	0	27,143
Outlays	5,310	2,491	0	7,801
Nonemergency:				
Budget Authority	0	1,262	0	1,262
Outlays	35	232	0	257
Total:				
Budget Authority	14,048	14,357	0	28,405
Outlays	5,345	2,723	0	8,068
Conference Report Compared To:				
Senate-passed bill:				
Emergency:				
Budget Authority	1,076	−2,812	0	−1,736
Outlays	158	−822	0	−664
Nonemergency:				
Budget Authority	−516	93	0	−423
Outlays	−100	−73	0	−173
Total:				
Budget Authority	560	−2,719	0	−2,159
Outlays	58	−895	0	−837
House-passed bill:				
Emergency:				
Budget Authority	−1,066	1,923	0	857
Outlays	−188	−102	0	−290
Nonemergency:				
Budget Authority	−462	−1,126	0	−1,588
Outlays	−93	−144	0	−237
Total:				
Budget Authority	−1,528	797	0	−731
Outlays	−281	−246	0	−527
President's request:				
Emergency:				
Budget Authority	960	1,783	0	2,743
Outlays	134	−152	0	−18
Nonemergency:				
Budget Authority	−516	−1,276	0	−1,792
Outlays	−135	−115	0	−250

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)—Continued

[In millions of dollars]

	Defense	Nondefense	Mandatory	Total
Total:				
Budget Authority	444	507	0	951
Outlays	−1	−267	0	−268

[1] In addition to its increase in spending, the conference report retains the House-passed provision amending the Caribbean Basin Economic Recovery Act, which decreases revenues by $60 million in 2003 and $785 million over 10 years.
[2] The table removes directives of the House Budget Committee to the Congressional Budget Office on how to score certain provisions in the House-passed supplemental bill.
[3] Includes the President's request, transmitted with his 2003 budget, to provide supplemental funding in 2002 for Pell grants.

Notes: Details may not add to totals due to rounding. The conference report is within both the Committee's 302(a) and 302(b) allocations and the statutory caps on discretionary spending for 2002.

Mr. INHOFE. Madam President, I am pleased that the supplemental bill contains $75 million additional funding for the Federal Aviation Administration's operational account. It was facing some severe cutbacks in service without this funding.

In particular, the FAA had reduced funding for proficiency and developmental training of air traffic controllers. This funding was reduced by about $10 million without reprogramming approval from the Transportation Appropriations Subcommittee. It is my hope and desire that the FAA add back at least $2 Million to the Air Traffic Instructional Services program. This is a vital program that should never have been cut back. It provides ongoing in-service developmental training all across the country. It has proven to lower error rates by air traffic controllers, thus making the skies safer for the flying public. I believe they should restore the funding immediately.

Ms. CANTWELL. Madam President, I have come to the floor today to discuss an item that is not in the conference report that we will soon vote on, but is critical for our national defense, our future economic vitality, and the ability of our workers to turn this national disaster into new opportunities.

As my colleagues know, the Senate supplemental bill contained $400 million for job training and employment assistance for our Nation's workers.

These are funds that were requested by the administration and supported by a bipartisan group of Senators, and are critically needed throughout our Nation.

Unemployment nationwide has hovered around 6 percent throughout most of this year, and in my State, it is been considerably higher than the national average. With the loss of nearly 20,000 commercial aviation jobs in Washington State and severe slowdowns in other major industries, we are likely to suffer secondary layoffs that extend throughout the next 2 years.

But throughout the Nation, we are seeing more and more workers who are unable to find employment for extended periods of time.

A report released last week by the National Employment Law Project found that long-term employment is higher now than in any of the last four recessions.

The number of workers unemployed for more than 26 weeks has grown over 140 percent from March of 2001,

Former Treasury Secretary Robert Rubin wrote on Sunday in the Washington Post that, to get our economy on a sound footing and restore the prosperity of the '90s, we need to do three things: one, look seriously at our nation's long term fiscal position; two, expand trade by granting trade promotion authority; and three, invest in the training of our workers . . .

Mr. Rubin went on to say that ''Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy.''

I have supported this bill and I still believe that we need to get these funds out there to replenish vital defense accounts and to implement immediate improvements in homeland security.

But in trimming the bill down to reach the level of spending the President feels necessary, I believe that this bill does a disservice to the workers in this nation trying to upgrade or learn new skills and identify new opportunities, and continues to short-change the systems that we have established to support those efforts.

While we are experiencing massive layoffs throughout the nation, businesses continue to find a serious skills shortage in our workforce, which slows our economic recovery.

Reducing WIA funding at this time by allowing last year's rescission to be enacted, will seriously impede our ability to get workers the training they need to secure high-paying jobs and strengthen U.S. competitiveness in the global economy. Such cuts would be short-sighted at a time when long-term unemployment is at a record high.

So I am disappointed that these funds have fallen through at the eleventh hour.

We are facing a tidal wave of demand for job training services. One-stop centers throughout this nation are experiencing record visits by displaced workers and those seeking to upgrade their skills.

In my State, the Renton ''Worksource Center'' is serving over 4,500 workers per month; and the Benton-Franklin County center recently served 991 job seekers in a single day last month;

And our one-stop systems are already producing results. In Washington, we have estimated that, for every dollar invested in programs for dislocated workers and youth training, we get $8 in participant earnings growth and taxes collected.

As these programs get further institutionalized, and as workers get to know the one-stop sites created throughout our States, we will see even greater usage by workers seeking to upgrade their skills or find a more ideal job.

But it won't happen if we don't commit to getting the system up and running. If we continue to short-change workforce development systems, the effects will be felt on our economy for years to come.

That is why I and over 50 of my colleagues joined together in requesting an increase in funding in the regular Labor-HHS appropriations bill currently under consideration by the committee. Despite my concerns about the immediate needs, I am pleased that the committee has decided to restore last year's rescission and provide increases in job these training accounts.

I urge my colleagues on the committee to work with us in ensuring that those funds are protected and maintained as we proceed to moving that bill through both Houses, and that we expeditiously reach consensus on that bill in the interest of our Nation's future.

I ask unanimous consent to print the Washington Post article by Robert Rubin in the RECORD.

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

[From the washingtonpost.com, July 21, 2002; Page B07]

TO REGAIN CONFIDENCE

(By Robert E. Rubin)

There has been much confusion and uncertainty among investors and in Washington about the economy and the stock market, and about what to do in response to a seemingly significant loss of confidence in our system. Much of the focus has been on accounting and corporate governance. These issues are important, but I think the restoration of confidence and the establishment of sound fundamentals going forward require a much broader focus.

To address accounting and corporate governance first: Clearly reforms are needed to deal with the systemic issues revealed by the recent spate of corporate problems, as are specific enforcement actions where appropriate. The accounting and corporate governance bill passed recently by the Senate seems to me on the whole sensible and responsive to these needs. Similarly, the New York Stock Exchange has issued thoughtful proposals on corporate governance. Expensing of stock options is, in my view, worth serious consideration, though practical problems such as valuation need to be resolved. And the conflicts between research and investment banking need a dispositive, industry-wide solution.

These accounting and corporate governance problems developed over time—as

seems to happen after extended good times—but only really came to the fore during the past year. From the time the magnitude of the problems became clear, the need was for a response that was energetic, effective and as rapid as possible. But that response—both in regulatory and legislative changes and in enforcement—should be balanced and appropriate. Our accounting and corporate governance systems have great strengths—in allowing for decisive management decisions, rapid change and agility, experimentation and risk taking—and those strengths should not be unwisely eroded.

Having said that, these accounting and corporate governance issues—though very important—are only part of a much broader question of how to best promote confidence and strong fundamentals, for the short and the long term.

That was exactly the question the new administration faced in the beginning of 1993, and the strategy then put in place contributed centrally to the remarkably strong economic conditions and sound economic fundamentals for the balance of the 1990s. Unemployment fell from over 7 percent to 4 percent and was under 5 percent for 40 consecutive months; private investment in productive equipment grew at double-digit rates for eight years; annual productivity growth more than doubled by the end of the period; inflation was low; GDP growth averaged roughly 4 percent per annum, and 20 million new private-sector jobs were created. Moreover, instead of the huge 10-year deficits projected by the Office of Management and Budget at the end of 1992, deficits were reduced and in time surpluses began.

Certain imbalances did develop—for example, the levels of consumer and corporate debt, the level of the stock market, and excess capacity—as they always do after extended good times, and an adjustment period was inevitable. How difficult that period was going to be would be affected by many factors, very much including the actions of government. Also, the legacy of the 1990s provided strong fundamentals to ameliorate this adjustment, e.g., a large fiscal surplus, strong productivity growth, low unemployment, more open markets around the world and a healthy banking system.

In my view, we need to restore the sound, broad-based strategy that was so central to the prosperity of the '90s. More specifically, I would focus especially on the following:

(1) Virtually the entire $5.6 trillion surplus projected by the nonpartisan Congressional Budget Office in January 2001, including $2.5 trillion of Social Security surplus, has now been dissipated. I wrote when last May's 10-year tax cuts were being debated that their direct cost—later estimated by the CBO as $1.7 trillion including debt service—and even more important, their indirect cost in undermining political cohesion around fiscal discipline, threatened the federal government's long-term fiscal position. And that is precisely what has happened.

Long-term fiscal discipline and a sound long-term fiscal position contribute substantially, over time but also in the short term, to lower interest rates, increased consumer and business confidence, and to attracting much-needed capital from abroad to our savings-deficient country. In addition, a sound long-term fiscal position would far better enable us to meet our long-term Social Security and Medicare commitments.

The portion of the 10-year tax cut that occurred in the short-term may well serve a useful expansionary purpose at a time of economic weakness. But the great preponderance of this tax cut occurs in outer years. Moreover, nobody is talking about a tax increase; the question is whether the cuts enacted for later years should be canceled. In my view, all matters pertaining to taxes and spending should be on the table, with a commitment to reestablishing a sound long-term fiscal position for the federal government.

(2) Trade liberalization and our own open markets contributed greatly to our economic well-being during the 1990s, and are critically important looking forward. The president should be given trade promotion authority, and the recently adopted steel tariffs and agricultural subsidies—which present such a threat to global trade liberalization and to business confidence in the outcome of the struggle over continued globalization—should be corrected. Also—a related matter—we should be prepared to engage in and lead en effective and sensible response to financial crisis abroad when our interests can be affected.

(3) Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy, including improving our public school system and equipping the poor to join the economic mainstream.

Finally, we must deal effectively—building on the strong response to the terrible attack of Sept. 11—with the immensely complex challenges of terrorism and geopolitical instability that are of enormous importance to our economy as well as to our national security.

Much of this is difficult, substantively and politically, but the willingness to deal with exceedingly difficult public issues was central to our economic well-being in the '90s and is centrally important today and for the years and decades ahead.

The writer was head of the National Economic Council from 1993 to 1994 and secretary of the Treasury from 1995 to 1999. He is now director and chairman of the executive committee of Citigroup Inc.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Madam President, I yield any time on our side. The Senator from West Virginia authorizes me to yield back all time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

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

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—92

Akaka	Bingaman	Byrd
Allard	Bond	Campbell
Allen	Boxer	Cantwell
Baucus	Breaux	Carnahan
Bayh	Brownback	Carper
Bennett	Bunning	Chafee
Biden	Burns	Cleland
Clinton	Harkin	Murray
Cochran	Hatch	Nelson (FL)
Collins	Hollings	Nelson (NE)
Conrad	Hutchinson	Nickles
Corzine	Hutchison	Reed
Craig	Inhofe	Reid
Crapo	Inouye	Roberts
Daschle	Jeffords	Rockefeller
Dayton	Johnson	Sarbanes
DeWine	Kennedy	Schumer
Dodd	Kerry	Sessions
Domenici	Kohl	Shelby
Dorgan	Kyl	Smith (NH)
Durbin	Landrieu	Smith (OR)
Edwards	Leahy	Snowe
Ensign	Levin	Stabenow
Enzi	Lieberman	Stevens
Feinstein	Lincoln	Thompson
Frist	Lott	Thurmond
Graham	Lugar	Torricelli
Gramm	McConnell	Warner
Grassley	Mikulski	Wellstone
Gregg	Miller	Wyden
Hagel	Murkowski	

NAYS—7

Feingold	Santorum	Voinovich
Fitzgerald	Specter	
McCain	Thomas	

NOT VOTING—1

Helms

The conference report was agreed to.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

AMENDMENT NO. 4315

The PRESIDING OFFICER. Under the previous order, there will now be 5 minutes of debate, equally divided, on the Hagel amendment No. 4315 prior to the vote on or in relation to the amendment.

Who yields time?

Mr. KENNEDY. Madam President, as I understand it, we are on the Hagel amendment and we have 5 minutes evenly divided. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I imagine the Senator from Nevada would want recognition to make a statement in favor of his amendment.

Madam President, I will yield myself 2½ minutes and ask to be notified of the last 15 seconds.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, yesterday we voted in the Senate on whether we were going to deal with a comprehensive prescription drug program for our senior citizens—the 13 million who have none, the 10 million who have employer-based systems and are losing it, and the 4 million who have HMO coverage but have caps of $500 and $750. We debated that.

I strongly supported the Graham-Miller proposal because it is built upon the Medicare model, a tried and tested program. It was comprehensive, affordable, and it would have met the needs of our senior citizens. I differed with our Republican friends on this particular proposal, but they believe they would achieve the same goal.

That isn't what the Hagel proposal is all about. It will only amount to 10 or 12 cents out of every health care dollar.

I think our seniors are entitled to better. They are the men and women who fought in the world wars, brought this country out of depression, and now are frail and elderly.

The question is, Are we prepared to do for them what we did for them in hospital care and physician services? They need the prescription drugs. I believe we can still find common ground. I would like to find common ground. It is the position of our Democratic leader to try to find common ground in terms of a comprehensive program.

This is a drop in the bucket. This is smaller than a fig leaf to cover the needs of our senior citizens. Let us in the Senate of the United States perform nobly and protect our senior citizens: let's pass a comprehensive program. The Hagel proposal does not do that. We need to do that or we fail our senior citizens.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, I yield to my distinguished colleague from Nevada 1½ minutes of our 2½ minutes.

Mr. ENSIGN. Madam President, our plan is affordable to seniors as well as to taxpayers in future generations. Our plan keeps senior citizens involved in the choices they are making because they will pay the first dollar out of pocket. They have the prescription drug discount card so they will save 25 to 40 percent on the drugs they purchase; but they will pay the first dollar out of pocket so it keeps them involved in the choices they are making and helps the market work and keeps downward pressure on prices.

It also works well with State plans. My State of Nevada used some of its tobacco money to cover senior citizens below $21,500 in income. Our plan fits in well with any of the State plans that have already been put into effect.

The other advantage that this plan has is that it goes into effect at least a year earlier than any of the other plans.

Lastly, our plan gives the help to those seniors who truly need it. Regarding the really sad stories we have heard on the floor of the Senate, this plan helps those seniors more than the Democrat plan, and it helps them even more than the tripartisan plan. If you are a moderate-income senior, with $17,000 of income or so and have $5,000 a year in drug costs, our plan helps those seniors more than any of the other two plans.

I urge the other Senators in this Chamber to support the Hagel-Ensign plan.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, my friend and distinguished colleague, the senior Senator from Massachusetts, talks about a common ground. This proposal is the common ground. As my colleague, Senator ENSIGN, has just stated, this addresses those who need the help the most. We do prioritize. We do focus on those seniors who need the help. Yet we do it in a responsible way. We stay within the $300 billion budget cap that this body voted on for a prescription drug plan over the next 10 years. It is immediate, it is permanent, and it uses the present market system.

We don't build a new government bureaucracy. It is not impersonal. It is direct. It caps the catastrophic dark cloud that hangs over all senior citizens. We are doing something for this generation of seniors as well as the next generation of seniors.

I hope our colleagues give this consideration and will vote for our amendment.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the AARP opposes this amendment. Every senior citizen group opposes this amendment for the reasons in this letter.

I ask unanimous consent that the letter be printed in the RECORD.

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

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, July 23, 2002.

DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.

We appreciate the intent of your bill, S. 2736, the ''Medicare Rx Drug Discount and Security Act of 2002,'' to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.

In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:

Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.

Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree of consumer protections required of plans.

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time. I believe all time has been yielded back.

Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

Mr. HAGEL. Mr. President, I move to waive the respective sections of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

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

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—51

Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Gramm	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith (NH)
Byrd	Hagel	Smith (OR)
Campbell	Hatch	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Stevens
Cochran	Kyl	Thomas
Collins	Lott	Thompson
Craig	Lugar	Thurmond
Crapo	McCain	Voinovich
DeWine	McConnell	Warner

NAYS—48

Akaka	Durbin	Levin
Baucus	Edwards	Lieberman
Bayh	Feingold	Lincoln
Biden	Feinstein	Mikulski
Bingaman	Graham	Miller
Boxer	Harkin	Murray
Cantwell	Hollings	Nelson (FL)
Carnahan	Hutchinson	Reed
Cleland	Inouye	Reid
Clinton	Jeffords	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Leahy	Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this question, the yeas are 51, the nays are 48. Three fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. GRAMM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, Mr. ROCKEFELLER, is recognized to offer a second-degree amendment.

Mr. REID. Mr. President, before the Senator from West Virginia begins, I have spoken to the Senator from New Hampshire, who is the manager of this bill. Following the debate on the Rockefeller second degree amendment, we will go to Senator GREGG or his designee on a second degree amendment, and then Senator REID of Nevada or his designee on the next second degree amendment. I ask unanimous consent that that be the order.

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

The Senator from West Virginia.

AMENDMENT NO. 4316 TO AMENDMENT NO. 4299

Mr. ROCKEFELLER. 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 West Virginia [Mr. ROCKEFELLER], for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN, Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, and Mr. CLELAND, proposes an amendment numbered 4316 to amendment No. 4299.

Mr. ROCKEFELLER. 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:

(Purpose: To provide temporary State fiscal relief)

At the appropriate place, insert the following:

SEC. ____. TEMPORARY STATE FISCAL RELIEF.

(a) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) REPEAL.—Effective as of October 1, 2003, this subsection is repealed.

(b) ADDITIONAL TEMPORARY STATE FISCAL RELIEF.—

(1) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

''SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

''(a) IN GENERAL.—For the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000. Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

''(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

''State	Allotment (in dollars)
Alabama	$33,918,100
Alaska	$8,488,200
Amer. Samoa	$88,600
Arizona	$47,601,600
Arkansas	$27,941,800
California	$314,653,900
Colorado	$27,906,200
Connecticut	$41,551,200
Delaware	$8,306,000
District of Columbia	$12,374,400
Florida	$128,271,100
Georgia	$69,106,600
Guam	$135,900
Hawaii	$9,914,700
Idaho	$10,293,600
Illinois	$102,577,900
Indiana	$50,659,800
Iowa	$27,799,700
Kansas	$21,414,300
Kentucky	$44,508,400
Louisiana	$50,974,000
Maine	$17,841,100
Maryland	$44,228,800
Massachusetts	$100,770,700
Michigan	$91,196,800
Minnesota	$57,515,400
Mississippi	$35,978,500
Missouri	$62,189,600
Montana	$8,242,000
Nebraska	$16,671,600
Nevada	$10,979,700
New Hampshire	$10,549,400
New Jersey	$87,577,300
New Mexico	$21,807,600
New York	$461,401,900
North Carolina	$79,538,300
North Dakota	$5,716,900
N. Mariana Islands	$50,000
Ohio	$116,367,800
Oklahoma	$30,941,800
Oregon	$34,327,200
Pennsylvania	$159,089,700
Puerto Rico	$3,991,900
Rhode Island	$16,594,100
South Carolina	$38,238,000
South Dakota	$6,293,700
Tennessee	$81,120,000
Texas	$159,779,800
Utah	$12,551,700
Vermont	$8,003,800
Virgin Islands	$128,800
Virginia	$44,288,300
Washington	$66,662,200
West Virginia	$19,884,400
Wisconsin	$47,218,900
Wyoming	$3,776,400
Total	**$3,000,000,000**

''(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

''(d) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

''(e) DEFINITION.—For purposes of this section, the term 'State' means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b).''.

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, as added by paragraph (1), is repealed.

(c) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

Mr. ROCKEFELLER. Mr. President, I rise to offer this amendment on behalf of many Senators. It is a very long list.

Most of my colleagues know we should have included State fiscal relief and, in fact, did include it in our original stimulus package, which we debated both before Christmas and afterward but did nothing about. This is a stimulus package that we need now and need to complete because we have very dangerous cuts going on in Medicaid and in the health care programs in our States that affect our most vulnerable Americans.

The amendment which I and about 30 other Senators offer is to provide States with the assistance they need right now. State budgets, as the Presiding Officer is more than aware, having been a Governor himself, are in really bad shape financially, and 49 States, of course, cannot spend any deficit money at all. More than 40 States in this fiscal year faced a combined budget shortfall of between $40 and $50 billion, according to the National Governors Association and the National Association of State Budget Offices. It is a crisis. I hear from my Governor from West Virginia as often as the Presiding Officer from the State of Delaware hears from his Governor.

These deficits were caused by a combination of lower-than-expected revenues, higher-than-expected expenditures, including increased Medicaid costs, and Medicaid is our key, partly a result of the rise in unemployment. When that happens, what is a State going to do but to offer Medicaid?

There are some signs of an economic recovery at the national level. I say that without any particular reason to know that or even to be hopeful, but I will say that rather than just be pessimistic. However, it will certainly take 12 to 18 months, if I am right in my optimism, for the State to recover.

We offer this amendment to help address the States' fiscal crises. Yes, we are the Federal Government. Yes, they are States. However, they are deeply responsive to us and reactive to us with respect to Medicaid and virtually all of our health care programs.

This amendment will provide about $9 billion to States over the next year and a half by increasing the Federal Medicaid match, also by holding States harmless for reductions in their Medicaid match that would occur under current law and providing about $3 billion in new money that States can use for other social service needs such as child care.

I will explain that simply by saying when I conceived of this amendment originally, it was all about the Federal matching percentage. And then I got together with Senator COLLINS from Maine and Senator NELSON from Nebraska and we worked out a compromise, which I think is a far stronger amendment, which is to say that we want to do the Medicaid match problem but we also want to work on social services block grants.

There is a block grant component here of $3 billion, which means less for Medicaid but more for block grants, which means States can use it for child care, for education, for child abuse and negligence, and a variety of other services. It is a creative and good approach.

It is important that my colleagues support this amendment. I will say a word or two about some of its provisions.

Some Senators might say we should help the States. That is what we do. We often impose requirements and they get into trouble; we wander off, forgetting what we have done.

Some might say, look, they got themselves into this mess; why should we get them out of this mess? But the problem with that approach is, No. 1, they didn't get themselves into that mess. It was a result of what was going on nationally, economically, the way the whole formula is figured, and I can get into that if my colleagues want to talk about it.

Regardless of that, the problem is the people are affected, the people of our States are the ones affected. Governor Patton of Kentucky has noted:

> Without fiscal relief the cuts necessary to close the budget gaps will have profound effects on our Nation's children and the programs which serve our most needy populations.

Several States have already cut back coverage under their Medicaid programs. If States cut back on Medicaid benefits, their residents will be out in the cold. So we need to stop pointing fingers at the States and ensure that the safety net is strong for this Nation's people who are our most vulnerable citizens.

Despite the downturn in the economy that is affecting most areas of the country, the proportion of Medicaid costs that the Federal Government bears—in my State, it is 77, 78 percent, but the proportion that the Federal Government is now paying is declining in 29 States. It is declining in 29 States including the State of West Virginia.

So the States with reduced matched rates will lose well over half a billion dollars. This is as a consequence of what is now going on under current law. Our amendment would hold States harmless for these decreases.

Our amendment will also provide a temporary increase in the Federal Medicaid matching rates. I say temporary; it is not permanent. There will be people here who will try to argue we are creating an entitlement. It is a temporary program which we write into law.

I would say to the Presiding Officer, when we did the tax decreases, we wrote that into law. We could write this into law. It will last a certain period of time, the Medicaid match will be up until a certain year, the social services block grant up until a certain year. We write it into law. That is what we did with tax cuts. That is what we could do in this amendment.

The pressure on States to cut back health insurance for low-income families and individuals is enormous. The Governor of my State, this Senator's State, Gov. Bob Wise, calls me constantly about this. The State is in deficit for many reasons. It is not a wealthy State—it is a wonderful State, but it is not a wealthy State—and he agonizes over this because he knows at the end of the day he will have to make cuts in Medicaid. He already has had to. He doesn't want to do that because it affects so many of the people I represent—that we all represent.

Finally, I say to the Presiding Officer, the amendment will provide States with money they can use for other social services. It is very creative. It can be education. It can't be health care, but it can be education; it can be child care, which plays very strongly into the whole welfare reform debate issue. It can be for child abuse and neglect.

All of us will offer meaningful assistance to States with ailing budgets, lessening the need for States to cut programs or raise taxes in the middle of something called a very bad recession. I cannot think of a more important time to pass this than now.

My State will receive about $58.5 million under this amendment, which it desperately needs in order to ensure coverage for our people.

I want to stress that this proposal is temporary. It will be effective for 18 months from April 2002. Our amendment includes an emergency designation. Why do we do that? Because that is the way it originally was. That is the way it always was. It was part of the stimulus package. It was part of getting America going again. Now more than ever we need to get America moving again economically.

The total estimated cost of the proposal, for both the block grant part and the FMAP part, the Medicaid match part, is $9 billion over 10 years. I believe it is appropriate that we provide the States with this relief under the traditional emergency designation.

I will be glad to speak further, but I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today with my colleagues, Senator ROCKEFELLER, Senator BEN NELSON, and Senator GORDON SMITH, as well as with several other of our colleagues, to offer an amendment that begins to address the fiscal plight of our States. I congratulate Senator ROCKEFELLER and Senator NELSON for their hard work on this issue.

Originally, we had slightly different approaches but, in an attempt to get something done that will help our States that are struggling with fiscal

crises, and more important, the low-income families who are dependent on Medicaid for their health care needs, we joined together and came up with a compromise that I hope will win widespread bipartisan support.

Here in Washington, consumed with our own budget issues, we too often forget that we have 50 partners in our efforts to provide needed health care, education, and other essential services to our citizens. Our partners are our States, and they need our help and they need it now.

The recession may officially have come to an end, but its effects still linger and they are being felt acutely by States from Maine to Nebraska, from West Virginia to Oregon. The resulting rise in unemployment, as well as the decline in tax revenues, coupled with the aftermath of September 11, have placed enormous and unanticipated strains on our State governments' budgets. States are facing a dramatic and unexpected decrease in government revenues at precisely the time when more revenues are needed to respond to the needs of more and more Americans who are having difficulties making ends meet.

The combination of increasing demand for services and resources that have declined is causing a fiscal crisis for States across the Nation. According to the National Governors Association and the National Association of State Budget Officers, more than 40 States are facing an aggregate budget shortfall of between $40 billion and $50 billion. Most States have seen their estimates of tax collections decrease, often precipitously and unexpectedly. State governments are scrambling to respond.

Forty-nine States are required by law or their constitution to balance their budgets, so running a temporary deficit for these States is not a possibility.

Moreover, the problem is getting worse. It is not likely to improve anytime soon. A survey by the National Governors Association shows that individual tax revenues for the first 4 months of this year are running nearly 15 percent behind last year's level.

The problem also is not an isolated one. It is not limited to just one area of the country. Mr. President, 39 States have been forced to reduce their already-enacted budgets for fiscal 2002 by cutting programs, tapping rainy day funds, laying off employees, and reducing important services.

According to the Conference of State Legislators, States have been forced to cut a number of critical programs. Twenty-nine States have attempted to balance their budgets by cutting spending on higher education—something no one likes to see; 25 States have cut corrections programs. Others have cut K–12 education and the Medicaid Program; 10 States have reduced aid to local governments. In addition, a number of States have resorted to increasing taxes and fees by a total of $2.4 billion.

The situation in my home State of Maine is typical of the problems faced by many States. Our fiscal year just ended on June 30. Just this past March, State revenues appeared to be on target at approximately $2.4 billion. In April, after the State legislature had adjourned for the year, State forecasters projected a shortfall of $90 million, largely due to sluggish capital gain receipts.

By mid-June, the expected shortfall had risen by another $20 million, due to lower than expected sales taxes, income taxes, and corporate income tax receipts. All were off projections.

So you can see how quickly the financial system turned from relatively positive to negative in my State and many others.

The shortfall in the fiscal year that just began in May looks even worse. We may experience a shortfall of $180 million. That is enormously difficult for a State such as Maine to deal with in a way that does not hurt the people we serve.

To close the books on last year, the Governor of Maine had nearly emptied our State's rainy day fund. This year, the choices are going to be far tougher. Already, cuts in education funding, furloughs for government workers, and cuts in the Medicaid Program are on the horizon.

I believe States need to tighten their belts in times of fiscal difficulty just as the Federal Government should do in austere fiscal times.

We are not talking about taking the States off the hook. They are still going to have to make a number of very difficult choices in order to balance their budgets. But the unexpected nature and the severity of the crisis that States now face has convinced me we need to give them some temporary help. We should do so by targeting resources where they are most needed for health care and social services programs.

Our amendment would provide a temporary increase in the Federal Medicaid matching rate. It would also provide block grant funds to every State. Specifically, it would provide $6 billion to States by holding each State's Medicaid matching rate harmless for the next 18 months. It would also provide a temporary increase in the Medicaid matching rate.

I note that over 30 States are scheduled to see a decrease in their Federal matching under the Medicaid Program.

So we would hold these States harmless. They would no longer see their Medicaid rate drop at the worst possible time for them from a fiscal standpoint.

The legislation would also provide $3 billion through a temporary block grant to help States pay for the rising demand in social services resulting from the economic downturn. As Senator ROCKEFELLER indicated, that could be used, for example, for child care programs that are so important to our States.

In order to be eligible for the increased Medicaid funds, States are asked to maintain their Medicaid Programs. There are some States that have acted to contract their Medicaid Programs in order to cut their costs. But these States could reverse those actions and, thus, become eligible for the increased Medicaid match that is provided by this bill.

Regardless, every State is going to benefit from the package we put together. Every State will receive a share of the block grant funding and will be protected by the provisions that maintain the Medicaid matching rates at no less than the current level. Those are the so-called hold harmless provisions.

Our amendment is strongly supported by the National Governors Association, as you might well expect. They need our help. But it is also strongly endorsed by a number of health care providers that are very concerned about their ability to continue to provide much-needed quality health care to citizens who rely on the Medicaid Program. It has been endorsed by the American Hospital Association, the American Health Care Association, which represents our nursing homes, the Visiting Nurse Associations of America, and a host of other health care provider groups.

The support that our legislation has received underscores the importance of providing assistance to States at a time when many are being forced to look toward cuts in vital health care programs in order to balance their budgets.

Our amendment targets most of our assistance on Medicaid. The reason is that the Medicaid Program is the fastest growing component of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased by 11 percent. This year, Medicaid costs are increasing at an even greater rate—13.4 percent. My home State of Maine is one of only a number of States that have been forced to consider resorting to cuts in Medicaid in order to make up for their budget shortfall.

The amendment we are offering today—I want to stress this point—would not free States from the burden of making painful, difficult choices in crafting their budgets for the current year. But it would help to lessen the impact of the cuts. It would help to soften the blow from a situation in which the States are really not to blame. It is a combination of events—of declining tax revenues, lingering impact of a recession, and the events of September 11—that has created the fiscal crisis for our States.

Our legislation would help protect vital programs for those who can least bear the cuts in services. To the State of Maine, our amendment would mean $54 million for health care and social services that would help our most needy citizens and assist our Governor

and the legislature in producing a balanced budget without resorting to draconian cuts that would have a terrible impact on our State citizens.

Congress is most effective when it stands arm in arm—not toe to toe—with our partners, the States. Our States face a crisis of vast and still expanding dimensions. I think we need to help, and we need to help now. The longer we wait, the more difficult it is going to be for our partners, the States.

This amendment is a modest amendment. Other versions of this amendment were far more expensive. But in recognition of the fiscal realities we face, we have limited its scope. But it is an amendment that would make a difference to the States and to needy citizens across our Nation. I urge my colleagues to join me in providing much needed but temporary fiscal relief to the States.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today to join my colleagues and good friends, Senator COLLINS and Senator ROCKEFELLER, in discussing this issue, and to urge the support of our colleagues as we strengthen the partnership that exists between the States and the Federal Government as it relates to the Medicaid Program and social services.

With the Presiding Officer having led the National Governors Association, and having served as a Governor with the Presiding Officer in the National Governors Association, I feel perhaps a little bit like I am preaching to the choir. On the other hand, I think it is important that we continue to point out the challenges facing the States today which will put in doubt the continuing relationship of providing the kinds of benefits necessary for Medicaid and for social services.

There is, in fact, a partnership. It has been a partnership—a partnership where all the parties have responsibility and all the parties have an opportunity to help the most vulnerable among our society and our population. But as my colleagues have pointed out, States today are experiencing the necessity of making cuts in spending for important social services as well as for education and for a number of other programs.

The current economic indicators suggest it could be years before revenue levels return to what they were in the late 1990s. It will continue, therefore, to be a herculean challenge for the States to maintain a semblance of the services they were able to provide only a few years ago. As is the case in any economic downturn, now is the time when people need the services most.

Senator COLLINS and Senator ROCKEFELLER have indicated the importance of this particular legislation to their home States. I ask for the opportunity and the courtesy to be able to do the same.

In my home State of Nebraska, unemployment levels are at their highest mark in 15 years. For only the second time in history, Nebraska will collect less revenue this year than it did last year. When those two figures are put together, it should be abundantly clear that the budget is being pressed on both sides, and eventually something will break.

In Nebraska, cuts have already been made to child care programs, rural development, and other essential services. A tax increase has been passed by the legislature. These measures might relieve the strain for today and tomorrow. But next year there will be more tough choices and even fewer options.

Many of those options will likely involve cuts to Medicaid unless we act to provide fiscal relief. According to the National Governors Association, Medicaid spending has been a particular struggle for States since expenditures have risen an average of 12 percent over the past 2 years while State revenues rose to a total of 5 percent—where they even increased, let alone where they decreased.

Medicaid spending has been driven by increases in health care costs generally. For example, Medicaid costs for prescription drugs have increased by 18 percent annually over the past 3 years. It has also been increased by the recession-related increases in the number of people who have become eligible for Medicaid due to the downturn in the economy. This continues to grow worse.

As we look for a solution for Medicare and the prescription drug benefit that we want to see provided to our seniors and to those who have the need as part of the Medicare Program, we know what the increase in cost has done to the average citizen. This program has felt the same impact.

To date, most States have been able to reduce Medicaid spending without cutting back eligibility significantly. Mr. President, 28 States have failed to budget enough funds for Medicaid this year, and nearly all States have implemented Medicaid cost-containment measures, such as reducing some benefits, increasing beneficiary cost-sharing, or cutting or delaying payment to providers.

But as fiscal pressures continue to mount, many States are likely to consider substantial reductions in Medicaid eligibility that would leave hundreds of thousands more children, families, and seniors uninsured. Medicaid, as you know, is often the second largest share of State budgets after education, and States have already exhausted the traditional budget balancing tools, such as tapping reserve funds and using one-time measures, such as using tobacco settlement funds or forward-funding spending programs, as well as Medicaid spending cuts unrelated to eligibility. But the States need help.

It is important that we help the States today because part of the partnership we have established with the States is welfare reform. To the extent they are now faced with making cuts that will reverse the success we have had in welfare reform, it would be a tremendous shame to sit by and not do what we can to help avoid that sort of result.

As you know, Medicaid, as well as the eligibility requirements and transitional benefits in social services, have helped transition people from welfare to work. I think it would be a tremendous disservice if we saw the absence and the withdrawal of those programs reverse the trend, where people go from work back to welfare because they lose their child support care and other valuable programs that have helped in the transition.

For the past several months, we have been working together, Senator COLLINS and I—and we have been so pleased to have been joined by Senator ROCKEFELLER in bringing about this coalition—to craft a measure to help States through this period of fiscal crisis.

During the journey to bring our measure to the floor, it has gone through some changes, but, more importantly, it has become even more of a consensus measure along the way. As Senator COLLINS indicated, it has the support of the National Governors Association, with the letter today supporting it. And these are members of all political parties, a tripartite group, where they are now supporting it and truly recognize how important it is we work as quickly as we can to provide this support to the States.

The Rockefeller-Collins-Nelson amendment will provide $9 billion, as has been mentioned. It is a temporary measure that will provide enough help, over the next 18 months, to ensure that low-income families, children, seniors, and persons with disabilities most affected by the economic downturn will get the health care as well as the other services they need. It will also help to provide financial resources for various hospitals, clinics, nursing homes, doctors, and other providers that offer such services.

It is clear this amendment is, by no means, perfect. But it is a consensus amendment, and it is a step in the right direction, on a temporary basis, to help the States through these difficult times and, moreover, to help the residents and the citizens of the States get through this.

So I urge my colleagues to adopt this amendment and take this step to avert, at least in part, potentially damaging cuts to Medicaid, as well as to other social service programs.

I hope, as the list of supporters is included in the RECORD, numerous senior groups and other groups interested in the outcome of the Medicaid Program and social services—that that list will show there is strong support, not only among the States but by those who are equally interested in the outcome for seniors and for others, and that that support will encourage and bring about the support of others of our colleagues, so this amendment can be adopted.

It appears we are going to need the requisite 60 votes for this to be adopted. We hope people will support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Idaho.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

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

(The remarks of Mr. CRAPO are printed in today's RECORD under ''Morning Business.'')

Mr. KYL. Mr. President, I rise to express my concerns with Senator ROCKEFELLER's amendment. As you know, it would provide every state with a 1.35 percent point increase in their Federal Medical Assistance Percentage, FMAP,—the amount that the Federal Government supplements States for their Medicaid costs.

Under FMAP, Medicaid funds are distributed to States based upon a formula designed to provide a higher Federal matching percentage to those States with lower relative per capita income, and a lower Federal matching percentage to those States with higher per capita income. This formula, although not perfect, is justified because States cannot manipulate it for their own gain; the data is periodically published and can be estimated with reasonable accuracy. Additionally, the use of per capita income is a proxy for State tax capacity which, in turn, relates to a State's ability to pay for medical services for needy people. To put it simply: poorer states get more help than wealthier States.

The Rockefeller amendment ignores the Medicaid formula and gives each State a 1.35 percent point increase. Under the amendment, states that have been determined by the Medicaid formula to receive the lowest FMAP of 50 percent receive the greatest percentage increase in FMAP. States with the highest FMAP receive the lowest percentage increase. This is the exact opposite of how the funds should be allocated. The Medicaid formula, whatever its faults, does indicate a relative sense of need. It would be wrong to the give the least needy States the largest percentage increase.

For example, Illinois' FMAP for fiscal year 2003 is 50 percent. Increasing this to 51.35 percent, as the chairman's mark does, increases Illinois' FMAP by 2.7 percent. Arizona's FMAP for fiscal year 2003 is 67.25 percent. Increasing this to 68.60 percent, as the amendment does, increases Arizona's FMAP by only 2 percent and, obviously, a much lower dollar figure. Illinois is receiving a 35 percent greater increase in its FMAP than Arizona, yet by the formula's standards, Arizona has shown that it needs a far greater FMAP than Illinois.

While the amendment is supposed to be a temporary increase in the FMAP for just 18 months—I also worry that this temporarily increase would become permanent, in which case it could cost upwards of $30 billion over 10 years.

Additionally, the Chairman of the Finance Committee had scheduled a mark up on a proposal similar to this amendment. Unfortunately, the mark up was canceled. I do not think that having an amendment on the Senate floor without the legislation going through the committee process is the best way to make changes in the Medicaid formula that could become permanent.

Given these facts, I will not be able to support the Rockefeller amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are a variety of things that have been said about this amendment, and there are a few more things that could be said, but, basically, the nature of the amendment has been laid out.

We are talking about an emergency designation. We did that in the pre-last Christmas stimulus conference, of which I was a member, but it did not get anywhere. We have talked about maintenance of effort. We talked about the fact that this started out as just for Medicaid, and now it is bifurcated in two parts, both of which are good. And it is a stronger amendment.

I notice the presence of my distinguished colleague, Senator SMITH, on the floor, and hope that he will have some comments he will want to make.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, first, I thank the Senator from West Virginia for his leadership in bringing together this coalition.

The amendment, that I hope we soon adopt by an over 60-vote margin, is, in part, like what we adopted last December when, as part of the supplemental bill or the stimulus package, Senator BAUCUS and I authored an amendment that would have helped a great deal with respect to Medicaid in the States' use of these funds. This bill is broader. It allows States more discretion.

Senator BEN NELSON, Senator COLLINS, Senator TIM HUTCHINSON, I, and others have come together to provide an amendment that our States desperately need us to adopt.

Medicaid is an essential part of our health care safety net. Last year, the Medicaid Program provided health coverage for 44 million of the most vulnerable Americans 22.6 million children, 9.2 million adults in low-income families, and 12 million elderly and disabled.

One in four American children are covered by this important program. Yet, despite the program's importance, states around the country are struggling to fund their share of their Medicaid programs.

The National Governors' Association reported several weeks ago that States are in the worst financial situation in 20 years, and that they expect next year's situation to be even worse.

During this current fiscal year, more than 40 States are experiencing budget shortfalls totaling $45 billion. To close the gaps in funding, many States are cutting public education, services to the elderly, and health care to the poor—Medicaid—even as families are struggling to get by in the weakened economy.

Twenty-two States have already acted to cut costs by eliminating planned expansions of Medicaid or slashing current Medicaid eligibility.

To keep State budgets in balance this year, Governors have cut spending in many departments, tapped ''rainy day'' funds, and depleted tobacco settlement funds. What this means is that, as we enter 2003, the one-time fixes have been used up. In the words of Idaho's Governor Kempthorne, ''The cupboard is bare.''

Going into legislative session this year, my home State of Oregon faced a budget shortfall of more than $800 million, and the majority of States are facing similar conditions.

The cruel irony of this situation is that just as State revenues have dropped due to poor economic conditions, many more families are turning to Medicaid as their only source of health care.

I know that in Oregon, the number of people on Medicaid has risen by more than 10 percent since June of last year, and I suspect that many of your States have experienced similar increases in demand.

Last year, more than 40 million Americans lived and worked without health insurance, and it is estimated that the economic downturn will add another 4 million to the ranks of the uninsured.

The amendment before the Senate today addresses a very real emergency. It will allow States to continue providing health care to our society's most vulnerable members in this economic downturn by providing a temporary increase in the federal medical assistance program, FMAP, funds States receive to pay their portion of the Medicaid bill.

It will prevent the erosion of health insurance coverage and help maintain a strong health care safety net for vulnerable Americans during the economic downturn.

By temporarily increasing the Federal portion of the Medicaid bill, the scope and depth of possible State budget cuts or tax increases will be lessened, minimizing the potential negative impact on the economy and our most vulnerable citizens across the country.

Including funds for States to use for a variety of social services will also help provide services to the needy at a time when demand for such services is demonstrably on the rise.

It is the right thing to do, and the right time to do it.

I urge my colleagues to support our amendment so we can clear the 60-vote threshold.

Again, I thank our colleague from West Virginia, Senator ROCKEFELLER,

for his leadership and look forward to joining him in support of this critical and timely amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank Senator ROCKEFELLER for his leadership on this amendment and on health care policy. I have said to the Senator from West Virginia, it is a little bit like the E.F. Hutton ad: When E.F. Hutton speaks, people listen. Senator ROCKEFELLER has that credibility.

This is critically important. I know in Minnesota it is about $123 million in additional Medicaid funding. There is also the additional social services block grant money that would also come to Minnesota. Our State, just like many States in the country, is under siege financially.

The other important feature is that one of the conditions upon receiving this is to not cut back on Medicaid or medical assistance eligibility which is extremely important. People need to be able to keep their health insurance.

I ask unanimous consent to be an original cosponsor.

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

Mr. WELLSTONE. I thank Senator ROCKEFELLER for stepping forward and taking the lead. I indicate to my colleagues my very strong support as a Senator from Minnesota for this amendment.

I yield the floor.

Mr. REID. Mr. President, I say to my friend from West Virginia, the sponsor of this amendment, the Senator from West Virginia would agree to a reasonable time on this amendment; would he not?

Mr. ROCKEFELLER. The Senator is correct.

Mr. REID. There is not a manager on the floor, and there are other things going on, such as the memorial service for the fallen police officers in a few minutes. I would hope that we would be in a position in the near future to arrive at some reasonable time to vote on this amendment. It appears to have wide support. I would hope on this amendment the majority leader would not have to file a cloture motion. It is my understanding that the last time there were at least eight or nine Republican cosponsors of this legislation; is that not true?

Mr. ROCKEFELLER. The Senator is correct. If the Senator will yield for an additional comment.

Mr. REID. Yes.

Mr. ROCKEFELLER. It is a very interesting situation because we have a compromise. It has very broad support. Nobody has come to speak against it. There is a temptation to call for the yeas and nays; we are ready to vote. We could have voted on this already. We voted in the Finance Committee. If we voted on the floor, this is something I think would pass well and easily. It is incredibly important to the States. I will say something about that after I yield back to the Senator from Nevada.

Mr. REID. I appreciate the work that has been done by the Senator. I hope this isn't happening. This is very typical, when someone knows there is a good piece of legislation on the floor, to just ignore it and go away. People don't want to speak against this because States are helped as a result of the amendment of the Senator from West Virginia. It is shaping up that maybe this will be our Friday vote. The leader has indicated he will not go off this legislation at the drop of a hat. He is working very hard to get a bipartisan prescription drug amendment added to this underlying legislation.

We should move on this legislation the Senator has offered and not waste time. The Senator from West Virginia or the Senator from Nevada can't make that decision.

But we can suggest to the majority leader that it appears a big stall went on here and maybe there should be a cloture motion filed on the amendment of the Senator from West Virginia. Nothing is happening here and this amendment has been on the floor. I have been watching all the floor proceedings. Has anybody spoken against this amendment?

Mr. ROCKEFELLER. I say to the Senator, not a single voice has been raised against it.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I say to the majority whip that there is one individual—Senator GRAMM of Texas—who came by as I was about to speak and asked to speak before there is a vote or any final agreement. He intends to speak in opposition to my position. He made that clear. I will not speak for him, but as a courtesy to him I note his interest in making a statement in opposition.

Mr. REID. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, it is very perplexing, really, because I was noting when the Senator from Nebraska was here, the floor was crowded with Senators on our last votes. Obviously, all of a sudden, the Senate floor was empty when we came to what is the single most important part of the relationship with the Federal Government that States are worried about and that is their Medicaid match.

This Senator was a Governor for 8 years. I remember what happened in the early 1980s when we had the recession. I remember what happened in Medicaid and I remember what happened in the public employees insurance. Everything sort of collapsed. And then there is this body up there in Washington that thinks it is so high and mighty that it doesn't need to pay attention to the problems of States. We only pay attention to the problems of the world and the country. This is an example where this was part of the stimulus package and we were dealing with the absolutely most critically important part of whether a child eats, whether a child has medical services, whether a family has medical services, and everybody is silent.

I have a very strong feeling that if this were taken to a vote, it would get well over 60 votes. I know the Senator from Illinois is here and so is the Senator from Minnesota. But there is this strange silence, which sounds like a rolling filibuster without voice. I think it is wrong. We are ready to go to a vote. I am going to keep saying that because it is important.

Mr. WELLSTONE. Will the Senator yield for a question and comment?

Mr. ROCKEFELLER. Yes.

Mr. WELLSTONE. I urge the Senator—and I know he will do so—it is hard to figure out the opposition, but I hope all of us think about our States. This is an enormous contribution the Senator is making.

I ask the Senator from West Virginia whether he intends to persevere and to keep it on the floor and do whatever he needs to do to bring it to a vote.

Mr. ROCKEFELLER. This amendment is going to be voted on.

I notice the presence of the distinguished Senator from Illinois.

Mr. DURBIN. I would like to speak on behalf of the Senator's amendment. I will seek recognition on my own time if that would be appropriate.

Mr. ROCKEFELLER. I was trying to be courteous and friendly and encourage the Senator to speak, and he will proceed as he does so well.

Mr. DURBIN. The Senator from West Virginia is always courteous.

Mr. President, the amendment before us, offered by the Senator from West Virginia, is one of critical importance across the Nation. In Illinois, we have cities large and small, hospitals large and small; but we have health care needs that are universal. Whether you live in small town America or in the middle of Chicago, there is genuine concern about health care and its cost.

Now, one of the groups of Americans that we have made a special effort to try to help are those who are in low-income situations. The Medicaid Program is an effort by our country to say that no matter how poor you might be, whatever your economic circumstances, we will not let you go without basic medical care. That has been a commitment in place for almost 50 years, and it is one that I think we honor as Members of the Senate, both Democrats and Republicans.

What the Senator from West Virginia challenges us to face is the fact that the amount of money we are sending to the States to meet that obligation is not enough. It is not enough for several reasons. The state of the economy is so poor, with unemployment, with businesses in trouble, with people not receiving health insurance at their place of employment. They turn in desperation to this Medicaid Program. I think you will find that a substantial portion of those who turn to it are children—the children of a working mother, the

children who otherwise might not receive the most basic medical care. So the demand for services is increasing because of the sad state of our economy.

The Senator from West Virginia knows that. He comes before the Senate and says: If you are going to talk about health care in America, for goodness' sake, be sensitive to the fact that there are more and more people in desperate need. If the commitment of our Federal Government to Medicaid is to be honored, certainly we must pay close attention to the amendment.

Second, he raises a serious element, which is the fact that the cost of this medical care is increasing. Ironically, one of the elements that drives up cost is the cost of prescription drugs under the Medicaid Program—under virtually every health care program. So in the State of Illinois, in West Virginia, in North Carolina, and in California, when you try to keep some young person, for example, healthy so they don't have to be hospitalized, under Medicaid the cost of prescription drugs to do it keeps increasing.

On a national average, the cost of prescription drugs went up 17 to 18 percent last year. So is it little wonder that, as we look at this program, it is suffering because not only are there more demands but the costs have gone up? Senator ROCKEFELLER appropriately says to us, for goodness' sake, you cannot ignore these realities. If you don't provide additional resources for Medicaid, fewer people will be served and we will literally threaten the quality of health care to millions of Americans.

This bill sounds so simple—and it is—because it asks the Senate to keep its word. If you are committed to the families of America, rich and poor, that they will not be left without quality health care, are you willing to vote for it?

It amazes me. As the Senator comes to the floor, you would expect opponents of this legislation to be gathered and make the arguments they are going to make. Yet you could shoot a cannon across this floor and not hit an opponent. No one is here. I don't know if this is an effort or a conspiracy of silence to not come and say anything and then pray that the amendment doesn't come to a vote. Some colleagues live and dread that they may have to vote for this one way or the other.

I am reminded of one of my favorite colleagues from the House of Representatives, the late Mike Synar of Oklahoma, who used to say to me, when a tough vote would come up on the House floor: I know you don't want to cast that tough vote, but if you don't want to fight fires, don't be a firefighter. If you don't want to vote on tough issues, don't run for Congress.

Well, this is a tough call. We are saying to Democrats and Republicans alike: Come to the floor and vote on whether we are going to adequately fund Medicaid and reimburse the States that are struggling with this economy. If you don't believe we should, then vote no. But if you believe we should, as I do, join Senator ROCKEFELLER in this effort.

We all know what the States are going through. There is not a State in the Nation that hasn't faced serious shortfalls in terms of State revenue. My State of Illinois, and virtually every other State, has had to make cuts and changes when, in fact, each and every one of them is paying for them. At the same time, since September 11, all of the States and localities are putting more money into security as we expect them to do. They are providing law enforcement so we have a safe and secure Nation. They are trying to maintain and protect our basic infrastructure of America.

So as the economy is weakening, the demands on State revenue increase and the costs of the Medicaid Program go up, and Senator ROCKEFELLER says it is time for the Federal Government to meet its obligation. What he has proposed that we do is to increase the Medicaid reimbursement in all States by 1.35 percent.

As I stand here and say that, many people listening to this debate will say: How big a difference could that make? The fact is it could make a substantial difference. It could provide our States up to $6 billion over the next 18 months; $6 billion right into the Medicaid system, making certain that people receive basic health care.

It also says States with a lower FMAP this year than last year will be held harmless. States do not lose money under this proposal. It says States will also receive, if I understand correctly, $3 billion in fiscal relief grants for a variety of social service programs which are now suffering.

The Urban Institute estimates that Medicaid enrollment can be expected to increase because of our weak economy by approximately 800,000 adults, 2 million children, and 260,000 people with disabilities, if the unemployment rate rises from 4.5 percent to 6.5 percent. With that, of course, are the demands for more Federal money and more State money.

I applaud my colleague from West Virginia. We have worked on this before. We tried to bring this to the floor several different times. This is the moment. If we are talking about health care costs, whether it is the cost of prescription drugs, the availability of generic drugs, as we address each of these issues, let's not overlook the basics.

There are many people in this country struggling to get by today, working part-time, unemployed, trying to keep their children healthy. States are struggling to provide the services these folks need. In my State, I can find them in rural areas, I am sure in Arkansas and North Carolina. There are many small town hospitals which are threatened with going out of existence. They are going to leave.

In one part of my State, as I traveled around, I said in Calhoun County: What does it mean if that local hospital closes? They said instead of a woman traveling 40 miles to deliver a baby, it is 75 miles. I have been through that three times with my wife, and the prospect of getting in a car and driving 75 miles when she thinks the baby is on the way is something no father, no member of any family can look forward to. That is the real world affect of this amendment.

If we do not provide the assistance through Medicaid for those hospitals and those doctors, we are going to say to some parts of America, whether it is inner-city or rural America: You are going to find a dramatic decline in the services and quality of service available to you.

The block grant which Senator ROCKEFELLER proposes to the States is also going to help us in providing a variety of social services. This increase in Federal support is essential if we are going to honor our commitment to act as partners with our States to help our Nation's most vulnerable people.

I urge my colleagues to support Senator ROCKEFELLER's amendment and to increase Federal assistance to States that are struggling to make ends meet. This increase in Federal support is long overdue. We first started talking about it last November. Senator ROCKEFELLER and I tried to include this in the energy package, if I am not mistaken. That was one of our efforts. We cannot delay it further.

Anyone who opposes it—I hope no one does—if anyone opposes it, come forward, make your argument, suggest your own amendment, but for goodness' sake, let's not let this important issue slide by. There are literally people in communities across America who are dependent on our good work, and if we do not respond to this national emergency, there are families and people who will suffer.

I thank Senator ROCKEFELLER for his leadership on this issue. I ask unanimous consent to be shown as a cosponsor of the amendment.

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

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I wish to say a special thanks to Senator ROCKEFELLER who has been tireless in this effort on behalf of his constituents in West Virginia. The similarities in our States have certainly given me a wonderful partner in fighting on behalf of this issue. We have been fighting to increase Arkansas' share of Medicaid dollars since last fall.

I remind the Senator from West Virginia that back in November, when we were taking up the stimulus bill in the Finance Committee, we tried even there to offer this type of an amendment, to recognize the shortfall in our rural States and the problems they were suffering at that point. We know

that in terms of stimulating the economy, it is pretty hard to go to work if you are sick and cannot get health care. It is pretty hard for children to learn and become a great part of the future leadership and the future workforce of this country if they are sick and cannot go to school.

Back in February, we argued to get it into a slimmed down stimulus package, but we did not pass it there either.

I worked with Senator ROCKEFELLER to try to amend the energy bill, but we did not get a vote on that back in March. Again, in April, I cosponsored stand-alone legislation with Senator ROCKEFELLER and Senator SMITH, and in May I cosponsored stand-alone legislation with Senator COLLINS and Senator NELSON.

We have been working on this issue for quite some time. We recognized last fall when many of our State Governors were having to take cuts that those who were most vulnerable in our society were going to be hurt the most, and we needed to do something and we needed to act.

I am a proud cosponsor of the amendment before us in which the two previous proposals I mentioned have been merged. I thank my colleagues, certainly Senator ROCKEFELLER, Senator SMITH, Senator COLLINS, and Senator NELSON for their leadership and their perseverance.

In times of tight budgets and economic downturns in our States, States are cutting their Medicaid budgets, and we are seeing it right and left across this country. Who suffers because of this? Our most vulnerable citizens: Our low-income families, our children, and our senior citizens.

Medicaid funding plays a critical role in senior care, with two-thirds of the residents of America's nursing homes depending on Medicaid payments for their care. But many States, including Arkansas, are facing real budget crunches with their Medicaid budgets. We are seeing, because of a multitude of other medical underpayments, whether it be UPL, whether it be physician payment reimbursement cuts, whether we are talking about ambulance provider fee schedules, we are looking at a crisis in rural America in the delivery of health care.

It is a serious problem that we are facing now, but if we do not do something pretty quickly, we are going to see some devastation. I have heard from hospitals in my State that are going to, in the next couple of months, stop providing OB care. I have constituents at that point who will have to travel 90 miles to get obstetric care. We are going backward, not forward, in providing the health care across the board in rural areas, as well as urban areas, that is so necessary to the quality of life that each American deserves.

In Arkansas, our population of seniors is a snapshot of where the Nation is going to be in the next few years. So we are already facing the challenges with which other States will have to contend, the challenges that other States will have to face in the next 10 to 15 years.

It is also true that we have a disproportionately high number of seniors living in poverty, and many of them rely on Medicaid funding for health care and long-term care. Especially in rural States such as Arkansas where health care services are harder to come by, Medicaid makes a huge difference in helping families afford care for their seniors.

We need greater investment in Medicaid funding to States, especially at a time when our States are in such a devastating budget situation.

The bills I have helped introduce in the Senate will adjust the FMAP level so that States can benefit from greater Medicaid funding, which will go a long way toward helping our most vulnerable citizens, particularly our seniors.

I appreciate the support I have received from our colleagues today, those who have worked tirelessly on this issue. And I can tell you that we will all keep fighting to get this done. No matter what barriers people may put before us, we are going to continue to make this fight. I think the fact we have been doing it since last November should indicate to our colleagues that this is essential, we know it is important, our constituents know it is important, and the rest of the Senate must learn that it is important enough for us to act now.

Under this amendment, Arkansas stands to gain $80 million over 18 months. This is a much needed injection into our economy and into the quality of life of our most vulnerable citizens.

To my colleague from West Virginia, I thank him so much for his leadership on this issue. I have enjoyed working with him since last fall, and we are going to continue on this effort because we know how important it is to the lives of the people we represent in this body. It is so important we move forward as quickly as we possibly can.

I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, for 60 seconds, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Mississippi, Mr. COCHRAN, be added as a cosponsor of the Rockefeller-Collins-Smith, et cetera, amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

MOMENT OF SILENCE TO HONOR OFFICER CHESTNUT AND DETECTIVE GIBSON

The PRESIDING OFFICER. Under the previous order, the Senate will now observe a moment of silence to honor the memory of Officer Chestnut and Detective Gibson.

(Moment of Silence.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Mr. President, Senator DASCHLE and I and other members of the leadership of the Senate have joined the House of Representatives at the memorial entrance to have a moment of silence in memory of Officer Chestnut and Detective Gibson. I know that moment of silence was honored in the Senate. We do not want this moment to go by without making some specific remarks.

We remember today with fondness and in prayer and everlasting gratitude the sacrifice of two great men of peace who lost their lives in the line of duty in our Capitol 4 years ago at precisely 3:40 p.m.

Officer J.J. Chestnut and Detective John Gibson were part of our congressional family, a family whose security was their life and for whose safety they died.

On July 24, 1998, our gift of freedom was challenged every bit as determinedly as it was on September 11. And just as the Nation witnessed on September 11, we saw on July 24, selfless protectors and guardians rise to the defense of the liberty of all Americans. No one who was in the Capitol that day 4 years ago or who revels in the triumph of democracy that this great dome symbolizes could help but be affected by the profound heroism of these fallen comrades, Officer Chestnut and Detective Gibson, and also of the courage and the dedication and the loving of their families.

We cherish their memory and gratefully accept responsibility every day of proving ourselves worthy of their example and the cherished gift of freedom they left us. Our thoughts and prayers and gratitude are with the Chestnut and Gibson families today and every day.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. This is a sad day for the Capitol Hill family. Four years ago today, two very good men—two members of our Capitol Hill family, Officer J.J. Chestnut and Detective John Gibson—were killed defending this Capitol Building.

As Senator LOTT has noted, a few moments ago we paused for a moment of silence to pay tribute to these fallen heroes for their selfless service and their enormous sacrifice.

Just before that moment of silence, there was a ceremony at the memorial door entrance to this building. Under the bronze plaque that bears the names and likenesses of Officer Chestnut and Detective Gibson, we laid roses in their honor.

Yesterday at that same spot someone left another tribute: a small basket of red, white, and blue flowers. Attached to the basket was a card. Inside the card was a handwritten note that read: We will never forget. You were my friends. God bless. It was signed by a member of the Capitol Police Force.

Also yesterday John Gibson's beloved Boston Red Sox trounced the Tampa Bay Devil Rays 22 to 4—in the first game of a double hitter, no less. So I know John Gibson is smiling up in heaven today.

And even though the gardening he loved is struggling in this heat and drought, I am sure J.J. Chestnut is right there with him—smiling, too.

For those of us down here who knew them, it is a little harder to smile today. The great poet Emily Dickinson wrote, after someone you loved dies, you feel ''the presence of their absence everywhere.''

The absence of J.J. Chestnut and John Gibson is felt today by many people, by their friends, their fellow officers, most of all by their families, their wives and children, and in Officer Chestnut's case, his grandchildren. The Gibson and Chestnut families have felt the presence of the absence of John and J.J. for three Thanksgivings and three Christmases, at too many birthday parties, weddings, and graduations.

Those of us who work in the Capitol want the Gibson and Chestnut families to know that in all those moments our hearts have been with them. We also want them to know that we, too, feel the presence of the absence of their loved ones. We feel it when we pass the memorial door entrance. We feel it when we see Capitol Police officers working double shifts to protect us. We felt it on September 11 when our Nation was attacked and on October 15 when the anthrax letter was opened.

During this past year, we have all been reminded with terrible certainty that there are people in the world who would like to destroy this building, the people's House, and the government and the ideals for which it stands. We also know with absolute certainty that as long as there are patriots such as John Gibson and J.J. Chestnut who are willing to sacrifice their lives to defend our freedom and safety, this people's House and this great Nation will endure.

As the note on the basket said: We will never forget. They were our friends and our protectors. God bless them today and always.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

The Senator from West Virginia.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

Mr. ROCKEFELLER. Mr. President, understanding the gravity of the moment, I do not want to leave a very important piece of legislation. Before I say a word, I would like to add Senator ZELL MILLER as a cosponsor to the amendment and I ask unanimous consent.

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

Mr. ROCKEFELLER. Mr. President, as I look at the situation, we have a whole lot of meetings going on around this Capitol—conference committees on trade, conference committees on prescription drugs. We have a generic drug bill. That is the underlying bill here with a prescription drug amendment attached to it. We have a Federal matching Medicaid amendment which I am offering. There is so much going on on health but there is so little that is going on on health, and it perturbs me.

Senator DURBIN, when he was talking, pointed out the importance of Medicaid to hospitals, nursing homes, and others. It makes it extremely important for me to note that in the State I represent, 80 percent of our hospitals are losing money. They are mostly rural hospitals, and most of them depend upon Medicaid and Medicare in combination, usually at 85, 80, sometimes 75 percent of their total reimbursement of everything that they do. That is the nature of the State I represent. So many others are like that. It is the nature of part of the State that the Presiding Officer represents.

So the question of are we doing Medicaid and reimbursing States so they can keep their health facilities open and Medicaid available to their people is a profoundly important matter. But we treat it as if it were not.

We are trying our best to come to an agreement on prescription drugs. There is no particular compromise in sight at the moment. We had two votes yesterday. Both failed. The American people ask us: What are you doing about health care for our people? My people ask, What are you doing about health care for our people? What am I to answer? What am I to tell them?

I can refer, if I want, to the catastrophic health bill experience of a number of us, where we had a terrific bill that the House turned down three times, the Senate refused to turn down three times. But the point was that we finally had to yield, and there was no catastrophic health care bill.

Then we had something called the Pepper Commission where we came up with a very good solution for both long term and acute care, and it went nowhere. It was declared dead on arrival, and those who so declared it were correct. Nothing happened.

Then we had the very large health care experience of the early 1990s when everything got very politicized. The result was twofold: One, that we passed nothing on that health care bill; and, two, everybody retreated inside their shells. Nobody seemed to want to take up health care, and health care became something that somehow, either politically or for whatever reason—because it was complex—people did not want to undertake.

Senator Jack Danforth and I, and now Senator FRIST and I, started something called the alliance for health reform. The whole idea was to get those who did not serve on the Finance Committee more acquainted with the intricacies and difficulties of what is a very difficult problem; that is, all the acronyms and complexities associated with health care. Now there are a lot more people who know a lot more about health care, and we are still not getting anything done.

Now we are talking about the Federal matching adjustment for Medicaid to our most vulnerable people, to people to whom, we go to our Jefferson and Jackson Day Dinners, when we appeal and bring out emotion and speak emotionally, and then when we come up here, we do nothing to help them.

I put this amendment on the floor with endless cosponsors. I am looking at SUSAN COLLINS, a good Republican from Maine, and there she stands, perhaps ready to speak, and she and seven other Republicans are cosponsors of this amendment. Senator ZELL MILLER just became a cosponsor. So we have, I don't know, 35, 40 sponsors.

I come to two conclusions. No 1, I think this amendment is going to pass and that there may be those who are not coming to this floor to speak against it because they do not want to because they know their Governors feel so passionately about it. Whether they be Republican, Democratic, or Independent, Governors are absolutely passionate about passing this amendment. But they cannot do it. We have to do it for them.

We are not doing universal health care. We haven't done anything on prescription drugs yet. We have not done a generic drug bill yet. We have not done anything about importation. We passed a bill—the White House said they do

not want to implement it—about bringing drugs in from Canada, produced here, at a lower cost.

So we are talking, debating, having compromises, having caucuses, and we are not accomplishing anything. Here is an amendment in which we can do something real for the people in our States who need it. They are not just children, but that is a very basic part of it. It is also reimbursement for hospital facilities. It is reimbursement for skilled nursing facilities, for nursing homes. And they need it more than ever because Medicaid is the one program in government, other than the Veterans Administration, which does have prescription drugs. It does have prescription drugs.

As the Presiding Officer has said so many times so eloquently as the leader of this fight, the cost of prescription drugs has been going up in a terrifying manner in these last several years. Who bears the brunt of that? Medicaid. Medicaid bears the brunt of it. And here we are trying to do something which the States cannot do for themselves, which we can do for them, which they are unanimously—Republicans, Democrats and Independent—on record unanimously wanting.

I stand here on the floor accompanied only by a distinguished Senator from Maine and the distinguished Presiding Officer. I find this perplexing and troubling. Are we risk averse? Have we become risk averse? That is a health care term. Maybe it ought to be a Senate term. Have we become afraid of doing things which require tough votes?

As the Senator from Illinois said, this is a very easy process. People put legislation forward, it goes through committees or doesn't go through committees, it comes to the floor, doesn't come to the floor, but if it comes to the floor, then you have a chance to vote on it. If people want to filibuster it, then you can file a cloture motion, you wait 2 days, and you get a vote on it. People have to eventually vote up or down, or else, as the Senator from Illinois said, they should not be in this profession.

I conclude with a sense of awe and tremendous anger, I would say to the Presiding Officer. I started out my career in public life—which I never intended to enter and which my parents were not fond of as a career. They were not pleased as I entered it as a career.

I went to a little coal mining community in the State of West Virginia which was nothing but people who had no health insurance, who wanted to work but had no job, who wanted to go to school but had no bus. They had one 1-room school through the sixth grade, 1 through 6, lined up row by row, just in a row.

They fed me; they took care of me; we worked together; we developed community programs. They had something called the dollar-an-hour program in West Virginia. You went out and you worked and you cleaned up the roads—men for the most part, at that point—and you got $1 an hour. Glory be, you got 8 hours a day. Any health insurance? Of course not. Nobody had health insurance. No one had health insurance.

That seared my soul then, and it sears me today, and it sears me as I talk now, as we sit here and avoid a chance to vote on something with which we can immediately help our States and our people. Are we only to legislate on Afghanistan or broad national concepts or are we here to help people? Is there something wrong, in fact, about actually doing something which would help people?

Some people say it would because it would cost money. Then why was it they put this in the emergency supplemental? They put the Medicaid match formula in the emergency supplemental because it was considered that important to the country. And now here we are, 9 months later, 10 months later—whatever it is—and we have done absolutely nothing. This Senator is tired of it. This Senator is very pleased to note that, with eight Republican cosponsors and a whole lot of people waiting to vote for this, there is a cloture motion being filled out, and we are going to vote on this, and we are going to show the people of our States that we care about our children and our families, our prescription drug programs, and that we are not risk averse. We are quite capable, yes, of helping people when it comes to health care. We have not shown that very much in recent years. We are going to show it this time.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Maine.

Ms. COLLINS. Madam President, I share the concern of the Senator from West Virginia that we should not delay action on this important matter.

Support for our proposal is growing with each hour. I am excited about that. This proposal offers real relief to our State governments that are struggling with budget shortfalls. But, most importantly, it offers the promise that low-income families who depend on Medicaid will not face a cutoff of some of their important benefits.

The Senator from West Virginia raises a very good point. There are health care providers in my State, as well as his, rural hospitals in particular, that are struggling to make ends meet. The threat of Medicaid cuts imposed by States trying to balance their budgets during this very difficult fiscal time poses a threat to their ability to continue to provide quality care.

That is why we have the support of so many health care provider groups.

I am going to read from some of letters that we have received that endorse our proposal. In some cases, the letters speak to earlier legislation that I introduced along with my friend and colleague, Senator BEN NELSON of Nebraska. But, as I said earlier, we have pooled our efforts because we want to get relief to the States as fast as possible.

Let me tell you what our visiting nurses say about the importance of providing this relief.

This is a letter that I will read from the Visiting Nurse Associations of America. It is signed by the president, Carolyn Markey.

She writes:

On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for you and Senator Ben Nelson's proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

VNAA is concerned that approximately one-half of the states across the nation have had to cut their FY 2002 Medicaid budgets in order to avoid a budget crisis. We fear that the majority of states will implement additional cost-containment measures, including reducing benefits, increasing beneficiary cost-sharing and further reducing Medicaid reimbursement to health care providers.

On average, Medicaid already reimburses providers significantly less than the cost of care.

That is an important point. There are already reimbursement levels that aren't covering the cost of providing this essential care.

The letter goes on to say:

VNAA's 2001 data shows that, collectively, VNAs are incurring an average $565 loss per Medicaid patient, with an annual loss of $148,500. VNAs' mission is to provide care to all eligible persons regardless of their condition or ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other social service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinics.

Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the health care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Those are the stakes. The stakes are high.

I ask unanimous consent to have the full text of the letter from Carolyn Markey, the president of the Visiting Nurse Associations of America, printed in the RECORD.

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

VISITING NURSE ASSOCIATIONS OF AMERICA,
Washington, DC, May 29, 2002.

Hon. SUSAN M. COLLINS,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for your and Senator BEN NELSON's proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse

Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

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On average, Medicaid already reimburses providers significantly less than the cost of care. VNAA's 2001 data shows that, collectively, VNAs are incurring an average $565 loss per Medicaid patient, with an annual loss of $148,500. VNAs' mission is to provide care to all eligible persons regardless of their condition or ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other social service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinics.

Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the health care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Thank you for all you do for the nation's most vulnerable populations.

Sincerely,

CAROLYN MARKEY,
President and CEO.

Ms. COLLINS. Madam President, I see the Senator from New York is in the Chamber. If he would like to speak on this issue at this point, I would be happy to yield.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I thank my colleague from Maine, and I thank her for her leadership on this bill.

I thank the Senator from West Virginia for his sponsorship of this important legislation. He has done a great job on every aspect of this proposal. I want to once again clarify for the record the help he has been not only on this issue, not only on adding prescription drugs to Medicare, but on generic drugs as well. We all owe the Senator from West Virginia a debt of gratitude for the great work he has done on the generic drug issue.

This is an extremely important amendment that I am proud to support. My State, as so many of the States, is in fiscal trouble. We have found great difficulty in doing what we have to do. Our State tends to be a generous State in terms of health care benefits. Programs enacted throughout the years make our Medicaid benefit generous. We have gone beyond Medicaid. We tried to help a little bit on prescription drugs with the Epic Program, as I know 17 other States have done a little bit here and there. We tried to help in a whole variety of ways.

During times of prosperity, we do quite well. But, obviously, the attacks of September 11, which cost us dearly in terms of life, and then secondarily in terms of dollars, as well as the downturn in the financial markets, which probably hit our State harder than any other, have caused real problems. If there was ever a time that this amendment was appropriate for New York, it is now.

I think the amendment is appropriate to all of our States. Not only are they all under fiscal strains—my State may be under greater strain than others—but we all know that Medicaid spending is probably the fastest growing part of most State budgets. It is certainly mine.

I would add one other point about New York. Our localities will get help, if this aid passes, because we are one of the few States where we ask the localities to pay half of the non-Federal share of Medicaid. In other words, we are 50–25–25. A city such as New York that is straining—our budget deficit is about $4 billion in the next fiscal year, it is estimated, and some estimates go as high as $5 billion—would also get a real shot in the arm. Our communities upstate are hurting because of the poor economy—Buffalo, Albany, Rochester, Binghamton, and Utica are all hurting and need the help as well.

Certainly, the amendment is needed from a fiscal point of view. Certainly, it helps the Medicaid Program meet the promise that was made early on in terms of its help. It is appropriate that it be added to this bill.

If you ask the States the No. 1 cause of their fiscal problems, most of them would say it is Medicaid. Then, if you ask the head of Medicaid in each State what the No. 1 reason is for costs going up, that person would say prescription drugs. In fact, Medicaid drug costs nationally have increased 18 percent every year for the past 3 years. That is something that cannot keep going on.

Our States are now faced with terrible choices—either go more deeply into debt or cut benefits to the most vulnerable. That is something we really do not want to do.

I support the amendment. It would be a tremendous shot in the arm for New York. It would be a tremendous shot in the arm to all State governments. And it is the right thing to do.

The cost is large. I believe it is something like $8 billion. But the benefits are larger still.

Every time any part of America has a child who doesn't get the appropriate coverage, it sets him back or her back—it sometimes sets the family back in ways from which they never recover. The fact that our country has decided to say health care for everyone is important—and not say because you have no money you should get no health care—is one aspect that makes us a great country. The fact that today we are saying that during this time of crisis, the Federal Government will step up to the plate and fulfill its role is really important.

Let me go over the numbers for New York.

In fiscal year 2002, if the Rockefeller-Collins-Nelson amendment were adopted, we would receive, in terms of our Medicaid help, $244 million. This is the temporary FMAP increase. In 2003, we would receive $553.8 million. That means, for the total of the 18 months—the second half of 2002 and all of 2003—it would be $797.8 million.

In terms of temporary grants, we would get an additional—these are available through 2004—an additional $461 million.

That is $1.2 billion. That is real help. That is not just a nice little bauble around the edges. And it could not come at a more appropriate, needed time in my State.

So I say to my colleagues, you all have your problems in your States. We have our problems in New York. Let's unite. This amendment is a bipartisan amendment. Let's unite and adopt it.

Let's make sure that our poor people get the medical help they need. And let us say to the States that during these extremely difficult times—as I say, made doubly difficult in New York because we were the epicenter of the 9/11 attacks—we are not going to punish you because of your generosity in helping the poor attain some modicum of health care.

So I am proud to support the amendment. Again, I compliment my colleague from West Virginia, who has been such a leader on this issue, as on so many others. I thank my colleague from Maine as well.

I look forward to quickly adopting this amendment as part of our base bill which, as you know, I am proud is the bill that Senator MCCAIN and I introduced in terms of generic drugs.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Ms. COLLINS. Madam President, the National Partnership for Women and Families has issued a statement today endorsing the amendment I have offered with Senators Rockefeller, Ben Nelson, and Gordon Smith. It includes some very important information that helps us better understand why this debate is so important.

The National Partnership cites the National Governors Association's May report that over 40 States are facing budget shortfalls totaling $40 to $50 billion overall.

Since Medicaid makes up, on average, 20 percent of State spending, it is often the first place that States look to make cuts. So our amendment would provide $9 billion in total fiscal relief that would help sustain critical State Medicaid Programs and bolster the States' ability to keep providing vital social services to those most in need.

Let's look at whom this benefits.

Medicaid provides health insurance to approximately 40 million low-income Americans, including 21 million children and young adults, 11 million elderly and disabled individuals, and 8.6 million adults in families, most of whom are single mothers. That is the population that is hurt when Medicaid budgets are slashed. That is the most vulnerable of populations. They need our help.

The States need our help in order to maintain vital health care services for those 40 million low-income Americans. Without this critical safety net, millions of women and their families would be left with no health insurance at all.

So that is why we must act. And we must act before more time elapses and more States are forced to cut their Medicaid budgets. Time is of the essence.

I urge my colleagues to join with us in supporting this absolutely critical bipartisan proposal.

Madam President, I yield the floor and 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. NELSON of Nebraska. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. NELSON of Nebraska. Madam President, the proposal that is before the body today, to enhance the partnership between the Federal Government and the States with regard to Medicaid and with regard to welfare reform and social services that are so critical to the most vulnerable in our society, is a very important piece of legislation.

It merits our total support, not because it is just about money but because it is about doing the right thing to continue the gains and not see a spiral downwards back to welfare for those who have been able to make it to the workforce. It is for those who are teetering on the brink who would, if their eligibility for Medicaid were taken away, be unable to support themselves and/or their families. It is for the seniors who need, so much today, the kind of support the Medicaid Program provides when they are in nursing homes.

So it is about people. That is what it is truly about. It is about doing the right thing. It is continuing the relationship and the partnership that has been developed between our Governors, our State legislatures, and our Federal Government. It is an important partnership that must be maintained.

It is also important that we recognize it is a temporary fix. It is not a permanent solution. No one is expecting that kind of a permanent solution today, given the temporary, and hopefully only temporary, nature of the downturn in the economy. But it is essential we do something soon because of the plight of the States and the experience they have in terms of not being able to meet all of their obligations as they move forward on these programs.

The truth of the matter is, we can work together with the States as we have in the past. Many of our colleagues here, as you know, are former Governors. You may be able to take us out of the Governor's office, but you cannot take the experiences we have gained in that position away from us simply because we have changed our titles or we have new responsibilities.

It is important, also, that we recognize that the States, in making these tough decisions, will have to make them on the basis of how they balance their budgets because all but a handful have to balance their budgets and can't have deficit spending. So they either balance their budgets with major cuts or with tax hikes or with a combination.

In any event, most of the States have made the cuts they believe they can make, up until this point, without affecting Medicaid. But as their budgets continue to flow with red ink, now they are looking at these social programs for the necessary cuts. They have cut education. They have cut many of the other essential programs. Now they are faced with cutting this program.

So if we wait until they have made the cuts, there will be the casualties of those who are not able to have the benefits—the elderly, the young people, those who in our society today are reliant on the availability of these programs.

We have asked people to work their way out of welfare, to join the workforce. We have created at the State level, with welfare reform at the Federal level, the opportunity for people to transition out of the levels of poverty and welfare, with the opportunity to join the workforce. We have done it with transitional benefits that are comprised of child care, some Medicaid continuing coverage, so these individuals and their families have the capacity to leave the welfare rolls to join the workforce.

If we pull back on these and other programs like it, they will teeter, and it is very likely that they will fall back into the welfare situation. While already experiencing higher unemployment levels than we have experienced over the last 10 years, we see that the growing population of Medicaid is putting more pressure on Medicaid expenditures at the State level.

I remember looking at the growth of Medicaid and the opportunities that were there to try to reform it and to make it so it worked not to create incentives for unemployment but opportunities for employment and incentives for joining the workforce. But when you see it today and you see the growth in this program, you recognize that something must be done in order to stem that growing tide.

The truth is, we can and we should do this. There will be some who will say we don't have an obligation, a further obligation to the States. But it is not about just from one government to another; it is about to the people of the United States who have the need for these very important benefits. Those are the people we need to be supporting. In supporting them, we work through the States in our partnership.

That is the opportunity we have. I hope if there are some who have a different, opposing point of view, they will come down to the floor and explain why they don't think we ought to support this Federal Medicaid assistance program on a temporary basis to permit the States to continue to support the kinds of programs that are important to the most vulnerable of our population. I hope they will come to the Chamber so we have the opportunity for a full debate and so, if there are opposing views, we will be able to respond to them rather than speak to an empty Chamber. That is not what this should be about. If there is to be spirited debate, I hope we will have that begin in the near future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I would like to direct a question through the Chair to my friend from West Virginia, the author of the amendment. I was here about an hour and a half ago. I ask the Senator from West Virginia if anyone has spoken against the merits of his amendment.

Mr. ROCKEFELLER. I say to the Senator from Nevada, I am not sure, but I believe Senators have been here discussing it favorably for 2 to 2½ hours. Not a single Senator has come to the floor opposing this amendment.

Mr. REID. I say to my friends, whoever opposes this amendment, I don't know where they are. We were told by one of the sponsors of the amendment, the distinguished Senator from Oregon, Mr. SMITH, that he didn't oppose it, but he, on information and belief, understood that the senior Senator from Texas opposed the amendment. I would hope that my friend from Texas, if that, in fact, is the case, would come here and defend his position. I will say that if that isn't the case, that I will ask for the yeas and nays and move forward on the amendment. It is just simply not fair.

We have an order in effect that as soon as this amendment is completed, we would move to something that Senator GREGG or someone he designates would offer. And then following that we have a Democratic amendment in order. We should move through those. I hope that if there are people other than the distinguished Senator from Texas who oppose this amendment or the Senator from Texas, that they would come to the floor and explain themselves.

I will say that I am getting the feeling that this is one of those kinds of

stealth oppositions we get around here a lot of times. People know this is a good amendment, supported by the Governors of the States, supported by people in the States who are desperate for dollars. States are suffering. I think there are people who would like to come and oppose this, but they really don't quite know why. So they just stay away hoping it will go away.

It is not going to go away. If I come back here again and there is no one within a reasonable period of time who has voiced any opposition to the amendment or there is no one on the floor speaking against it, I will ask for the yeas and nays and move on to something else.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, the National Governors Association has written a letter, dated July 24—very current—to the minority and majority leaders of the Senate strongly urging support for the Rockefeller-Collins-Nelson-Smith compromise.

I ask unanimous consent to print it in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 24, 2002.

Hon. THOMAS A. DASCHLE,
Majority Leader, U.S. Senate, The Capitol, Washington, DC.

Hon. TRENT LOTT,
Minority Leader, U.S. Senate, The Capitol, Washington, DC.

DEAR SENATOR DASCHLE AND SENATOR LOTT: The nation's Governors strongly support the Rockefeller-Collins-Nelson-Smith compromise state fiscal relief legislation. We urge its consideration as an amendment to S. 812 on the Senate floor and its swift passage into law.

The legislation to temporarily increase the federal share of the Medicaid program as well as provide a temporary block grant to states will assist during the current fiscal crisis so that states will not be forced to make deep cuts in health, social services, and even education programs. It will thus ensure that low-income vulnerable families are protected from drastic cuts in these key programs.

One of the major contributors to the rising state Medicaid costs is prescription drug expenses. Immediate Federal assistance with these costs would provide real fiscal relief to the states. We urge timely Senate action on the Rockefeller-Collins-Nelson-Smith amendment.

We would very much appreciate your support and we look forward to working with you to ensure that meaningful state fiscal relief legislation is enacted.

Sincerely,

PAUL E. PATTON,
Governor.

DIRK KEMPTHORNE,
Governor.

Mr. NELSON of Nebraska. 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. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WYDEN. Madam President, the Senator from West Virginia, in my view, has outlined a very important position with respect to a critical health issue for the States. I commend him for his outstanding work. It is going to make a difference in Oregon and across the country.

I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

(The remarks of Mr. WYDEN are printed in today's RECORD under ''Morning Business.'')

Mr. WYDEN. Madam President, I am a strong supporter of the Rockefeller amendment which will make a huge difference for our States at a time when the situation is truly dire with respect to health care. So I thank my colleague. When we get to a vote on the Rockefeller amendment—I know Senator NELSON of Nebraska has done excellent work on this as well—I hope the amendment will pass with a resounding majority.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GREGG. Madam President, I wanted to speak on a couple of issues. First is the underlying effort here to pass major legislation in the area of assisting senior citizens, specifically, with the cost of their prescription drugs.

I think we all understand very well that there has been a fundamental shift in the way medicine is practiced in our country, and it has been a positive shift. That shift is that we have gone from a society which had basically as its first line of defense for significant health concerns an invasive medical procedure using a scalpel, to a society which has as its first line of defense for major medical concerns the use of pharmaceuticals. This has been a revolution, a biotech revolution.

As a result, it is not so much that pharmaceuticals have become more expensive—but not outrageously so, with respect to inflation and other costs—but they have become so much more aggressively utilized. As a result, senior citizens and all citizenry that have medical concerns are finding that they are more often than not going down to the pharmacy and purchasing a pill in order to address a physical ailment versus going into the hospital and receiving some sort of remedial medical care that might involve an operation or some sort of therapy within the physical confines of a hospital. So utilization has gone up dramatically in the area of pharmaceuticals. This is a change in the way we practice medicine as a country.

The practical effect of that is that all Americans, but seniors especially because as a practical fact, as people begin to get older, they have more health needs in most instances.

Seniors are finding themselves more and more put into the situation of having to purchase pharmaceutical goods, which are adding up, and because there is more significant utilization, they are expensive and sometimes unaffordable, especially to low-and middle-income seniors. So we as a Congress and the President are attempting to address this through passing some sort of a package that will give senior citizens the opportunity to take some of the pressure off of the cost of this new need to use prescription drugs.

The goal, in my opinion, should be basically twofold: One, to assure that low- and moderate-income seniors—especially low-income seniors—who find it virtually impossible to fit into their budgets, which are usually very constricted, the cost of pharmaceuticals, to allow those individuals to receive assistance as they have to purchase these medications; second, to address the situation where a senior who has reasonable income and reasonable wealth confronts a catastrophic situation where simply the cost of medication exceeds even their capacity to pay for it. Those should be our two primary goals as we put together this package of relief for senior citizens, in my opinion.

Also, there are a lot of secondary goals. Secondary goals should be—and it is fairly significant—that we do not undermine the ability of our society to bring new drugs to the market.

As a society, we have basically become the creators of most of the major new pharmaceuticals that are created in this world, and that is because we have a vibrant research capability going on in this country and a vibrant commercialization of goods and products which are created within that research market. It is important that we not kill the goose that is laying the lifesaving drug, as I said earlier, and that we allow the entrepreneurs in our society, who are research scientists for the most part, to evolve a capability of continuing to bring to market drugs which save people's lives and benefit people and make their lives better, and that we not in the process of developing a package of drug benefits end up creating an atmosphere which works against the bringing to market of new pharmaceutical drugs. That should be a subsidiary effort as we move forward to address the question of a drug benefit for senior citizens.

In that context, we are now working aggressively to try to pull together a

package. We have had three major votes on different drug packages. We had the Democratic proposal which, regrettably, was, in my opinion, fundamentally flawed because it did not meet the conditions I have laid out.

First, it was extraordinarily expensive, and I should have mentioned that as a fourth line of consideration, which is that as we put this benefit package in place for seniors, we should not have it created in such a way that it transfers a huge new cost on to working Americans, especially young Americans with young families, who are trying to make ends meet, who have other issues, such as education, housing, the day-to-day costs of raising a family.

We should not make the cost of this major new drug benefit so high that the tax burden to pay for it—which will fall on working Americans for the most part will significantly disadvantage working Americans in their ability to live a good life.

This new drug benefit is not like the Medicare proposals under which we presently work. There is no premium in most instances. Some have premiums, most do not. There is also no earned benefit—in other words, over the years people paying into the Part A insurance fund and building up a fund. In this instance, seniors are going to simply receive this benefit without it having been paid for through building it up over the years, paying through Part A. It is essentially going to be a tax. To pay for this drug benefit, there is going to be a tax levied on working Americans, especially young Americans, to assist senior citizens with the issue of how they pay for drugs.

We have to be very careful in putting this package together that we do not end up putting such a huge burden on young working Americans that it makes it very difficult for them to raise their families.

As I mentioned, there have been three votes on this issue in the Senate in the last few days. The first was on the Democratic plan. The Democratic plan failed in a number of areas.

One, it was extraordinarily expensive. It would have passed $600 billion—and that was the estimate. We all know estimates end up being low. For example, when Medicare was originally passed in the 1960s, it was estimated in 1990 to cost $9 billion. Medicare in 1990 cost about $70 billion. It was off by almost 1,000 percent. We know the $600 billion pricetag attached to the Democratic package is a pricetag which is probably low. Even if it were accurate, it is a huge pricetag to pass on to working Americans, younger Americans, and far more than we should put on the backs of the working American who is trying to raise that young family. It is far too high a burden on those individuals.

It is disproportionate in the way it deals with the intergenerational issues in benefiting dramatically, in terms of dollars spent, senior citizens at the expense of young Americans who are trying to raise a family. It exceeded the budget allocation by $300 billion, by 100 percent. There was $300 billion budgeted. This was a $600 billion package, which is far too expensive.

Also, it undermined the marketplace. It was a public program, which in and of itself is an undermining of the marketplace, but it was a public program which had an incredibly regressive element to it. It essentially said that you could only, for a certain ailment—let's take arthritis—purchase one type of drug for that ailment, one. There are probably 20 different drugs on the market to address arthritis. Why would you limit the ability of a senior to only purchase one and have it covered by insurance? It is a foolish idea from the standpoint that doctors may not want to prescribe that one drug, and it may not be medically a good idea, plus it is just not conducive to creating a marketplace which is going to bring more pharmaceuticals on to the market so seniors have more choices and that we drive down the prices of pharmaceuticals generally because we have competition.

It is truly a regressive idea from the standpoint of health care and from the standpoint of how you develop a strong and vibrant market for producing pharmaceuticals. That bill, in my opinion, was fundamentally flawed. Plus, of course, it had the little gimmick in it—rather large actually—that it was not a permanent benefit. It lapsed after 5 years. It would not exist anymore. I do not know what was going to happen then. It would be gone and who knew what was going to happen.

It was a black hole or a cliff proposal where everybody gets a benefit for 5 years and suddenly they look down and there is no more benefit and they have to step off the cliff into the abyss, not knowing what is going to happen. It was a poorly constructed idea and it failed because it did not get 60 votes.

The second idea that came through was the tripartisan proposal. Again, it is a fairly expensive proposal, $370 billion, but significantly less than the Democratic proposal, but much more reasonable in the way it approached the issue. It opened the marketplace. It gave seniors options as to what pharmaceuticals they could use.

Senator SNOWE was talking about how many more pharmaceuticals it covered than the Democratic proposal, dramatically more. I am not sure of the numbers. In any event, the specific numbers were that it covered far more specific pharmaceutical products, and made those available to seniors, than the Democratic plan—dramatically more.

In addition, it had language which significantly protected the low-income senior. It gave them basically a 90-percent subsidy and had positive catastrophic language.

That also failed to get 60 votes.

The third vote we had was on the Hagel-Ensign proposal, which is an idea I am attracted to, although I also voted for the tripartisan plan. It says what I have been saying. You take low-income seniors and protect them. You give them the ability to buy the pharmaceutical, you give them support to do that and it does not wipe out their income. The plan was very progressive in this way.

You say to seniors, who are in the general population, who are not low-income seniors: If you have a serious illness which throws you into a high-cost pharmaceutical situation, and you are spending a dramatic amount of your basic wealth, your income, your assets on pharmaceuticals, the Government will come in and pick it up. There was a catastrophic cap which the Government picked up.

Again, this was built in, as I understood it, in a progressive way so higher income people had to spend more than middle- and moderate-income people had to spend. It was very progressive in a thoughtful way. This idea made a lot of sense and got a very good vote. In fact, it got as high a vote as any other proposal that came to the floor. I hope from this idea we can evolve a package that can work effectively.

That is basically where we stand today. We have now had three major packages. None have passed because the sequence of events that are set up is that the Democratic leadership refused to take these bills through committee and created a situation where we could not pass them on the floor because they all required 60 votes.

Had Hagel-Ensign, for example, come out to the floor after having gone through the committee, with the vote it got on this floor it would have passed the Senate, and we would now have in place a drug benefit. It would not have been subject to a budget point of order because it was under $300 billion—just barely, $294 billion. That was not allowed to happen because of the way this whole exercise was set up, which is unfortunate.

Where do we go from here? It is my hope we will reach some sort of consensus on a catastrophic package, a package that takes care of low-income seniors and makes sure they have adequate coverage, that takes care of people who have a huge impact on their assets through a catastrophic event, and allows seniors who have moderate income, if they wish, to purchase the insurance if they want to cover the difference through some sort of Medigap insurance. This, to me, is a logical way of resolving this issue.

Independent of all that, however, we have had other amendments dealing with this bill. One of them is the amendment which we presently have before us which is a $9 billion bailout for the States—some States, not all States. States such as mine, which do not happen to meet the formula because we have been very frugal in the way we have managed our Medicaid accounts and, as a result, have kept our reimbursement at 50 percent, do not benefit a whole lot from this proposal.

For States which have been less effective in their ability to deal with Medicaid, this bill basically is a $9 billion bailout. Is the $9 billion offset? No, it will simply be a vote by the Senate which says we are going to spend another $9 billion on Medicaid to assist the States.

First off, this is the wrong place to bring forth this amendment. This bill started out as a generic drug bill. It has moved on to an all-inclusive drug bill debate, but it has always been a bill that has been debated in the context of Medicare and drug initiatives, and this is a Medicaid bailout, which is totally separate from the underlying issue of what we discussed in these other bills. This amendment should have gone through committee and should have been brought out here as a committee bill versus being brought out here separately.

Secondly, it sets a very dangerous precedent in that it waters down the FMAP formula even on a temporary basis. The purpose and fairness of the formula will be eroded over time. Around here, temporary changes rarely turn out to be temporary, although they claim it is temporary.

This amendment sets a precedent, and if it is passed, any State that ever faces an FMAP decrease in the future will lobby Congress to override the formula. Instead of an automatic process based on a fair formula, future FMAP rates will become a political fight in Congress, which is exactly what this exercise is.

It is basically an attempt to use the fact that a number of States believe they need more money and to pull enough people together from those States so there are enough to vote for this $9 billion bailout. It is called logroll. It is working very effectively on this amendment, I am afraid, which is too bad.

This is totally fiscally irresponsible. Such a process as this disrupts the whole process and will not likely produce a program that benefits those who need it most but, rather, States that have been most ineffective in managing their Medicaid accounts.

FMAP rates are not designed to change according to short-term economic developments. Although FMAPs are based on State per capita income levels and other economic indicators, they have not typically risen at all and with short-term economic trends. If State logic suggests raising FMAP now, then it would also apply to lowering them in times of economic boom.

If we had followed such a course after 9 years of economic recovery, current FMAP rates would be much lower than they are today. Such cyclical movements are contrary to the intent of Medicaid statutes and in the long term would serve the interests neither of the States nor the Federal Government to pursue this action.

States have other options to making Medicaid benefits more secure. States can take steps to make their benefits more efficient, enabling more persons to be covered with the same or lower costs using the health insurance flexibility and accountability initiatives unveiled in August 2001. The HIFAI demonstration is designed to help States reduce the number of uninsured through innovative and cost-effective approaches using Medicaid and CHIP funds. The initiative emphasizes private insurance options rather than public program expansions. To date, HHS has approved HIFAI demonstrations in Arizona and California, and it could approve more if more States are willing to be aggressive.

The simple fact is what we have is an effort by a large number of States that have had problems with their Medicaid accounts for a variety of reasons to basically raid the Federal Treasury to the tune of $9 billion. I guess they are probably going to have enough votes to do that because they have structured this formula so that enough States are going to pick up money from it that is significant. But I have to ask the question, Why are we not offsetting this $9 billion? Why are we just coming out and saying let's take another $9 billion hit on the Federal Treasury, in which we do not happen to have any money right now, and add that to the deficit? It makes very little sense from the standpoint of fiscal policy.

Fifty States have the power to energize this type of support for $9 billion. I would think they would have the power to go find money to offset it somewhere, but unfortunately they are not doing that in this amendment. It is an unfortunate, in my opinion, effort to raid the Treasury, as a result of which we will not only get bad policy but we will get a significant increase in Federal debt.

I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. MILLER). The Senator from West Virginia.

Mr. ROCKEFELLER. Am I correct in understanding that the distinguished Senator raised a point of order?

Mr. GREGG. No, I have not raised a point of order.

The PRESIDING OFFICER. He did not.

The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the distinguished Senator from New Hampshire raised a number of very important questions regarding this FMAP proposal to expand the support that the Federal Government is providing to the States as part of the partnership that has existed for many years.

I think it would be very difficult to go back and tell our partners that we are unable to or we should not increase the amount of the Federal match because we did not follow the procedures that some people in the Senate believed we ought to follow. Inside baseball is not going to make those friends who are on the outside experiencing some major financial challenges very happy. They may not be very happy at all with that kind of an explanation.

I think it is important to remember how the Medicaid Program developed, as well as some of the social benefits programs that are also included as part of this bill. If the Chair remembers—and I know he does as a former Governor from Georgia—this was a big part of his budget. He probably was surprised, as I was, on the day we took office and put our budgets together to find out what a big piece of the pie this Medicaid Program amounted to as part of the budget. If the Chair remembers what happened, as I am sure he does, as do all former Governors, and I believe all of our colleagues do, this came about because of a Federal mandate. The Federal Government said we are going to have a Federal Medicaid Program and the States are going to be parties to it and the Federal Government is going to decide how much the Federal Government contributes to it, and the Federal Government is always going to be able to raise or lower the amount of the Federal match on the basis of a formula that has been established. The States, as the junior partners, have to go along with whatever the Federal Government proposes.

It was a mandate—not an unfunded mandate but an underfunded Federal mandate.

The States generally made innovative challenges, but I know the distinguished former Governor of Georgia will recall when States came to the Federal Government and said, we would like to make some changes to the program, you had to get a waiver and come back to Washington and ask, will you please allow us to make these innovative changes that our distinguished colleague from the Northeast was talking about that have been made in some areas. Many proposed innovative changes were denied.

It has been essentially a Federal program where the States have been the junior partner. In this situation, all we are saying is, instead of reducing the amount of the Federal match over the next 19 months, as it has been scheduled to be reduced in various States, we are going to hold that constant. In addition, we are going to add 1 percent to the State in the Federal match, so for 18 months we will help the States so they do not have to take away benefits from the most needy and most vulnerable in our society today.

It is recognizing we have a partnership. This was part of the stimulus package worked on this last year. It just did not survive into the ultimate stimulus package that was passed earlier this year. Last year and this year, when the stimulus package was being discussed, there was little talk about offsets. Now, when it is convenient to talk of offsets, in getting in a direction the way this is heading, we talk of assets. There is not anyone in this body not in favor of offsets, unless the whole discussion of offsets is designed to set this off the tracks so we can get it passed.

It seems to me what we have to do is recognize how the program began, how

it works, and what assistance this plan we are proposing today—how it will help the States and why it is necessary to help the States deal with our citizens, citizens of the United States of America who happen to reside in the various States.

It seems to me we do have a responsibility, that we can meet that responsibility, and, yes, I would love to have offsets, but I want to make sure the search for offsets is not what gets this off the track.

I yield the floor and 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. WELLSTONE. 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. WELLSTONE. Mr. President, I ask unanimous consent I be allowed to speak for 10 minutes as in morning business.

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

(The remarks of Mr. WELLSTONE are printed in today's RECORD under ''Morning Business.'')

Mr. WELLSTONE. I yield the floor and 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. REID. 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. REID. Mr. President, what is the matter before the Senate?

The PRESIDING OFFICER. The pending question is the Rockefeller second-degree amendment.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the Rockefeller and others amendment No. 4316.

John D. Rockefeller IV, E. Benjamin Nelson of Nebraska, John Edwards, Paul Wellstone, Harry Reid, John F. Kerry, Blanche L. Lincoln, Richard J. Durbin, Jack Reed, Edward M. Kennedy, Susan Collins, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Debbie Stabenow, Charles Schumer, Ron Wyden.

Mr. REID. Mr. President, I have been advised that Senators GRASSLEY and GRAMM wish to come to the floor and speak on the Rockefeller amendment. I am also advised that one of the Senators is going to raise a point of order, which we will attempt to waive. But we need them here to do that. I am sure they will be here soon.

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. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding we now are on the Rockefeller amendment. Is that right?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Texas.

Mr. GRAMM. Under section 205 of H. Con. Res. 290, I raise a point of order against the emergency designation of section (c) of the pending amendment, No. 4316.

Mr. REID. Madam President, I move to waive section 205 of the Budget Act. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is pending.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I have spoken to Senator GRAMM. He and others wish to speak. This is a debatable motion. We will set some time. Senator GRAMM has graciously acknowledged he doesn't want to speak too long since we already have a cloture motion filed. But we will shortly determine how much time will be needed and will debate this in the morning and vote sometime in the morning.

Hopefully, while we are waiting on the unanimous consent agreement to get the legislative branch appropriations bill, which also kicks in the fact that prior to next Wednesday—or on next Wednesday I should say, we will start debating the DOD appropriations bill.

So we have a lot to do in the next few days. This will move us down the road.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

VIOLENCE IN THE MIDDLE EAST

Mr. WARNER. Madam President, I and other Members of the Senate from time to time have taken the floor to address the tragedies which daily, weekly, monthly, and yearly come forth in the Middle East. Today, we were greeted by a headline in the Washington Post: U.S. Decries Israeli Missile Strike, Ponders The Effect On The Peace Bid.

I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. WARNER. Madam President, again, I have taken the floor several times to give just one Senator's viewpoint. I am almost at a loss for words to describe the tragic situation that has unfolded in the past 24 hours, or 36 hours—whatever the case may be—where a plane that was manufactured here in the United States delivered a missile into a residential area controlled by the Palestinians and brought about the deaths of many innocent people.

It is characterized and described at length in the article which appeared in this paper and the papers across the world today.

The raid, as told by the reports, took the life of an individual who has brought about great harm to the people of Israel over a long period, but along with that life went the lives of many children and innocent people.

Preceding this use of force—again, use of force which is perceived by the Israeli leadership as necessary to protect the integrity of their sovereign nation and the safety of the people, and I will not debate that at this point in time—preceding this event were the tragic bombings by humans going into the Israeli areas with the bombs strapped to them giving up their lives and taking the lives of innocent people on the streets. And on and on it goes.

What do we do about it?

I reiterate that I have spoken about this on this floor several times, and I intend to this time formalize it in a letter which I will be sending perhaps tonight or early tomorrow morning to the President of the United States. The thoughts in that letter are basically the same thoughts that I have said on this floor two or three times, and also at the time that the NATO Ambassadors came to visit the Congress of the United States. We had an informal meeting hosted by several of our colleagues. I was invited to speak. The very thoughts that I am referring to tonight I shared in that meeting some 2 weeks ago.

Our Nation recently celebrated our traditional Fourth of July holiday. It is normally a time of joyful reflection of our history, of patriotism, and just plain, old-fashioned summer fun. Thankfully, it was a peaceful day for America. But when we entered that holiday period, I remember so well that we were confronted with yet another warning by responsible individuals in our Government of a possible terrorist attack. In varying degrees in varying places here in our great United States, it had a dampening effect. I remember that so well.

A number of constituents—who I am proud to represent in Virginia, which adjoins the Nation's Capital—called to inquire whether it was safe to go down and watch the fireworks on The Mall. We gave them encouragement, in our opinion, to do so.

I myself was in the area during part of that day. Indeed, there was an enormous outpouring of our citizens and visitors from all around the world who enjoyed those fireworks that night. I say that thankfully it was a peaceful day. But we ended that holiday period confronted with that warning.

It is, indeed, prudent that our citizens be warned of such threats. There is no criticism of what I believe is a very responsible and prudent program of persons in our Government entrusted to make the decision to alert our people when they have reason to believe because of intelligence gathering that they should promulgate those warnings.

I, however, have to ask myself: Do these warnings continue indefinitely? Will people begin to ask of me and my colleagues, of our President and of all those in positions of authority, what is the root cause of this hatred towards the United States? Are we in leadership positions doing everything we can to learn of those causes, to lessen that hatred, to tell the truth about America's cause for freedom, and how our men and women of the Armed Forces—as the Presiding Officer knows so well having served in the military himself—have gone forth from our shores throughout these 200-plus years of this Republic only in the cause of freedom—never have taken a square mile of property and kept it. Temporarily, we have administered certain geographic areas throughout our history, but never used force to acquire land to augment this Nation.

People will begin to say: Has our Government done everything it can do? I think our President has exhibited—in the past, today, and will in the future—extraordinary leadership, together with his principal Cabinet officers and his military men and women for whom he is Commander in Chief.

The scourge of terrorism in the 21st century is a complex and multifaceted problem. None of us fully understand all the root causes and all the means with which we have to deal with it.

This Chamber, hopefully next week, will resonate with a strong debate on the bill for homeland defense. We will soon be giving final approval to the division in the military of commander in chief, forces north. Just think, Mr. President, CINC, commander in chief, for homeland defense, which means marshaling all the military assets and other assets of this Nation to try to protect our citizens against further terrorist attack.

There is not a single cause for this terrorism and hatred but many, including disparate economic development around the world, lack of political and economic opportunity in many regions, the alarming spread of radical fundamentalist religions, the dogmas, especially Islam, amongst those feeling disenfranchised from the mainstream of the world, and the tyrannical rise of ethnic conflicts after decades of repression by communists and other tyrannical regimes.

In this environment of perceived hopelessness and despair for many people, particularly the world's youth, seemingly unsolvable events continue to fan the flames of anger and hatred that lead to irrational acts, acts which are almost beyond comprehension.

This is manifested in the individual acts of terror we witness almost daily on the streets of Israel against the freedom-loving people of the State of Israel and in the recruitment of angry young men and women into radical terrorist organizations that encourage them to vent their anger in most destructive ways, most notably human suicide of themselves and against the innocent citizens of Israel.

Israel really has no recourse but to strike back in a manner that clearly indicates not only to the Palestinians but to the rest of the world that it is a sovereign nation and has the right to exercise every possible resource of that nation to protect its people.

Solving the conditions that have bred this hate and total disregard for peaceful solutions will be complex, but it must be systematically addressed. Again, clearly, our President and his administration have shown leadership.

But is our Congress showing leadership to help? Can more be done by others? These are the questions I ponder daily.

Clearly, the Israeli-Palestinian conflict, prolonged over a period of time that none of us ever envisioned, contributes, in some measure, to the unrest and anger in the Arab world directed towards the people of this great United States of America.

I cannot quantify it—I do not think anyone else can—but clearly that conflict is part of the root cause of hatred against us, hatred which is causing us to create a brand new Department of Government, Homeland Defense, an entirely new military command, to take all types of precautions in our daily life—whether it is at the airports or people just coming to visit here in the Congress of the United States—with security measures.

This conflict between the Israelis and the Palestinians often is presented and distorted in a very biased manner to the citizens throughout that region by the media in the Arab nations. We must confront that. We must take actions which are clear to show that we want to bring about peace in that region.

We have to address the disaffection and dissatisfaction felt by the people of that region. Each act of violence by either side in this unending conflict erodes hope for the peaceful future for Israel—it is in this article—and for the peaceful future of the people in Palestine.

In fact, each act of senseless violence in the Middle East further erodes hope that someday we can be more secure here at home.

All reasonable options to bring about an end to this violence and indiscriminate loss of life must be considered. We can never, ever abandon hope. We must act together to renew hope in this land of the Middle East, the land of faith, the land from which so much history has emanated for the rest of the world.

One option I believe must be considered—and I said this many times here on the floor—is the use of NATO peacekeepers. But that can only be achieved if certain criteria are met.

First, I call upon the administration to explore, with the other member nations of NATO: Are they willing to take on this task, a task with unknown risks? Clearly there are risks, but the quantum of risk is unknown. Are they willing to take it on if these conditions are met—first, the people of Palestine and the people of Israel, ask them to take on this obligation to maintain conditions of stability. That is the first.

Second, if both the Palestinian people and the people of Israel, through their respected, elected leaders, will pledge to cooperate in every way with those NATO forces.

Now, Mr. President, there is a perception in the world that the Europeans are more sympathetic to the Palestinian causes, and that we here in the United States are more sympathetic to the Israeli causes. But NATO bonds us together, as we have been for these 50 years, in one constituted force.

And we would then go, as a constituted military organization, for the stated purpose, only, of trying to bring about stability, so that the diplomatic discussions, not only between the leaders of the Palestinian people and the leaders of the Israeli people can commence, but other leaders in the world, who desire, can step up.

There are those who have looked at this problem, and I respect them, and they disagree. I ask unanimous consent an article by a noted author, Mr. Kagan, be printed in the RECORD following my remarks.

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

(See exhibit 2.)

EXHIBIT 1

[From the Washington Post, July 24, 2002]

U.S. DECRIES ISRAELI MISSILE STRIKE, PONDERS EFFECT ON PEACE BID

(By Karen DeYoung)

The White House yesterday denounced Israel's missile strike in a densely populated area in the Gaza Strip as ''heavy-handed'' and described it as ''a deliberate attack against a building in which civilians were known to be located.''

Rejecting Israel's contention that it did not intend to kill innocents with a strike that was directed against a leader of the Hamas militant group, spokesman Ari Fleischer said. ''These were apartment buildings that were targeted.'' In addition to Salah Shehada, the intended target, the missile fired from an Israeli F–16 warplane killed 14 other people, most of them under the age of 11, and injured about 150.

Although President Bush continues ''to be a lead defender of Israel around the world and will speak out about Israel's right to self-defense,'' Fleischer said, ''this is an instance in which the United States and Israel do not see eye to eye.''

The Monday night attack was widely condemned in Europe and the Arab world. Many, particularly in Arab capitals, said it demonstrated that the government of Israeli Prime Minister Ariel Sharon was trying to undercut recent progress in the Middle East peace process.

The attack appeared initially to have stunned U.S. officials involved in peace efforts. They said they had no warning of Israel's plans despite talks here Monday between high-level representatives of the two governments. By yesterday, shock had turned to depression and uncertainty over where the process would go.

''There is considerable agreement that this represents something really problematic, something unique,'' one administration official said.

U.S. reaction to the attack, which occurred around 7 p.m. Washington time, was delayed until there was a clear picture of what had happened, the official said. After a flurry of telephone calls to the region, ''within an hour, we knew what we were dealing with. Then discussions began on how to respond.''

Talks Monday night among Secretary of State Colin L. Powell; his deputy, Richard L. Armitage; and William Burns, the assistant secretary for the region, were quickly joined by national security adviser Condoleezza Rice and her deputy, Stephen Hadley. While acknowledging deep and longstanding differences between the State Department and the White House over Middle East policy, the official said, ''this particular time, there was agreement across the board.''

Under the rhetorical code that has long surrounded statements on the Middle East, the United States normally ''condemns'' Palestinian terrorist attacks and uses the somewhat softer verb, ''deplore,'' to criticize Israeli actions.

Officials considered, then rejected, condemning the Israelis or describing their actions as ''counterproductive'' before settling on ''heavy-handed,'' as something they believed ''captured the deploring,'' as one official put it.

It was decided that Daniel C. Kurtzer, the U.S. ambassador to Israel, would deliver the message to Sharon. U.S. officials here described that discussion yesterday as unpleasant, and said Sharon said little in private that differed from his description of the attack as ''one of our major successes.''

White House public comment was left to Fleischer, and Bush made no statement yesterday on the attack. ''The president views this as a heavy-handed action that is not consistent with dedication to peace in the Middle East,'' Fleischer said.

Asked why Israel's action in Gaza was different from U.S. attacks against al Qaeda fighters in Afghanistan that resulted in the loss of innocent civilian lives—a comparison Israel has made—Fleischer replied: ''It isn't accurate to compare the two. . . . There are going to be losses of innocents in times of war, and I think that's recognized around the world.

''What's important is, in pursuit of the military objectives, as the United States does in Afghanistan, to always exercise every restraint to minimize those losses of life,'' Fleischer said. ''But in this case, what happened in Gaza was a knowing attack against a building in which innocents were found.''

European Union foreign policy chief Javier Solana called the attack an ''extra-judicial killing operation'' that ''comes at a time when both Israelis and Palestinians were working very seriously to curb violence and restore cooperative security arrangements.''

Solana represents the EU in the ''quartet'' group on the Middle East that also includes Powell, U.N. Secretary General Kofi Annan and Russian Foreign Minister Igor Ivanov.

Annan issued a statement late Monday deploring the attack, saying, ''Israel has the legal and moral responsibility to take all measures to avoid the loss of innocent life; it clearly failed to do so.''

There was no direct contact yesterday between Powell and the other quartet members, and no one seemed to have a clear idea how to proceed beyond waiting for the immediate fallout—including widely expected Palestinian retaliation—and its unpredictable impact on the wider peace process.

After months in which the process has been frozen, and despite Palestinian terrorist attacks against Israeli civilians as recently as last week, significant recent progress had been reported.

Plans to restructure the Palestinian Authority's security and financial infrastructure and prepare for elections in January were near completion. Israeli Foreign Minister Shimon Peres met with senior Palestinian officials last weekend for the first time in months, amid signs that Israeli troops would begin to withdraw from occupied Palestinian cities.

Egypt, Saudi Arabia and Jordan, the Arab countries most active in the peace process, all condemned the Israeli action. Egyptian Foreign Minister Ahmed Maher called it a ''war crime,'' and his Saudi counterpart, Saud Faisal, said it was ''a repulsive act that will be registered against [Sharon] in history.''

EXHIBIT 2

[From the Washington Post, Apr. 18, 2002]

CAN NATO PATROL PALESTINE?

(By Robert Kagan)

When Pulitzer-Prize winning New York Times columnist Tom Friedman talks, people listen. Now one of Friedman's most radical ideas—to put a NATO peacekeeping force on the ground between the Israelis and Palestinians as a key part of an overall peace settlement—is actually starting to pick up steam around the world. U.N. Secretary General Kofi Annan has endorsed the idea of an international force as part of a settlement that would be imposed on Israel and the Palestinians. So has German Foreign Minister Joschka Fischer. More important, Secretary of State Colin Powell is believed to be mulling such a plan. He has publicly talked about putting American observers on the ground. Even some Israelis have warmed to the idea, provided of course that any force includes American troops. After Europe's lynching of Israel these past few weeks, that's the only army they trust.

Friedman's idea deserves to be taken seriously. And to those of us who have supported American troop deployments for peacekeeping in Bosnia, Kosovo, Haiti and elsewhere over the past decade, peacekeeping in the Middle East seems at least as worthy, in principal. Our strategic interest in a stable peace there is clear, and so is the moral case for doing something to end the bloodshed, defend the Israeli democracy and given the Palestinians a chance for a better life. After Sept. 11, we have to engage in peacekeeping and nation-building in messy places such as Afghanistan and, one hopes, post-Saddam Iraq, whether we like it or not. So why not in the Palestinian territories.

But if the idea of a U.S.-led force between Israel and a Palestinian state is starting to get serious attention, it's time for Friedman and others to spell out what exactly they have in mind, and with a little more candor about the costs and risks.

Take the size and role of the force, for instance. To carry out its mission and avoid disaster, the American force would have to be, as they say in the military, ''robust.'' For one thing, the demarcation line between Israelis and Palestinians that will have to be patrolled and controlled will be long, twisty, and difficult. For another thing, Americans are going to be the prime target for terrorist attacks. Friedman denies this, arguing that the Palestinian people will view the Americans as saviors—they will be ''the midwife of a Palestinian state.'' But Hamas, Hezbollah and Islamic Jihad probably won't see it that way. Rallying to the cry of ''Remember Beirut!'' they'll look for ways to take out another 240 Marines. And they'll have help from Iran, Iraq, al Qaeda and all other jihadists out there.

That means any American force will have to be big—10,000 to 20,000 troops, with another 10,000 to 20,000 backing them up. And they'll have to be heavily armed. Potential attackers will need to be intimidated by American firepower every day and every night for as many years as it takes. And that means Tom Friedman and Kofi Annan and Joschka Fischer will need to become full-time lobbyists for massive increases in the American defense budget, because right now we have neither the troops nor the money to carry out their plan.

Now for the hard part. Let's say we get a peace agreement and we put the peacekeeping force on the ground between the Israelis and Palestinians. What happens when, despite all our best efforts, the occasional Hamas suicide bomber gets through anyway and commits the occasional massacre in Jerusalem or Tel Aviv? Count on it: This will happen. And what about when Hezbollah tries to use the new Palestinian state created by the peace settlement the way it now uses southern Lebanon, as a convenient place from which to launch Katyusha rockets at Israeli population centers? What do we do then?

Friedman et al. can't wish this problem away. And the options are less than enticing. One option is that the American-led peacekeeping force does nothing. But then we will have effectively created an American shield for terrorist attacks against Israel. This, by the way, was exactly the role a U.N. peacekeeping force played in Lebanon for several years in the late 1970s and early '80s, right up until the Israeli army invaded Lebanon and pushed the U.N. force (known as UNIFIL) aside.

Option two is that the peacekeeping force could, like UNIFIL, just get out of the way and let the Israeli military retaliate for any terrorist attacks. Then at least American forces wouldn't be helping the terrorist attack Israel. They'd be helping Israel attack the state of Palestine. That's how it would look to the Palestinians, anyway. So much for the Americans as saviors.

Option three is that the American-led force goes to war. We tell the Israelis to hold their fire and then send our own forces in to stop the terrorists. In essence, we take on the job the Israelis are currently doing in the territories. This prevents the outbreak of a new Israeli-Palestinian conflict—and begins the first round of the U.S.-Palestinian conflict. Maybe that's kind of progress, but it's not very attractive.

Is there another option I'm missing? If not, the proposal for an international peacekeeping force looks less like a real plan than a desperate if noble attempt to solve the insoluble in the Middle East—a deus ex America summoned to provide a miracle when all roads to peace have reached a dead end. Even Ehud Barak's idea of building a very, very big fence between Israel and the Palestinians looks better. Help us out, Tom.

Mr. WARNER. Mr. President, I yield to our leaders. They have an important matter.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 5121 AND H.R. 5010

Mr. DASCHLE. Mr. President, let me compliment the distinguished Senator from Virginia on his remarks. I appreciate very much his willingness to yield the floor for this unanimous consent request.

I have been consulting with the distinguished Republican leader for the last several hours with regard to additional work on appropriations bills. We are now in a position to offer a unanimous consent request with regard to at least two more of these bills.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 504, H.R. 5121, the legislative branch appropriations bill; that debate on the bill and the committee amendment be limited to 30 minutes equally divided and controlled between the chair and ranking member of the subcommittee; that immediately after the bill is reported, the text of the Senate committee-reported bill be inserted at the appropriate place in the bill; that the only first-degree amendments in order be those enumerated in this agreement, with the debate time limited to 10 minutes each, equally divided and controlled in the usual form; except that the Dodd and Specter amendments listed below not have a time limitation; that they be subject to relevant second-degree amendments that would also not be subject to a time limit; that upon disposition of these amendments, the bill be read a third time and the Senate then vote on passage of the bill, as amended; that upon passage, the Senate insist on its amendment and request a conference with the House; that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate; provided further that the Senate proceed to the consideration of Calendar No. 505, H.R. 5010, the Department of Defense appropriations bill, no later than Wednesday, July 31—Durbin amendment regarding Capitol Police; Cochran amendment regarding congressional awards; Landrieu amendment regarding bicentennial commission; Specter amendment regarding mass mailings; Dodd amendment regarding mobile offices.

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

The Republican leader.

Mr. LOTT. Mr. President, with the unanimous consent agreement, I do want to get one clarification as to my understanding with Senator DASCHLE. First, I appreciate the work that has been done on this matter. I think it will help us move the legislative process forward, get some appropriations bills done, get the legislative appropriations done, but not too far down this pike without doing the Department of Defense appropriations bill. This is a way to get both of them done and hopefully maybe even some other action before we leave. I want to make sure we understand that the intent is to complete the Department of Defense appropriations bill prior to the recess; is that correct?

Mr. DASCHLE. Mr. President, that is correct. I would also note something the Senator mentioned: It is important for us not to consider this the complete list. It would be my hope, if we could entertain other unanimous consent requests regarding additional appropriations bills—we expect that that possibility could also be one we would want to entertain. My expectation and determination would be to complete work on the DOD appropriations bill next week.

Mr. LOTT. I yield the floor.

Mr. DASCHLE. I yield the floor and thank my colleagues.

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

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

ORDER FOR NO SECOND-DEGREE AMENDMENTS—H.R. 5121

Mr. REID. Mr. President, I want to clarify that with respect to the agreement on the legislative branch appropriations bill, there are no second-degree amendments in order to the Durbin, Cochran, or Landrieu amendments. I ask unanimous consent that be the order.

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

CONFERRING HONORARY CITIZENSHIP OF THE UNITED STATES ON THE MARQUIS DE LAFAYETTE

Mr. WARNER. Mr. President, with the consent of the leadership on both sides, I ask that the Chair lay before the Senate a message from the House on the joint resolution, S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

S.J. RES. 13

Resolved, That the joint resolution from the Senate (S.J. Res. 13) entitled ''Joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette'', do pass with the following amendments:

Strike out all after the resolving clause and insert:

That Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette, is proclaimed posthumously to be an honorary citizen of the United States of America.

Strike out the preamble and insert:

Whereas the United States has conferred honorary citizenship on four other occasions in more than 200 years of its independence, and honorary citizenship is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette or General Lafayette, voluntarily put forth his own money and risked his life for the freedom of Americans;

Whereas the Marquis de Lafayette, by an Act of Congress, was voted to the rank of Major General;

Whereas, during the Revolutionary War, General Lafayette was wounded at the Battle of Brandywine, demonstrating bravery that forever endeared him to the American soldiers;

Whereas the Marquis de Lafayette secured the help of France to aid the United States' colonists against Great Britain;

Whereas the Marquis de Lafayette was conferred the honor of honorary citizenship by the Commonwealth of Virginia and the State of Maryland;

Whereas the Marquis de Lafayette was the first foreign dignitary to address Congress, an honor which was accorded to him upon his return to the United States in 1824;

Whereas, upon his death, both the House of Representatives and the Senate draped their chambers in black as a demonstration of respect and gratitude for his contribution to the independence of the United States;

Whereas an American flag has flown over his grave in France since his death and has not been removed, even while France was occupied by Nazi Germany during World War II; and

Whereas the Marquis de Lafayette gave aid to the United States in her time of need and is forever a symbol of freedom: Now, therefore, be it

Amend the title so as to read ''Joint Resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.''.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the joint resolution, that the Senate concur in the amendment to the preamble, that the Senate concur in the House amendment to the title, and that the motion to reconsider be laid upon the table en bloc.

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

Mr. WARNER. Mr. President, this is a matter on which I and a number of others have worked for some time. I thank my distinguished colleague from Virginia, Congressman VIRGIL GOODE, whom I asked to introduce this measure in the House. He did so with great skill. It was passed by the House. It had previously been adopted by the Senate, but now the House bill has been adopted by the Senate. Hopefully it will be forthcoming to the President for signature.

I rise in support of this resolution which has been an idea I have had for many years.

It bestows honorary citizenship on the Marquis de Lafayette. I think it is an honor long overdue. This great Frenchman fought with Washington, as I shall enumerate, in a battle for our independence. He was very influential in having the French Government intervene, as they did decisively, at

Yorktown to enable that long, drawn-out conflict to be brought to an end. He later came back to Virginia and traveled throughout my State and other parts of this great Nation and is remembered with great fondness.

In his greatest time of need when the Austrians imprisoned him for his supposed involvement in the fall of the French monarchy, the United States did not acknowledge Lafayette as a U.S. citizen despite his cries for help all across our land.

This young man risked so much to help build the America we know today, and we are now correcting this long-delayed injustice to Lafayette and celebrating him not only as a patriot of freedom and liberty but as a U.S. citizen.

At the young age of 19, Lafayette disobeyed the wishes of King Louis XVI of France, risking his own personal wealth and status to aid in our quest for freedom from Great Britain. He proved his dedication to our liberty when he was wounded in the battle of Brandywine, forever endearing himself to the American soldiers.

Throughout the American Revolution, Lafayette acted as a liaison between France and the American colonies. He urged influential policymakers to have France make the decisive military, naval, and financial commitment to save the American colonists. His tireless efforts, both as a liaison and as a general, aided America in her ultimate victory.

During the war, Lafayette proved himself over and over as a soldier and a good friend to George Washington. George Washington was impressed with Lafayette's military tactics which lured British General Cornwallis and his army to Yorktown, VA. The American Army, led by General Washington, along with French forces led by General Rochambeau, came south and trapped Cornwallis and his troops at Yorktown. As a result, the British were forced to surrender. The famous French fleet appeared on the horizon and they prevented any resupply to the British forces from their ships offshore. It was a decisive part of that battle. Here we are today enjoying freedom 200-plus years later because of Lafayette and the French contribution.

Lafayette's services to America extended beyond the battlefield. He worked diligently as an adviser, helping to win concessions from Britain during the treaty negotiations. At Versailles, when negotiating with the French Government, our representatives, Franklin and Jefferson, found him invaluable. Moreover, his impartial friendship was extended to the first seven U.S. Presidents.

One of Lafayette's major contributions was bridging these cultural gaps between America and France. His early influence on America still holds true today as we try to bridge the cultural gaps to many countries across the globe to help cultivate freedom. With this in mind, now more than ever, it is important to remember who our friends are in the world as we try to create a coalition against terror.

The Marquis de Lafayette is celebrated by many as a symbol of freedom and liberty. I am happy and honored for the opportunity to offer this resolution for citizenship before the Senate.

Congress has before shown its respect and gratitude for Lafayette when both the Senate and the House of Representatives draped their Chambers in black for his contribution to the independence of this great Nation.

Now, I would like to say to the Marquis de Lafayette as John J. Pershing did in World War I when he stood before the patriot's grave and said: ''Lafayette, we are here.''

Our Nation has only bestowed this honor on a few persons. I shall place into the RECORD the names of those, such as Winston Churchill and others. So here now, at long last, we honor this great patriot.

First, I thank Senator LEAHY, chairman of the Judiciary Committee. I also thank, from my staff, John Frierson; former staff member, Don Lefeve; and Congressman VIRGIL GOODE from Virginia and his assistant, Rawley Vaughn, for their help. The French Ambassador to the United States has been of great help and encouragement, as has Mr. Jim Johnston of the Virginia Film Foundation, Wyatt Dickerson, and Dr. James Scalon, a history professor at Randolph-Macon University.

It is interesting how many people have joined to make this possible. I now enumerate those who have received honorary citizenship by our Government: British Prime Minister Winston Churchill, on April 9, 1963; Swedish diplomat Raoul Wallenberg, October 5, 1981; William Penn and his wife Hannah, October 4, 1984; Mother Teresa, November 16, 1996.

It is very interesting. I am deeply humbled to have been one of several to make this possible.

Again, I say that the distinguished chairman of the Judiciary Committee, Mr. LEAHY, was of invaluable help to make this legislation possible. I spoke with him earlier today. He helped me facilitate the adoption of this matter this evening.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 812, there be 1 hour of debate relating to the motion to waive the Budget Act, equally divided between Senators ROCKEFELLER and GRAMM of Texas or their designees prior to the vote on the motion.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein for not to exceed 10 minutes each.

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

ISRAEL AND PALESTINE

Mr. WELLSTONE. Mr. President, normally I try not to use written text on the floor of the Senate, but I want to make sure that I say what I say in the Senate in a careful and hopefully the right way.

Tuesday's missile strike against the home of Sheik Salah Shehaded was an unsettling departure from the more careful methods Israel has typically used against its terrorist enemies. The sheik, who was killed in the operation, was the Gaza terrorism chief of Hamas, a group that has slaughtered hundreds of innocent Israelis and who seeks the destruction of Israel. Unfortunately, the attack killed not only the sheik but also 14 of his family members and neighbors, including nine children—terrible, terrible, toll.

It is true that these deaths were not the purpose of the operation. Unlike suicide bombers, the Israeli military does not target civilians. And perhaps, given the sheik's role in killing civilians, maybe you could argue that more innocent lives were saved than would ultimately have been lost if he had continued to live.

But military planners should have known that this operation, taking place in a densely populated residential complex, might result in the death of many civilians. Surely other military options could have been considered.

The rising toll on innocent civilians in this conflict is heartbreaking. There must be a greater effort by all—the Government of Israel, the Palestinians, the Arab States, and the United States—to break this cycle of revenge and spiraling violence.

Four weeks ago Monday, President Bush outlined his latest ideas for resolving the Israeli-Palestinian conflict. He laid out a vision of the future for the Middle East, declaring that he wanted to see two democratic states living side by side with secure borders, and he believed this goal could be achieved within 3 years. He called for movement on three tracks. First, aggressive action to end terrorist attacks on innocent Israeli citizens; second, reform of Palestinian legal and security structures; and third, substantial assistance to relieve the suffering of ordinary Palestinians who now are on the brink of humanitarian disaster.

The Bush speech, with its important elements, now needs to be recast into a concrete work plan where there is movement on all three tracks. Behind the scenes, Secretary Powell and members of the Quartet have been seeking to flesh out plans for overhauling the Palestinian Authority, yet movement there has been slow. The bottom line is that the political roadmap that was missing from the President's speech

has yet to appear. The United States must lead a diplomatic process to end the endless cycle of violence and get to the end game—an independent Palestinian state and security for Israel. There must be action on all fronts, or what little hope is left will vanish.

I wish I had a clear answer, but thought as a Senator from Minnesota I should at least speak out in the Senate. I am absolutely convinced that there is no hope in the present course, that we have to figure out how to get from where we are back on a political track. As tiring and tiresome as it might sound to some, we have to continue to call for political negotiation. What is the alternative? There is no alternative. There is no alternative.

COMMENDING NATIONAL PUBLIC RADIO AND BOISE STATE RADIO

Mr. CRAPO. Mr. President, with great pride, I commend National Public Radio and its Idaho affiliate, Boise State Radio, for their creative application of wind power technology.

With unprecedented innovation, in what is believed to be the first public radio transmitter site to rely on the power of wind, Boise State Radio and National Public Radio have erected three state-of-the-art wind turbines in order to provide broadcast service to previously unreachable areas in southern Idaho and northeastern Nevada.

In an age when just 3 percent of electricity in today's national mix comes from renewable sources, Boise State Radio and National Public Radio have committed to expanding their services while advancing the use of clean, efficient power sources.

The American Wind Energy Association estimates that Idaho has the potential to generate over 8,000 megawatts of wind power, placing our State in a unique position to contribute significantly to domestic energy production.

At the same time, it is clear that the overall economy is changing and that rural America is shouldering a great deal of this weight. The fact is, many of the jobs that have been lost over the last decade might never return. While continuing to support our traditional industries, we must also be creative in capitalizing on new opportunities for rural communities.

By expanding communications and providing a new facet to the rural economic infrastructure, the generation of wind power serves not only to maintain our Nation's available resources, but also to advance economic opportunity in rural America.

Recognizing Idaho's wind power potential and its benefits to our economies, National Public Radio and Boise State Radio are emerging as leaders in the advancement of environmentally efficient energy technology. This further serves as evidence that opportunities exist right at home to increase energy production that would boost our electricity supply and reduce dependence on foreign fuels, such as oil, which we import primarily from the Middle East.

We need to make the best use of our domestic renewable energy resources to ensure a secure, reliable, and clean energy supply while improving the economies of rural Idaho and rural America.

National Public Radio and Boise State Radio: On behalf of Idahoans and millions of Americans, I salute you.

STOCK OPTIONS

Mr. WYDEN. Mr. President, I rise to outline briefly an approach with respect to the stock option issue that I am hopeful could bring together Senators of varying philosophies in both political parties.

It seems as if every morning Americans wake up to yet another headline about the collapse of a major U.S. corporation. These failures have devastated the savings of millions of hard-working Americans, savings they were depending on for their retirement or to pay for their kids' college. When the smoke clears and the fallout settles, the issue of stock options invariably comes to the fore.

I serve as chair of the Science and Technology Subcommittee, and I have spent a considerable amount of time analyzing the stock option issue. There is no question in my mind that some companies have abused stock options, using them as a vehicle for funneling large amounts of wealth to top executives. What is more, options have been granted in ways that fail to serve their intended purpose of aligning the interests of management with the long-term interests of the company.

Instead, a number of these massive option grants have created perverse incentives, enabling top executives to get extraordinarily rich by pumping up a company's short-term share price. The tactics they use can jeopardize the company's long-term financial health, but by the time the long-term impact is felt, the executives invariably have cashed out and left the firm. When an executive develops a big personal stake in options, it can lead to a big conflict of interest. Too often the company's long-term interests take a backseat to that executive's desire for personal reasons to boost the short-term share price.

When the betting is between massaging the numbers to ''manage'' quarterly profit projections and improving the quality of the business through such initiatives as long-term research and development investments, short-term profits and the value of executive stock options can be the odds-on favorite.

The abuse of stock options in the executive suite should not be taken as an indictment of all stock options that are offered.

I remain convinced that stock option plans, as long as they are broad based and have significant shareholder investment protection, can play a very important role in our economy. They can enable corporations to attract and retain good workers and top talent. They can motivate and increase productivity by giving employees a strong personal interest in the long-term success of the corporation.

The program I would like to outline this afternoon is based on the premise that it is time for the Senate to act to stop abuses at the top, while not gutting options that are so vital to rank and file workers. This can best be done by restoring the link between the long-term interests of the company and those of senior management and giving shareholders knowledge about control over the stock options of corporate leaders.

So I hope we will be looking to discuss with Senators of both parties the differing philosophies on the stock option issue, and that we can come together as a Senate around reform based on three issues.

First, the rule should increase shareholder influence and oversight with respect to grants of stock options to corporate officers and directors by requiring shareholder approval. This would help prevent the all-too-common ''I'll scratch your back if you scratch mine'' culture of clubby directors and top executives voting each other huge option packages with little or no shareholder input.

Second, new rules should seek to ensure that stock options provide incentives for corporate officers and directors who act in the best long-term interests of their corporation, not incentives to stimulate short-term runups in stock prices. I believe the way to do this is to establish substantial vesting periods for options and holding periods for stock shares so that top executives do not have the ability to quickly cash out and jump ship.

Specifically, I believe there needs to be a multitiered holding period. Directors and officers should be allowed to sell a modest proportion of shares, for example, to permit a degree of diversification; but for the large majority, they should have to wait a substantial period of time and they should be required to hold on to a portion of their stock until at least 6 months after leaving the company.

Finally, a third requirement in the proposal I outline today would be new rules improving the transparency of stock option grants to directors and officers. It is critical that better and more frequent information be provided to shareholders and investors. They deserve more information than what is buried in the typical footnote. Stock option information ought to be reported quarterly, not just annually, and broken out into an easy-to-find section in each company's public SEC filings.

In concluding, there have been two paths presented in the Senate in recent months with respect to the issue of stock options. Some now think the

problem is so severe that options should be pared back across the board and that Congress should take that action. Others say that business as usual should continue, that this is a problem that has affected just a handful of companies.

The principles I have described today lay out a third path—a path that will ensure that broad-based stock options can continue to be a useful tool for deserving workers, shareholders, and the economy as a whole, while at the same time curbing abuses by those in the executive suites whose conduct is over the line.

On the Science and Technology Subcommittee, which I chair, we have heard again and again how important these stock options are. There is no question that is correct. But I think it is also correct to say that the job of cleaning up corporate corruption is not going to be complete until Congress acts to curb the abuse of stock options.

I look forward to working with my colleagues to put in place tough, new rules that will ensure that stock options remain broad based, but also address this issue of abuse that, unfortunately, has drawn options and their value into question.

AN UNWARRANTED BLOW TO GLOBAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my very deep regret that the Bush administration has decided not to release the $34 million allocated for the United Nations Fund for Population Activities, UNFPA. I would ask the White House to reconsider its decision.

At stake here is vital assistance for needy individuals throughout the developing world, living under the threat of HIV infection and deteriorating health conditions.

Indeed, it is a shame that such assistance—assistance that can save lives—is being held hostage by domestic politics, and the misconceptions of the anti-choice wing of the Republican Party.

I would remind the administration that the $34 million was appropriated by Congress in a spirit of bipartisan consensus, after 2 months of negotiations. During these talks there was never any question whether or not to allocate the funds, but simply how much.

The White House's own budget proposal for fiscal year 2002 included $25 million for the fund, $3.5 million more than allocated by the Clinton administration.

Within this context, the administration's decision is all the more perplexing. It stands as painful proof that the debate over U.S. support for international family planning has been distorted all out proportion.

In particular, there remains a belief, in some quarters, that the United Nations Fund for Population Activities either condones or even assists in abortion and coercive sterilization.

This is, at best, nothing but hearsay. And if such proof does exist, why haven't we seen or heard anything substantive about it?

With respect to China, in May the State Department sent a mission to investigate such allegations, and it found no evidence at all of that the fund was involved, in any way, in abortion or coercive sterilization. A month before, a British delegation drew a similar conclusion.

For the record, I would like to quote directly from the State Department's conclusions. ''We find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in [China].''

In light of this finding, the report recommends, and I quote, ''that not more than $34 million which has already been appropriated be released to UNFPA.''

I would also argue that it is precisely because of the questions raised about China's policies, that United Nations presence there becomes that much more important. The United Nations Fund for Population Activities remains the best way to do this.

Only last year, Secretary of State Colin Powell praised the United Nations Fund for Population Activities, saying that it was engaged in ''critical population and assistance to developing countries.''

This explains why the Department of State provided $600,000 to the fund for sanity supplies, clean undergarments, and emergency infant delivery kits for Afghan refugees in Iran, Pakistan, Uzbekistan, and Tajikistan.

The facts speak for themselves. The United Nations Fund for Population Activities does not subsidize abortion services in any country. Its executive director, Madame Thoraya Ahmed Obaid, has said that the fund would cease its family planning program in China, if any allegations of coercive abortion or involuntary sterilization could be verified.

I would also argue that we would be wise to focus on the wider role that the United Nations Fund for Population Activities plays, most notably in the critical area of HIV prevention. And I would remind my colleagues of just a few of the troubling facts revealed at the recent AIDS conference in Barcelona.

In Botswana, for example—a country where 38 percent of the adult population is infected with HIV—20 percent of high-school-age students believe that you can tell whether a person has HIV/AIDS simply by looking at them.

In Malawi, where 15 percent of all adults are HIV positive, 64 percent of young men admit to not using a condom with their most recent sexual partner. The scourge of AIDS throughout sub-Saharan Africa is a human tragedy of terrifying proportions.

How can we turn our backs on those not yet infected, especially when the reason for doing so is based on unfounded allegations and a misunderstanding of the term ''family planning.''

There are no hidden meanings; there is no secret agenda. Family planning does not condone or promote abortion. Simply put, family planning means: women able to control their reproductive destinies; couples given the information necessary to make their own choices about family size and the timing of births; health care officials reaching out to adolescents and young adults, as a means to educate them, and in turn prevent HIV infection and unwanted pregnancies.

Healthy families—the heart of any healthy society—depend upon women being able to make informed choices. The United Nations Fund for Population Activities helps women do just that—make a choice—which I hold to be a fundamental right of women everywhere, regardless of their economic circumstances.

Women here in the United States take such information for granted, and we can not forget that this is all too often unavailable to poor women in the developing world.

How to protect themselves from HIV or other sexually transmitted diseases, how to space pregnancies so that they can better manage the size of their families, and how to lower the risks of childbirth and increase their chances of delivering healthy babies—this is at the heart of the information the United Nations Fund for Population Activities provides. This strikes me as hardly immoral or illegal.

In closing, Mr. President, let me remind my colleagues that the world's population today stands at more than six billion—a figure that shows no signs of stabilizing. In fact, the United Nations estimates this number could double, to 12 billion, by the year 2050.

The brunt of this growth will impact precisely those areas least able to absorb it—namely, the developing world. Overpopulation has already caused significant problems, like malnutrition, disease, environmental degradation, and political instability.

If we in the United States bury our heads in the sand here, it will become increasing likely that overpopulation could overwhelm such fragile societies.

Given such alarming facts, the purpose of the United Nations Fund for Population Activities—to reduce poverty, improve health and raise living standards around the world—will become only more important in the years to come. The United States, in my mind, has two options: one, either we help support international family planning efforts, in a way that is both responsible and accountable; or two, we relinquish our leadership role, and turn our backs on the developing world.

The Bush Administration seems to have taken the latter course, and I can only hope that it reconsiders its decision and will do what is right.

It should release the $34 million allocated to the United Nations Fund for

Population Activities. Failure to do so would set an unfortunate precedent.

TRIBUTE TO SERGEANT JOHN H. MORENO AND ALL FALLEN HEROES

Mr. KERRY. Mr. President, last month I attended the dedication of the Massachusetts Vietnam War Memorial in Worcester, MA where I joined my fellow veterans and their families to memorialize the 1,537 heroes from Massachusetts who gave their lives in Vietnam.

During the ceremony, I was passed a copy of a poem Mrs. Eileen Moreno wrote in honor of her son, Sergeant John H. Moreno, whose name graces the Place of Names in Worcester. John Moreno, who grew up in Brookline, loved baseball and the Red Sox, and planned to attend art school so that he could teach art at an elementary school, was like so many brave young men and women who gave so much to their families, communities, and country.

With her compelling tribute to her son, Mrs. Moreno reminds us all of the high price of freedom, a price paid both by the soldiers who went thousands of miles away to protect our Nation and the families who remember their loved ones. I thank her for passing along these words of tribute and respectfully ask unanimous consent to print her poem, ''Memorium—Elegy for a Son,'' in the RECORD so that others may read her beautiful words.

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

MEMORIUM—ELEGY FOR A SON

Yes, we still grieve.
In the stillness of the night
Echos the silent primal howl
of rage and refusal to believe.

In private moments of the day to day
We weep our quiet tears;
Sorrow does not lessen with the
passage of the years.

Oh, yes we weep and hide our
desolation with words like duty,
gallantry and pride.

Still we cry.

For the bright, sweet child who was,
We cry.

For the valiant man he became,
We cry.

We grieve.
With dry and sighting eyes

We weep tears that can't relieve.
For his loneliness, his fear, his pain
Knowing our aching, empty arms
Cannot hold him close again,
We cry.

But for the solace that it gives,
In the love he left for us in our care
And in his memory we'll forever share
Still he lives—Eternity is his legacy.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 16, 2001 in Newmarket, NH. Thung Phetakoune, 62, a man of Laotian descent, died of injuries he suffered in an attack apparently motivated by racial hatred. According to authorities, Richard Labbe, 35, assaulted the victim amid an anti-Asian tirade. Phetakoune died from injuries stemming from a fractured skull, subsurface bleeding, and swelling of the brain.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

EFFECTS OF CLIMATE CHANGE IN ALASKA

Mr. STEVENS. Mr. President, a recent article from the New York Times describes the infestation of spruce bark beetles on the Kenai Peninsula in Alaska. This is another aspect of global climate change that has deadly implications in my state. On the Kenai Peninsula, the spruce bark beetle has infested nearly 95 percent of the spruce trees, which represents about four million acres of dead or dying forest. Some scientists believe that a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. This warming trend in Alaska has coincided with a huge outbreak of these beetles and the death of a forest nearly twice the size of Yellowstone National Park. This terrible situation, in one of my state's most beautiful tourist destinations, has created a dangerous environment for a large scale fire in this region.

Over half of the people of Alaska live in the path of this fire.

The Forest Service, under the previous Administration, in my State would not permit the selective cutting of infested trees, which would have mitigated, if not stopped, the outbreak of the deadly beetle. When timber sales were offered in this area extreme environmental lawsuits stopped any removal of the ever growing fuel load. My state is now in a very dangerous situation—eight years of beetle kill stands in the forests on the Kenai Peninsula and the insect continues to spread.

This article demonstrates that. I call it to the attention of the Senate because of the emphasis placed on fires already started in the West and that are ongoing.

This is the most deadly situation I have ever encountered in terms of potential fire and the hazard in this enormous area—4 million acres of dead or dying trees caused by this beetle. I think it ought to be dealt with by all concerned. I hope we have some money in the regular bill for this matter.

I ask unanimous consent that the article be printed in the RECORD. I call it to the attention of the Senate.

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

[From the Science Times, June 25, 2002]

ON HOT TRAIL OF TINY KILLER IN ALASKA

(By Timothy Egan)

SOLDOTNA, Alaska—Edward Berg has a pair of doctorates, one in philosophy and another in botany, but for the last decade he has been a forensic detective in the forest, trying to solve a large murder mystery.

The evidence surrounds him on his home in the Kenai Peninsula: nearly four million acres of white spruce trees, dead or dying from an infestation of beetles—the largest kill by insects of any forest in North America, federal officials say.

Beetles have been gnawing at spruce trees for thousands of years. Why, Dr. Berg wondered, has this infestation been so great? After matching climate records to the rate of dying trees, Dr. Berg, who works at the Kenai National Widlife Refuge, believes he has come up with an answer.

He says a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. Hungry for the sweet lining beneath the bark, the beetles have swarmed over the stands of spruce, overwhelming the trees' normal defense mechanisms.

If Dr. Berg is correct—and he has won many converts as well as some skeptics—then the dead spruce forest of Alaska may well be one of the world's most visible monuments to climate change. On the Kenai, nearly 95 percent of spruce trees have fallen to the beetle. Now, conditions are ripe for a large fire and could lead to bigger changes in the ecosystem, affecting moose, bear, salmon and other creatures that have made the peninsula, just a few hours' drive from Anchorage, a tourist mecca.

''The chief reason why the beetle outbreak has been the largest and the longest is that we have had a unprecedented run of warm summers,'' said Dr. Berg, 62 a soft-spoken man in suspenders and running shoes.

Temperatures in Alaska have risen sharply in the last 30 years, causing sea ice to break up off the northern coastlines, some glaciers to recede and permafrost, to melt. But until Dr. Berg began matching raising temperatures to the number of trees killed by beetles, no one of had tied the death of a forest nearly twice the size of Yellowstone National Park to warming temperatures.

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg's findings for other forests vulnerable to bugs is that as climate warms in the north, some species of evergreen trees that cover vast acreage could be mowed down by an ever-expanding population of bettles.

The dead spruce forest of Alaska is also a lesson, to some ecologists, of how warmer temperatures present intractable problems for living things anchored to a certain area. People can adapt, or even more, but trees that have been growing in one area for 8,000 years cannot—at least not quickly enough.

Other scientists who work on global warming issues are now looking at Dr. Berg's findings.

''His work is very convincing; I would even say unimpeachable,'' said Dr. Glenn Juday, a forest ecologist at the University of Alaska. ''For the first time, I now think beetle infestation is related to climate change.''

While Dr. Juday did not collaborate on Dr. Berg's spruce studies, he relayed some of the findings at a recent conference on climate change in Oslo, as part of the Arctic Climate Impact Assessment Project, a study by scientists from several nations. It was also presented by Dr. Berg himself in a speech at an American forestry conference this year.

''There is enormous excitement over Ed Berg's studies,'' Dr. Juday said.

But other scientists are still skeptical, saying it may be only a coincidence that rising temperatures go hand in hand with growing beetle infestations. Some say he has found a big piece of the puzzle, but not all of it.

''I think Ed Berg is only partially correct,'' said Dr. Ed Holsten, who studies insects for the Forest Service in Alaska. The trees on the Kenai are old, and ripe for beetle outbreaks. If they had been logged, or burned in fire, it might have kept the bugs down, Dr. Holsten said.

The spruce beetle, which is about a quarter-inch long with six legs, is barely visible to most people who roam through evergreen forests in the West and Alaska. Large swaths of forest in Colorado, Idaho and Wyoming have been felled by the bug. But nothing has approached the Alaska kill.

The beetles take to the air in spring, looking for trees to attack. When they find a vulnerable stand, they will signal to other beetles ''a chemical message,'' Dr. Holsten says. They burrow under the bark, feeding on woody capillary tissue that the tree uses to transport nutrients.

In Dr. Berg's office, he has a cross-section of a tree that has been under attack by beetles. They build a web of canals as they eat. Eventually, the tree loses its ability to feed itself; it is essentially choked to death, a process that can take several years, Dr. Berg said.

Spruce trees produce chemicals, called terpenes, that are supposed to drive beetles off. But when so many beetles go after a single tree, the beetles usually win. As it dies, the normally green needles of spruce will turn red, and then, in later years, silver or gray. Ghostly stands of dead, silver-colored spruce—looking like black and white photographs of a forest—can be seen throughout south-central Alaska, particularly on the Kenai. Scientists estimate that 38 million spruce trees have died in Alaska in the current outbreak.

''It's very hard to live among the dead spruce; it's been a real kick in the teeth,'' said Dr. Berg. ''We all love this beautiful forest.''

One reason Dr. Berg may have been able to see the large implications of the beetle attack when others saw only dead trees is that he is one of few government scientists for the Fish and Wildlife Service who is paid to study the big picture.

His title is ecologist for the Kenai refuge. ''When they hired me they felt the need to look at things from a broader scale rather than simply do moose counts,'' he said.

Working with a doctoral student, Chris Fastie, on a federal grant, Dr. Berg has been matching the volume of dead trees to climate. Since 1987, he said, the Kenai Peninsula has had a string of above-normal temperature years, particularly in the summer. Each of those years coincided with huge outbreaks of beetle infestation and dead trees, matching warmer years and a rise in spruce kills in the early 1970's. Dr. Berg found a similar pattern in the Kluane area of the Canada's Yukon Territory, where it is much colder.

Spruce beetle eggs normally hatch by August, then spend the winter, dormant, in larvae beneath the bark. They can withstand temperatures of up to 35 degrees below zero. The normal life of a spruce beetle—if not picked off by woodpeckers or other birds—is two years. But in the warmer years, Dr. Berg and others found that the beetles were completing a two-year cycle in a single year. This mass of insects has consumed nearly every mature spruce tree on the Kenai, until there is very little left to eat. Most of the trees are more than 100 years old.

Other scientists say the warming climate may be responsible for a big part of the huge bug outbreak, but not all of it.

''These bugs are coldblooded,'' Dr. Holsten said. ''They are an early warning indicator of climate change. If it warms up enough they can complete that two-year life in a single year.''

WARMER WEATHER ALLOWS VORACIOUS INSECTS TO THRIVE

Spruce has grown on the Kenai Peninsula for about 8,000 years. Other infestations have killed up to 30 percent of a forested area, before bug populations died from fire or freeze or other natural causes. The current infestation never slowed until the beetles ran out of food.

''It slowed down only after they had literally eaten themselves out of house and home,'' Dr. Berg said.

The Forest Service has been studying beetle-killed spruce for some time, but has yet to come up with any way of attacking the insects, other than suggestions of logging and controlled-burn fires—each of which is hotly contested.

What may follow in the path of the dead forest will be likely be a mix of grasses, and more hardwood trees like birch, alder and aspens, said Dr. Berg.

Climate records have been kept for barely a hundred years in most places in Alaska. By studying tree rings—which expand in warmer years and barely grow in cold years—scientists in Alaska say the current warming period is unmatched for at least 400 years. By studying dead trees, they say they can find no evidence of a spruce beetle outbreak of this magnitude, ever.

ADDITIONAL STATEMENTS

TRIBUTE TO PATRICIA OBRADOVICH

• Mr. SMITH of Oregon. Mr. President, the late Oregon Governor Tom McCall once said, ''Heroes are not giant statues framed against a red sky. They are people who say, 'This is my community and it's my responsibility to make it better.' ''

I rise today to pay tribute to Patricia Obradovich, a remarkable Oregonian who was a true hero, because she dedicated her entire career to making her community, her State, and her Nation a better place. Patricia passed away last month at the young age of 44, after a courageous battle against cancer. Her legacy, however, will continue long into the future.

Patricia dedicated her entire professional life to working for the Federal Government. I have long believed that government service is a high and important calling. The hours are often long, the pressures are great, and the monetary compensation is frequently lower than what is available in the private sector. Patricia was one of those individuals who was more concerned with making a difference than making a fortune.

Patricia joined the U.S. Army Corp of Engineers as an economist with the Portland, OR District in May of 1981, and continued with the Corps for 21 years. In that time, she served in many roles, including Chief of Economics, Acting Chief of Planning, and Outreach Coordinator.

During her two decades of service, Patricia earned a reputation in Oregon and across the Nation as a public servant of great intelligence and integrity. She played a leadership role in formulating policy on many projects of national significance, including salmon restoration and navigation projects along the Oregon coast and the Columbia River. As an employee of the Federal Government, Patricia received a remarkable 26 awards, including an Achievement Medal for Civilian Service.

I had the occasion to meet Patricia several times, and know the very high regard in which she was held by her coworkers, her countless friends, and her loving family. It is my hope they will take solace in the fact that through two decades of doing the day-to-day work of democracy, Patricia Obradovich truly earned the title of ''hero.''•

PRAISE ON THE 12TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

• Mr. JOHNSON. Mr. President, I rise today in praise of the Americans with Disabilities Act on the occasion of its 12th anniversary. The advances in law, health care, education, transportation, and technology promoted in this historic legislation over the past 12 years have given Americans with disabilities a new lease on life.

Today, 53 million Americans live with a disability, of which 1 in 8 is severely disabled. Yet due to the landmark Americans with Disabilities Act, the stereotypes against these persons are crumbling and they are able to lead increasingly integrated fulfilled lives. The Americans with Disabilities Act has provided disabled individuals protection from discrimination in both the public and private sector, and guarantees equal access to employment, public services, and public accommodations. The Act has also spurred research and improved care for seniors, children and mentally disabled persons. In going so, this monumental Act has ensured an improved quality of life for people living with disabilities and has promised disabled children hope for a successful future. The contributions of the Americans with Disabilities Act over the past 12 years are an inspiration for what can be done to improve the lives of Americans living with disabilities, and a proponent of more progress in the future.

Once again, it gives me great pleasure to recognize and honor today's celebration on behalf of the millions of disabled Americans who may continue to benefit throughout this country.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1209. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

H.R. 2175. An act to protect infants who are born alive.

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

At 11:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3479. An act to expand aviation capacity.

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines.

H.R. 4547. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3479. An act to expand aviation capacity.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 2778: An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–218).

By Mr. LEAHY, from the Committee on Appropriations, without amendment:

S. 2779: An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–219) .

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 2784: An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–220).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LIEBERMAN for the Committee on Governmental Affairs.

James E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

*Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency.

(*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

(Nominations without an asterisk 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 times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

By Mr. HOLLINGS:

S. 2778. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LEAHY:

S. 2779. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

By Mrs. CARNAHAN:

S. 2783. A bill to amend the Internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

By Mr. REID:

S. 2784. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. JOHNSON (for himself and Mr. DURBIN):

S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 2787. A bill to amend the Internal Revenue Code of 1986 to exempt certain United States international ports from the harbor maintenance tax; to the Committee on Finance.

By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 2789. A bill to expand the eligibility for membership in veterans organizations; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 121, a bill to establish an Office of Children's Services within the Department of Justice to coordinate

and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 281

At the request of Mr. HAGEL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 882

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 882, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of all oral anticancer drugs.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 2188, supra.

S. 2211

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2211, a bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the Medicaid program.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a Medicare subvention demonstration project for veterans.

S. 2466

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 2531

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2531, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 2592

At the request of Ms. LANDRIEU, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2592, a bill to provide affordable housing opportunities for families that are headed by grandparents and other relatives of children, and for other purposes.

S. 2596

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2596, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

S. 2683

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 2683, a bill to amend the Internal Revenue Code of 1986 to clarify that church employees are eligible for the exclusion for qualified tuition reduction programs of charitable educational organizations.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2748

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2748, a bill to authorize the formulation of State and regional emergency telehealth network testbeds and, within the Department of Defense, a telehealth task force.

S. 2753

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2753, a bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

S. 2760

At the request of Mr. ENZI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2760, a bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. DURBIN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day''.

S. RES. 289

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 289, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to celebrate the Bicentennial of the Louisiana Purchase.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of

Congress that Federal land management agencies should fully support the Western Governors Association ''Collaborative 10-Year Strategy for Reducing Wildland Fire Risks to Communities and the Environment'', as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise today to introduce. The Permanent Tax Relief for School Construction Act to make permanent the tax benefits we enacted last year relating to private activity bonds for school construction.

Last year, we approved a tax bill which had many important provisions. Unfortunately, these provisions only last until the end of 2010. That's a pretty poor way to engineer the tax code. American families and businesses only have nine years to reap the benefits of lower taxes, and right when they are getting used to the current tax code, it will revert to its pre-2001 level. That is simply unfair. In order to plan for the long term, families and businesses need to know that the lower taxes we enacted last year will be permanent.

An important part of the tax package that we approved last year was the inclusion of elementary and secondary public education under the private activities for which tax exempt bonds are issued. This provision will make it easier for States and school districts to raise money to build schools. In a State like mine, where there is a pressing need for school construction and not much revenue to fund it, this tax provision is very important. To see it end in 2010 would prevent many necessary facilities from being built.

The harm caused by the sunsetting of this tax provision is clearly illustrated by the plight of many of my State's school districts. During may travels throughout Idaho, I visited quite a few schools, many of which were the products of New Deal work projects in the 1930's. These schools are falling part now, though, and school districts have a very difficult time raising the necessary revenue to construct new buildings. Idaho, like many States, is suffering from reduced tax revenue, so aid from the State is just not available to supplement school districts' revenue. Another problem is that it takes a super-majority to pass a levy to raise property taxes to finance school districts, and in quite a few of Idaho's districts, taxpayers are already paying high taxes. In many instances, the revenue isn't there for school districts.

We recognized that problem last year and helped out school districts by providing tax incentives for school construction bonds. This type of tax relief is the best way we in Washington can help school districts. Even though we've been increasing the Federal role in education over the past few years, education matters such as school construction are still primarily a local function, as they should be. Every step we take to insert a Federal role into this local authority is a step that must be carefully considered. By providing tax incentives for these local school districts, though, we are not undermining their authority. We are giving them tools to help themselves, and help the children they are serving. Let's make sure that the tax code lets them continue to help these children after 2010, so that no child is ever left behind.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United Sates; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce important legislation to affirm Federal jurisdiction over isolated wetlands. I am please to be joined by Representatives OBERSTAR and DINGELL, who are today introducing companion legislation in the House of Representatives.

In the U.S. Supreme Court's January 2001 decision, Solid Waste Agency of Northern Cook County versus the Army Corps of Engineers, a 5 to 4 majority limited the authority of Federal agencies to use the so-called migratory bird rule as the basis for asserting Clean Water Act jurisdiction over nonnavigable, intrastate, isolated wetlands, streams, ponds, and other waterbodies.

This decision, known as the SWANCC decision, means that the Environmental Protection Agency and Army Corps of Engineers can no longer enforce Federal Clean Water Act protection mechanisms to protect a waterway solely on the basis that it is used as habitat for migratory birds.

In its discussion of the case, the Court went beyond the issue of the migratory bird rule and questioned whether Congress intended the Clean Water Act to provide protection for isolated ponds, streams, wetlands and other waters, as it had been interpreted to provide for most of the last 30 years. While not the legal holding of the case, the Court's discussion has resulted in a wide variety of interpretations by EPA and Corps officials that jeopardize protection for wetlands, and other waters. The wetlands at risk include prairie potholes and bogs, familiar to many in Wisconsin, and many other types of wetlands.

In effect, the Court's decision removed much of the Clean Water Act protection for between 30 percent to 60 percent of the Nation's wetlands. An estimate from my home state of Wisconsin suggested that more than 60 percent of the wetlands lost Federal protection in my State. My State is not alone. The National Association of State Wetland Managers have been collecting data from states across the country. For example, Nebraska estimates they will lose more than 40 percent of their wetlands. Indiana estimates they will lose 31 percent of total wetland acreage and 74 percent of the total number of wetlands. Delaware estimates the loss of 33 percent or more of their freshwater wetlands. These wetlands absorb floodwaters, prevent pollution from reaching our rivers and streams, and provide crucial habitat for most of the nations ducks and other waterfowl, as well as hundreds of other bird, fish, shellfish and amphibian species. Loss of these waters would have a devastating effect on our environment.

In addition, by narrowing the water and wetland areas subject to Federal regulation, the decision also shifts more of the economic burden for regulating wetlands to State and local governments. My home State of Wisconsin has passed State legislation to assume the regulation of isolated waters, but many other States have not. This patchwork of regulation means that the standards for protection of wetlands nationwide is unclear, confusing, and jeopardizes the migratory birds and other wildlife that depend on these wetlands.

Therefore, Congress needs to re-establish the common understanding of the Clean Water Act's jurisdiction to protect all waters of the U.S. the understanding that Congress had when the Act was adopted in 1972 as reflected in the law, legislative history, and longstanding regulations, practice, and judicial interpretations prior to the SWANCC decision.

The proposed legislation does three things. It adopts a statutory definition of ''waters of the United States'' based on a longstanding definition of waters in the Corps of Engineers' regulations. Second, it deletes the term ''navigable'' from the Act to clarify that Congress's primary concern in 1972 was to protect the nation's waters from pollution, rather than just sustain the navigability of waterways, and to reinforce that original intent.

Finally, it includes a set of findings that explain the factual basis for Congress to assert its constitutional authority over waters and wetlands, including those that are called isolated, on all relevant Constitutional grounds, including the Commerce Clause, the Property Clause, the Treaty Clause, and the Necessary and Proper Clause. Additionally, the findings clarify Congress' view that protection of isolated wetlands and other waters is critical to protect water quality, public safety, wildlife, and other public interests, including hunting and fishing.

I also am very pleased to be have the support of so many environmental and

conservation groups, and well as organizations that represent those who regulate and manage our country's wetlands such as Natural Resources Defense Council, Earthjustice, National Wildlife Federation, Sierra Club, and the National Association of State Wetland Managers. They know, as I do, that we need to re-affirm the Federal role in isolated wetland protection. This legislation is a first step in doing just that.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, during the 103rd Congress in 1994, the Petroleum Marketing Practices Act, PMPA, was amended to protect independent petroleum wholesalers and retailers from arbitrary and unfair termination or nonrenewal of their franchise relationships with major oil companies.

However, this protection was provided only to motor and diesel fuel franchisees. Franchisees of other petroleum products sold by the major oil companies lack similar protection.

Today, I rise with Senators BURNS and ENSIGN to introduce a bill that extends the same protections enjoyed by the motor fuel industry to the lubricant industry.

I have heard from a constituent in Nevada that his franchise agreement to sell lubricating oils to car dealers in Las Vegas was arbitrarily canceled with 30 days notice. In essence, he had thirty days to convert all of his customers to a new brand.

This seem grossly unfair and, in fact, if the product sold by my constituent were gasoline or diesel fuel rather than lubricating oil, it would have been illegal.

I have been made aware of similar terminations or non-renewals in other states.

Without equal protection under the law, lubricant franchisees are vulnerable to predatory cancellation by their suppliers. This situation is exacerbated by recent mergers and acquisitions in the petroleum industry.

The merger of oil giants Chevron and Texaco and Shell Oil's recent acquisition of Penzoil-Quaker State will undoubtedly result in the termination of many independent lubricant franchisees. In New Mexico, there was a lubricant franchisee who had been promoting and distributing a branded lubricant to his customers for over 30 years, only be canceled with 30 days notice following a merger of refiners. This unfair practice stifles competition in the marketplace and invariably results in raising the price of the product, which hurts American consumers and small business. This is especially troublesome in rural areas.

Given the increasingly anti-competitive nature of the petroleum industry, the time has come to extend protections under current law for motor fuel marketers to include lubricant franchisees.

There are approximately 3,500 independent distributors and nearly 25,000 commercial retail lube oil outlets that could be impacted by the increasing frequency of lubricant franchise cancellations. Refiners have not suffered by complying with PMPA in motor fuels. Consequently, it is hard to believe it would be much of an imposition to include the much small segment of lubricant franchisees.

I introduce this bill today because it protects small businesses, benefits consumers and ensure fair competition in the marketplace.

In short, this bill is the right thing to do and I hope my colleagues will support it.

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. 2781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.

(a) DEFINITIONS.—Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801) is amended—

(1) in paragraph (1)(B)—

(A) in clause (ii)(II), by striking ''and'' at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

''(iii) any contract under which a refiner authorizes or permits a distributor to use, in connection with the sale, consignment, or distribution of lubricating oil, a trademark that is owned or controlled by the refiner; and'';

(2) in paragraphs (2), (5), and (6), by inserting ''or lubricating oil'' after ''motor fuel'' each place it appears;

(3) by striking paragraphs (3) and (4) and inserting the following:

''(3) FRANCHISEE.—The term 'franchisee' means—

''(A) a retailer or distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

''(B) a distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of lubricating oil.

''(4) FRANCHISOR.—The term 'franchisor' means—

''(A) a refiner or distributor that authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

''(B) a refiner that authorizes or permits, under a franchise, a distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.''; and

(4) by adding at the end the following:

''(20) LUBRICATING OIL.—The term 'lubricating oil' means any grade of paraffinic or naphthenic lubricating oil stock that is refined from crude oil or synthetic lubricants.''.

(b) PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—Section 102(b)(2) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(2)) is amended by inserting after subparagraph (E) the following:

''(F) FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—In the case of a franchise between a refiner or a distributor for the sale, distribution, or consignment of trademarked lubricating oil, a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketing of the lubricating oil in the relevant geographic market in which the franchised lubricating oil is distributed, if—

''(i) the determination is made—

''(I) after the date on which the franchise is entered into or renewed; and

''(II) on the basis of a change in relevant facts or circumstances relating to the franchise that occurs after the date specified in subclause (I); and

''(ii) the termination or nonrenewal is not for the purpose of converting any accounts subject to the franchise to the account of the franchisor.''.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to introduce a bill that will make Medicare's Social Health Maintenance Organization, SHMO, demonstration a permanent part of the Medicare+Choice, M+C, program. I am joined by my colleagues from Oregon, New York, Arizona, and California. The Social HMO demonstration was authorized 17 years ago to test models for improving care for frail seniors, expanding access to social and supportive services and better integrating these expanded benefits with medical services. Clearly, a seventeen year test is long enough—it's time for this successful program to become a permanent choice for Medicare beneficiaries.

Close to 80 percent of national health care expenditures are for persons with chronic conditions. Medicare beneficiaries are disproportionately affected by chronic illness. About 85 percent of people 65 and older have one chronic condition, and two thirds have two or more. Fully a third of Medicare beneficiaries have four or more chronic conditions. This group accounts for almost 80 percent of all Medicare spending. Yet, despite the predominance of chronic illness among seniors, Medicare continues to operate as an acute care model. So many of the services that are central to the health care needs of seniors are not covered by Medicare, including a number of preventive services, care coordination and disease management services, and home and community-based support services.

Social HMOs provide the care coordination and disease management services so critically important to frail and at-risk seniors with multiple chronic conditions and complex care needs. They are required to provide expanded care benefits such as prescription drugs, ancillary services such as eyeglasses and hearing aids, and community-based services such as personal care, homemaker services, adult day care, meals, and transportation. These services meet the chronic health care needs of seniors, helping them remain independent, while reducing Medicaid expenditures by avoiding or delaying nursing home placement.

Several recent studies have shown that Social HMO members are about 40 percent to 50 percent less likely to have long-term nursing home placements than comparison group members. Further, in a recent survey of Social HMO beneficiaries, over three-quarter of respondents indicated that the special services offered by their Social HMO were important to allowing them to keep living at home. Enhanced Social HMO services, such as early detection of illness, development of coordinated care plans to address problems identified during routine assessments, screening, and ongoing monitoring of care, has paid off in improved health outcomes for beneficiaries.

I am fortunate to represent one of the four original Social HMOs that were approved as part of the initial Medicare demonstration project in 1985. Senior Advantage II, offered by Kaiser Permanente's Northwest Division, currently serves about 4,300 Medicare beneficiaries from Salem, OR to Longview, WA, with its primary service area in Portland, OR. Since Kaiser opened its Social HMO program, it has served close to 15,000 beneficiaries with its enhanced benefits and special geriatric programs, which have led to fewer overall nursing home care days and a more consumer-oriented approach to care for frail or ill seniors.

The legislation I am introducing with my distinguished colleagues today would make permanent the existing Social HMO plans, like Kaiser, and would lay the ground work for evaluating whether to expand and replicate this model. Our bill requires the Secretary to conduct a comparative study of beneficiary and family member satisfaction to see how Social HMOs compare to Medicare+Choice and fee-for-service Medicare. It also requires MedPAC to evaluate the cost-effectiveness of Social HMOs with respect to reduced nursing home admissions, reduced incidence of Medicaid spend-down, and other aspects of the model that represent potential cost-savings. If MedPAC finds that Social HMOs are cost-effective, it must make recommendations to Congress on expanding and replicating this model.

To ensure that beneficiaries continue to receive the value added they have come to enjoy under this program, the Social HMOs must continue to provide the expanded benefit package currently offered under this legislation. Further, this benefit could not be changed by the Secretary without notification of Congress. Finally, to ensure that Social HMOs, which have significantly higher risk levels than average Medicare+Choice plans, can continue to finance a high level of benefits, any changes in plans' existing payments would need to go through a formal rulemaking process.

The Social HMO demonstration project has been re-validated by six acts of Congress since its creation. It is time to make this program permanent and lend a measure of stability to the plans and beneficiaries served by this innovative model. This program represents a fiscally sound approach to helping manage the chronic health care needs of our Nation's seniors, and I urge all of my colleagues to join with me and the rest of this bill's cosponsors in support of this important legislation.

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. 2782

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 ''Seniors Health and Independence Preservation Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Making the social health maintenance organization (SHMO) projects permanent.
Sec. 3. Expansion of SHMO projects into noncontiguous service areas within a State.
Sec. 4. Permanence of SHMO planning grant sites.
Sec. 5. Procedures for SHMO benefit and payment mechanism changes.
Sec. 6. Comprehensive MedPAC study on SHMO I and SHMO II cost-effectiveness and potential expansion.
Sec. 7. SHMO Beneficiary satisfaction survey.
Sec. 8. Conforming cross-references.
Sec. 9. Legislative purpose and construction.
Sec. 10. Repeals.

SEC. 2. MAKING THE SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) PROJECTS PERMANENT.

Part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.) is amended by inserting after section 1857 the following new section:

''WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

''SEC. 1858. (a) ESTABLISHMENT OF SHMO PROJECTS.—In the case of a project described in subsection (b), the Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494) in the case of an application or protocol submitted before the date of enactment of such Act. Not later than 36 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388), the Secretary shall approve applications or protocols described in paragraph (1) for not more than 4 additional projects described in subsection (b).

''(b) PROJECTS DESCRIBED.—A project referred to in subsection (a) is a project—

''(1) to demonstrate—

''(A) the concept of a social health maintenance organization with the organizations as described in Project No. 18–P–9 7604/1–04 of the University Health Policy Consortium of Brandeis University; or

''(B) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(i) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118), the effectiveness and feasibility of innovative approaches to refining targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

''(i) the benefits of expanded post-acute and community care case management through links between chronic care case management services and acute care providers;

''(ii) refining targeting or reimbursement methodologies;

''(iii) the establishment and operation of a rural services delivery system;

''(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or

''(v) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery;

''(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

''(3) under which all services under this title will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost; and

''(4) under which services under title XIX will be provided at a rate approved by the Secretary.

''(c) WAIVERS.—The waivers referred to in subsection (a) are appropriate waivers of—

''(1) certain requirements of this title, pursuant to section 402(a) of the Social Security Amendments of 1967 (Public Law 90–248; 81 Stat. 930), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92–603; 86 Stat. 1390);

''(2) certain requirements of title XIX, pursuant to section 1115; and

''(3) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(i) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118), any requirements of title XVIII or XIX that, if imposed, would prohibit such project from being conducted.

''(d) AGGREGATE LIMIT ON NUMBER OF MEMBERS.—The Secretary may not impose a limit on the number of individuals that may participate in a project conducted under this section, other than an aggregate limit of not less than 324,000 for all sites.

''(e) REPORTS.—

''(1) PRELIMINARY REPORT.—The Secretary shall submit a preliminary report to Congress on the status of the projects and waivers referred to in subsection (a) 45 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494).

''(2) INTERIM REPORT.—The Secretary shall submit an interim report to Congress on the projects referred to in subsection (a) not later than 42 months after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494).

''(3) SECOND INTERIM REPORT.—The Secretary shall submit a second interim report to Congress on the project referred to in paragraph (1) not later than March 31, 1993.

''(4) REPORT ON INTEGRATION AND TRANSITION.—

''(A) IN GENERAL.—The Secretary shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under this section and similar plans) as an option under the Medicare+Choice program under this title.

''(B) PROVISION FOR TRANSITION.—The plan submitted under subparagraph (A) shall include a transition for social health maintenance organizations operating under the project authority under this section.

''(C) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

''(5) HHS REPORT.—The Secretary shall submit a report on the projects conducted under this section not later than the date that is 21 months after the date on which the Secretary submits to Congress the report described in paragraph (4).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for the costs of technical assistance and evaluation related to projects conducted as a result of the amendments made by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118).''.

SEC. 3. EXPANSION OF SHMO PROJECTS INTO NONCONTIGUOUS SERVICE AREAS WITHIN A STATE.

Not later than the date that is 90 days after the date of enactment of this Act, the Secretary shall promulgate a regulation that permits each social health maintenance organization participating in a project conducted under section 1858 of the Social Security Act (as added by section 2) to expand the service area of such organization to include areas within the State served by the organization that are not contiguous to any other service area of the organization.

SEC. 4. PERMANENCE OF SHMO PLANNING GRANT SITES.

(a) ORIGINAL SHMO II DEMONSTRATIONS.—The 5 organizations authorized by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118) to demonstrate the concept of social health maintenance organizations that were approved by the Secretary of Health and Human Services in 1995 shall be permitted to participate in the program under section 1858 of the Social Security Act (as added by section 2).

(b) SHMO II DUAL-ELIGIBLE PLANNING GRANTS.—Each entity that received a planning grant in 1998 under the 1997 Grants Program for Reforming Service Delivery for Dual Eligible Beneficiaries to develop a Second Generation Social HMO Demonstration Program shall be permitted to participate in the program under section 1858 of the Social Security Act (as added by section 2).

SEC. 5. PROCEDURES FOR SHMO BENEFIT AND PAYMENT MECHANISM CHANGES.

(a) CONGRESSIONAL NOTIFICATION OF BENEFIT CHANGES.—The Secretary of Health and Human Services shall notify the appropriate committees of Congress prior to making any change to the benefits available under a project under section 1858 of the Social Security Act (as added by section 2).

(a) RULEMAKING REQUIREMENT FOR PAYMENT MECHANISM CHANGES.—The Secretary may not change the payment mechanism applicable with respect to any social health maintenance organization project under section 1858 of the Social Security Act (as added by section 2), except by regulation.

SEC. 6. COMPREHENSIVE MEDPAC STUDY ON SHMO I AND SHMO II COST-EFFECTIVENESS AND POTENTIAL EXPANSION.

(a) STUDY.—

(1) IN GENERAL.—The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) (in this section referred to as the ''Commission'') shall conduct a study on the cost-effectiveness of the projects and the potential expansion of such projects.

(2) COST-EFFECTIVENESS.—

(A) IN GENERAL.—In determining the cost-effectiveness of the projects under the study conducted under paragraph (1), the Commission shall take into account—

(i) the extent to which the per beneficiary costs to the medicare program for enrollees in a social health maintenance organization do not exceed the average per beneficiary costs to the medicare program for a comparable case mix of beneficiaries who are enrolled in the original medicare fee-for-service program;

(ii) the actuarial value of items and services available to beneficiaries enrolled in a social health maintenance organization but not available to beneficiaries enrolled in the original medicare fee-for-service program; and

(iii) the extent to which social health maintenance organizations reduced expenditures under the medicaid program under title XIX of the Social Security Act by—

(I) preventing individuals from being eligible for medical assistance under such program as medically needy individuals through the application of spend-down requirements for income and resources; or

(II) reducing the number of nursing home bed days associated with stays of 60 days or longer for medicaid beneficiaries.

(B) COMPARABLE CASE MIX.—In evaluating a comparable case mix of beneficiaries for purposes of clause (i)(I), the Commission shall take into account the following factors:

(i) Age.

(ii) Gender.

(iii) Diagnoses.

(iv) Functional status.

(v) Any other available demographic or illness factor deemed appropriate by the Commission.

(C) DATA.—In determining the cost-effectiveness of social health maintenance organizations under this subsection, the Commission shall evaluate data from social health maintenance organizations for the period beginning on January 1, 1997, and ending on the first December 31 occurring after the date of enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than the date that is 24 months after the date of enactment of this Act, the Commission shall submit to the Secretary of Health and Human Services and to the appropriate committees of Congress a report on the study conducted under subsection (a)(1).

(2) CONTENTS.—The report submitted under paragraph (1) shall contain—

(A) a statement regarding whether the Commission finds social health maintenance organizations to be cost-effective;

(B) recommendations regarding whether the projects should be expanded to include additional sites and whether additional social health maintenance organizations should be permitted to participate in the projects;

(C) recommendations on whether to modify or eliminate the aggregate limit on number of members under section 1858(d) of the Social Security Act (as added by section 2); and

(D) if the Commission recommends expansion or replication of the projects, recommendations on the appropriate implementation of such expansion.

(c) DEFINITIONS.—In this section:

(1) PROJECT.—The term ''project'' means a project conducted under section 1858 of the Social Security Act (as added by section 2) other than a project described in subsection (b)(1)(B)(iv) of such section.

(2) MEDICARE PROGRAM.—The term ''medicare program'' means the health benefits program under title XVIII of the Social Security Act.

(3) ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM.—The term ''original medicare fee-for-service program'' means the program under parts A and B of the medicare program.

(4) SOCIAL HEALTH MAINTENANCE ORGANIZATION.—The term ''social health maintenance organization'' means an organization participating in a SHMO I project described in subparagraph (A) of section 1858(b)(1) of the Social Security Act (as added by section 2) or a SHMO II project described in subparagraph (B) of such section (other than a project described in clause (iv) of such subparagraph).

SEC. 7. SHMO BENEFICIARY SATISFACTION SURVEY.

(a) SURVEY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a comparative qualitative survey of the satisfaction of medicare beneficiaries enrolled in—

(A) the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act;

(B) a Medicare+Choice plan under part C of title XVIII of such Act; and

(C) a social health maintenance organization under section 1858 of such Act (as added by section 2).

(2) CONSIDERATIONS.—In determining beneficiary satisfaction, the Secretary of Health and Human Services shall take into account—

(A) the differences in the program or plan benefit structure;

(B) the extent to which the program or plan benefit structure enables beneficiaries to avoid or delay institutionalization;

(C) the amount of out-of-pocket costs saved by beneficiaries under the program or plan for traditional and expanded care services;

(D) the access to services by beneficiaries under the program or plan; and

(E) the satisfaction level of family members and caregivers of beneficiaries enrolled in the program or plan.

(b) PUBLICATION OF RESULTS AND SUBMISSION TO CONGRESS.—Not later than the date that is 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall post the results of the survey conducted under subsection (a)(1) on an Internet website and shall submit such results to the appropriate committees of Congress.

SEC. 8. CONFORMING CROSS-REFERENCES.

(a) SOCIAL SECURITY ACT.—

(1) The last sentence of section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–

23(a)(1)(B)), as added by section 605(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–556), is amended by striking ''(established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1993)'' and inserting ''(established by section 1858)''.

(2) Section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)) is amended by striking ''section 2355 of the Deficit Reduction Act of 1984'' and inserting ''section 1858''.

(b) MEDICARE, MEDICAID, AND SCHIP BENEFITS IMPROVEMENT AND PROTECTION ACT OF 2000.—Section 542(b)(2)(B)(iv) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–551), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking ''section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203)'' and inserting ''section 1858 of the Social Security Act''.

SEC. 9. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) PRINCIPAL SUBSTANTIVE CHANGES TO MAKE SHMO PROJECTS PERMANENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), section 2—

(A) restates, without substantive change, laws enacted before January 24, 2002, that were replaced by that section;

(B) may not be construed as making a substantive change in the laws replaced; and

(C) is superseded by any law that is enacted after January 24, 2002, that is inconsistent with such section or that supersedes that section to the extent of the inconsistency.

(2) PERMANENCY.—Section 2 extends the social health maintenance organization projects for an indefinite time period (beyond the date that is 30 months after the date that the Secretary submits to Congress the report described in section 1858(e)(4) of the Social Security Act, as added by section 2).

(3) MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.—

(A) The report required to be submitted by the Secretary of Health and Human Services under section 1858(e)(5) of the Social Security Act (as added by section 2) is the same report as is required under the first sentence of section 4018 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–65), except that such report is no longer characterized as a final report.

(B) The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) shall not be required to submit the report described in the second sentence of section 4018 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–65).

(b) REFERENCES.—A reference to a law replaced by section 2, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by section 2 shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS UNDER PRIOR LAW.—An action taken under a law replaced by section 2 is deemed to have been taken under the corresponding provision enacted by this Act.

(e) INFERENCES.—No inference of legislative construction may be drawn by reason of a heading of a provision.

(f) SEVERABILITY.—If a provision enacted by this Act is—

(1) held invalid, each valid provision that is severable from the invalid provision shall remain in effect; and

(2) held invalid with respect to any application, the provision shall remain valid with respect to each valid application that is severable from the invalid application.

SEC. 10. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) LAWS REPEALED.—Except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act, the following provisions (and amendments made by such provisions) are repealed:

(1) Section 2355 of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 1103).

(2) Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–65).

(3) Section 4207(b)(4) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118).

(4) Section 13567 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 607).

(5) Paragraphs (6) through (8) of section 160(d) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4443).

(6) Section 4014 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 336).

(7) Section 531 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F of Public Law 106–113; 113 Stat. 1501A–388).

(8) Section 631 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F of Public Law 106–554; 114 Stat. 2763A–566).

By Mrs. CARNAHAN:

S. 2783. A bill to amend the internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

Mrs. CARNAHAN. Mr. President, I send a bill to the desk and ask that it be appropriately referred.

Today I am introducing legislation to correct a flaw in our tax system that penalizes the families of those who die while serving in our Armed Forces. The Honor Our Heroes Act will restore compassion to the tax code. It exempts from taxation the money the government provides following the death of an active duty servicemember. This payment is known as the death gratuity benefit.

Families are often crushed by the weight of funeral and other immediate expenses after a spouse, parent, or child is killed while serving in the military. Congress recognized that, at the very least, we owe these men and women assistance with this burden. In 1986, when the benefit was set at $3,000, Congress made this payment tax free. Over the years, rising costs led Congress to increase the payment to $6,000, but Congress did not make a corresponding change in the tax code. As a result, today, half of the payment is subject to the income tax.

Now, bereaved families receive this money with a red flag. Families are getting get less than the $6,000 Congress meant for them to have. We end up giving with one hand and taking away with the other.

Missouri has given two of her sons in the War on Terrorism. The families of these men made the greatest sacrifice possible. We should not be asking them to pay taxes on the benefit the government gives them to help pay for funeral expenses and other costs. But since 1991, thousands of families have had to pay these taxes. During this time, especially, when so many of members of the military are putting themselves directly in harm's way, we cannot let this unfair taxation continue.

Our colleagues in the House have taken an important step toward repairing this flaw, but they neglect the families for whom a future increase in the death gratuity would lead to tax liability. My bill leaves no such doubt. The Honor Our Heroes Act makes the entire amount of the death gratuity payment exempt from taxes, immediately and permanently. This bill ensures that payments made to families of servicemembers are never taxed again.

The legislation I am introducing today will make our Nation's gratitude tax-free to families coping with the death of a loved one. We owe this to our men and women in uniform, and pray that their families never have to face such a loss. I encourage my colleagues to support this bill.

By Mr. JOHNSON (for himself and Mr. DURBIN):

S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to rise today to introduce the Armed Forces Filing Fairness Act of 2002.

Current law allows for servicemembers serving in a combat zone, like Afghanistan, to receive a tax filing extension. The Armed Forces Filing Fairness Act will extend that filing deadline for military servicemembers serving in contingency operations as well. This bill would allow the military servicemember to delay filing taxes until they have returned to the United States, or when the combat zone or contingency area is no longer designated as such by the Department of Defense.

As the father of a son who serves in the Army and has recently returned from Afghanistan, I am pleased to introduce legislation that will help to lift some of the burdens from our military men and women serving so bravely in combat zones and contingency operations around the world. I am committee to improving the quality of life for our military servicemembers and their families, and I am proud to introduce the Armed Forces Filing Fairness Act of 2002, which will help make life just a little easier for our men and women in uniform.

By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of

the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, water is a precious resource that nourishes our civilization and cultivates our society. Yet finding clean, inexpensive water in Southeastern Colorado, can be difficult. That is why today I am introducing legislation that paves the way for expedited construction of the Arkansas Valley Conduit, a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas River with safe, clean, affordable water. By providing for the Federal Government to pay for 75 percent of the construction costs of the Conduit, we can put Southeastern Coloradans in the position of being able to provide themselves with the water that they so vitally need.

The Conduit was originally authorized with the enactment of the Fryingpan-Arkansas Project in 1962. Due to Southeastern Colorado's depressed economic status and the fact that the authorizing statute lacked a cost share formula, the Conduit was never built. Until recently, the region has been fortunate enough to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas has seriously declined. At the same time, the federal government has continued to strengthen its water quality standards while providing no assistance to water municipalities struggling to meet those standards. In order to comply with these standards. In order to comply with these standards, the region's municipalities have begun exploring options for water treatment, some of which are estimated to cost between $20,000,000 and $40,000,000. Taken together, the municipalities alone are facing potential expenditures of $320,000,000 to $640,000,000, simply to comply with federally mandated water quality standards. As you know, this is not a financially feasible option for small farming communities.

The local sponsors of the project have initiated, and are nearing the completion of, an independently funded feasibility study of the Conduit. They have developed a coalition of support from water users in Southeastern Colorado and are exploring options for financing their 25 percent share of the costs.

Because forty years have passed between the enactment of the authorizing statute and the current efforts to build the Conduit, the Bureau of Reclamation has stated that a Reevaluation Statement, rather than a Reconnaissance Study, is the next appropriate action. I would like to see the Bureau begin the Reevaluation Statement as quickly as possible. To help make this happen, I have made a request for an additional $300,000 in the Bureau's General Investigations account to be used to prepare the Statement and to begin work in earnest on the Conduit.

I am pleased to learn that the Appropriations Committee is currently working to include the funding for the Reevaluation Statement, the Conduit's next step.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality. Thank you. 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. 2786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COST-SHARING REQUIREMENT FOR THE ARKANSAS VALLEY CONDUIT IN THE STATE OF COLORADO.

(a) IN GENERAL.—Section 7 of Public Law 87–590 (76 Stat. 393) is amended—

(1) by striking ''SEC. 7.'' and inserting the following: ''SEC. 7. AUTHORIZATION OF APPROPRIATIONS.'';

(2) in the first sentence, by striking ''There is hereby authorized'' and inserting the following:

''(a) CONSTRUCTION.—There is authorized'';

(3) in the second sentence, by striking ''There are also'' and inserting the following:

''(b) OPERATIONS AND MAINTENANCE.—There are''; and

(4) by adding at the end the following:

''(c) ARKANSAS VALLEY CONDUIT.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the Federal share of the costs of constructing the Arkansas Valley Conduit in accordance with subsection (a) of the first section.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The non-Federal share of the total costs of construction (including design and engineering costs) of the Arkansas Valley Conduit shall be not more than 25 percent.

''(B) FORM.—Up to 100 percent of the non-Federal share may—

''(i) be in the form of in-kind contributions; or

''(ii) consist of amounts made available under any other Federal law.''.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to any costs of constructing the Arkansas Valley Conduit incurred during fiscal year 2002 or any subsequent fiscal year.

By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

Mr. DASCHLE. Mr. President, today I am introducing the Wind Cave National Park Boundary Revision Act.

Wind Cave National Park, located in southwestern South Dakota, is one of the Park System's precious natural treasures and one of the Nation's first national parks. The cave itself, after which the park is named, is one of the world's oldest, longest and most complex cave systems, with more than 103 miles of mapped tunnels. The cave is well known for its exceptional display of boxwork, a rare, honeycomb-shaped formation that protrudes from the cave's ceilings and walls. While the cave is the focal point of the park, the land above the cave is equally impressive, with 28,000 acres of rolling meadows, majestic forests, creeks, and streams. As one of the few remaining mixed-grass prairie ecosystems in the country, the park is home to abundant wildlife, such as bison, deer, elk and birds, and is a National Game Preserve.

The Wind Cave National Park Boundary Revision Act will help expand the park by approximately 20 percent in the southern ''keyhole'' region. This land currently is owned by a ranching family that wants to see it protected from development and preserved for future generations. The land is a natural extension of the park, and boasts the mixed-grass prairie and ponderosa pine forests found in the rest of the park, including a dramatic river canyon. The addition of this land will enhance recreation for hikers who come for the solitude of the park's back country. It will also protect archaeological sites, such as a buffalo jump over which early Native Americans once drove the bison they hunted, and improve fire management.

This plan to expand the park has strong, but not universal, support in the surrounding community, whose views recently were expressed during a 60-day public comment period on the proposal. Most South Dakotans recognize the value in expanding the park, not only to encourage additional tourism in the Black Hills, but to permanently protect these extraordinary lands for future generations of Americans to enjoy. Understandably, however, some are legitimately concerned about the potential loss of hunting opportunities and local tax revenue.

Governor Janklow has expressed his conditional support for the park expansion, stating that there must be no reduction in the amount of lands with public access that currently can be hunted, that there must be no loss of tax revenue to the county from the expansion, and that chronic wasting disease issues must be dealt with effectively. There are reasonable conditions that should be met as this process moves forward.

The legislation I am introducing today protects hunting opportunities for sportsmen by excluding 880 acres of School and Public Lands property from the expansion. In addition, Wind Cave National Park and the Trust for Public Lands are working with interested parties to find a way to offset the loss of local county tax revenues. Finally, I understand that the South Dakota Game, Fish, and Parks Department has reached an agreement with Wind Cave officials to expand research into chronic wasting disease, which will benefit wildlife populations nationwide. I am satisfied that the legitimate concerns about the potential expansion have been effectively addressed and today am moving forward to begin the legislative phase of this process.

In conclusion, Wind Cave National Park has been a valued American

treasure for nearly 100 years. We have an opportunity with this legislation to expand the park and enhance its value to the public so that visitors will enjoy it even more during the next 100 years. It is my hope that my colleagues will support this expansion of the park and pass the legislation in the near future.

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. 2788

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 ''Wind Cave National Park Boundary Revision Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Wind Cave National Park Boundary Revision'', numbered 108/80,030, and dated June 2002.

(2) PARK.—The term ''Park'' means the Wind Cave National Park in the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as ''Bureau of Land Management land''.

SEC. 5. GRAZING.

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4316. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN, Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, Mr. CLELAND, Mr. MILLER, and Mr. COCHRAN) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

SA 4317. Mrs. CLINTON (for herself, Mr. DEWINE, Mr. DODD, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4316. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, Mr. CLELAND, Mr. MILLER, and Mr. COCHRAN) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Co:

At the appropriate place, insert the following:

SEC. ___. TEMPORARY STATE FISCAL RELIEF.

(a) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of

title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) REPEAL.—Effective as of October 1, 2003, this subsection is repealed.

(b) ADDITIONAL TEMPORARY STATE FISCAL RELIEF.—

(1) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

"SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

''(a) IN GENERAL.—For the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000. Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

''(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

"State	Allotment (in dollars)
Alabama	$33,918,100
Alaska	$8,488,200
Amer. Samoa	$88,600
Arizona	$47,601,600
Arkansas	$27,941,800
California	$314,653,900
Colorado	$27,906,200
Connecticut	$41,551,200
Delaware	$8,306,000
District of Columbia	$12,374,400
Florida	$128,271,100
Georgia	$69,106,600
Guam	$135,900
Hawaii	$9,914,700
Idaho	$10,293,600
Illinois	$102,577,900
Indiana	$50,659,800
Iowa	$27,799,700
Kansas	$21,414,300
Kentucky	$44,508,400
Louisiana	$50,974,000
Maine	$17,841,100
Maryland	$44,228,800
Massachusetts	$100,770,700
Michigan	$91,196,800
Minnesota	$57,515,400
Mississippi	$35,978,500
Missouri	$62,189,600
Montana	$8,242,000
Nebraska	$16,671,600
Nevada	$10,979,700
New Hampshire	$10,549,400
New Jersey	$87,577,300
New Mexico	$21,807,600
New York	$461,401,900
North Carolina	$79,538,300
North Dakota	$5,716,900
N. Mariana Islands	$50,000
Ohio	$116,367,800
Oklahoma	$30,941,800
Oregon	$34,327,200
Pennsylvania	$159,089,700
Puerto Rico	$3,991,900
Rhode Island	$16,594,100
South Carolina	$38,238,000
South Dakota	$6,293,700
Tennessee	$81,120,000
Texas	$159,779,800
Utah	$12,551,700
Vermont	$8,003,800
Virgin Islands	$128,800
Virginia	$44,288,300
Washington	$66,662,200
West Virginia	$19,884,400
Wisconsin	$47,218,900
Wyoming	$3,776,400
Total	**$3,000,000,000**

''(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

''(d) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

''(e) DEFINITION.—For purposes of this section, the term 'State' means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b).''.

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, as added by paragraph (1), is repealed.

(c) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

SA 4317. Mrs. CLINTON (for herself, Mr. DEWINE, Mr. DODD, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS

(a) IN GENERAL.—Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505A the following:

"SEC. 505B. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS.

''(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

''(1) IN GENERAL.—A person that submits an application (or supplement to an application)—

''(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration; or

''(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a biological product license;

shall submit with the application the assessments described in paragraph (2).

''(2) ASSESSMENTS.—

''(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations, that are adequate—

''(i) to assess the safety and effectiveness of the drug, or the biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), for the claimed indications in all relevant pediatric subpopulations; and

''(ii) to support dosing and administration for each pediatric subpopulation for which the drug, or the biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), is safe and effective.

''(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

''(3) DEFERRAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

''(A) the Secretary finds that—

''(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete; or

''(ii) pediatric studies should be delayed until additional safety or effectiveness data have been collected; and

''(B) the applicant submits to the Secretary—

''(i) a certified description of the planned or ongoing studies; and

''(ii) evidence that the studies are being conducted or will be conducted with due diligence.

''(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—After providing notice and an opportunity for written response and a meeting, which may include an advisory committee meeting, the Secretary may by order require the holder of an approved application relating to a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262) to submit by a specified date the assessments described in subsection (a) if the Secretary finds that—

''(1)(A) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

''(B) the absence of adequate labeling could pose significant risks to pediatric patients; or

''(2)(A) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; and

''(B) the absence of adequate labeling could pose significant risks to pediatric patients.

''(c) DELAY IN SUBMISSION OF ASSESSMENTS.—If a person delays the submission of assessments relating to a drug or biological product beyond a date specified in subsection (a) or (b)—

''(1) the drug or biological product—

''(A) shall be deemed to be misbranded;

''(B) shall be subject to action under sections 302 and 304; and

''(C) shall not be subject to action under section 303; and

''(2) the delay shall not be the basis for a proceeding to withdraw approval for a drug under section 505(e) or revoke the license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262).

''(d) WAIVERS.—

''(1) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under subsection (a) or (b) if—

''(A) necessary studies are impossible or highly impracticable;

''(B) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

''(C)(i) the drug or biological product—

''(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

''(II) is not likely to be used for a substantial number of pediatric patients; and

''(ii) the absence of adequate labeling would not pose significant risks to pediatric patients.

''(2) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments under subsection (a) with respect to a specific pediatric subpopulation if—

''(A) any of the grounds stated in paragraph (1) applies to that subpopulation; or

''(B) the applicant demonstrates that reasonable attempts to produce a pediatric formulation necessary for that subpopulation have failed.

''(3) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

''(e) MEETINGS.—The Secretary shall meet at appropriate times in the investigational new drug process with the sponsor to discuss background information that the sponsor shall submit on plans and timelines for pediatric studies, or any planned request for waiver or deferral of pediatric studies.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) is amended in the second sentence—

(A) by striking ''and (F)'' and inserting ''(F)''; and

(B) by striking the period at the end and inserting '', and (G) any assessments required under section 505B.''.

(2) Section 505A(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(h)) is amended—

(A) in the subsection heading, by striking ''REGULATIONS'' and inserting ''PEDIATRIC STUDY REQUIREMENTS''; and

(B) by striking ''pursuant to regulations promulgated by the Secretary'' and inserting ''by a provision of law (including a regulation) other than this section''.

(3) Section 351(a)(2) of the Public Health Service Act (42 U.S.C. 262(a)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

''(B) PEDIATRIC STUDIES.—A person that submits an application for a license under this paragraph shall submit to the Secretary as part of the application any assessments required under section 505B of the Federal Food, Drug, and Cosmetic Act.''.

(c) FINAL RULE.—Except to the extent that the final rule is inconsistent with the amendment made by subsection (a), the final rule promulgating regulations requiring manufacturers to assess the safety and effectiveness of new drugs and biological products in pediatric patients (63 Fed. Reg. 66632 (December 2, 1998)), shall be considered to implement the amendment made by subsection (a).

(d) NO EFFECT ON AUTHORITY.—Section 505B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) does not affect whatever existing authority the Secretary of Health and Human Services has to require pediatric assessments regarding the safety and efficacy of drugs and biological products in addition to the assessments required under that section. The authority, if any, of the Secretary of Health and Human Services regarding specific populations other than the pediatric population shall be exercised in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act.

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—ETHICAL PRESCRIPTION DRUG MARKETING ACT OF 2002

SEC. ____1. SHORT TITLE.

This title may be cited as the ''Ethical Prescription Drug Marketing Act of 2002''.

SEC. ____2. PROHIBITION ON OFFERING OR PROVIDING ITEMS OR SERVICES FROM DRUG MANUFACTURERS TO HEALTH CARE PROFESSIONALS.

Section 503 of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 353) is amended by adding at the end the following:

''(h)(1) A drug manufacturer shall not offer or provide any item or service to a health care professional in a manner or on a condition that would interfere with the independence of the health care professional's prescribing practices.

''(2)(A) A drug manufacturer shall not offer or provide any money (including cash or a cash equivalent) to a health care professional, except as compensation under an arrangement for bona fide services, such as services as a consultant, as a participant in speaker training meetings, or as a researcher.

''(B) A drug manufacturer shall not offer or provide any non-monetary item or service to a health care professional intended primarily for the personal benefit of the health care professional.

''(C) A drug manufacturer shall not offer or provide any non-monetary item or service, of substantial value, to a health care professional, except that a drug manufacturer may distribute a drug sample in compliance with subsection (d).

''(3) Each drug manufacturer shall be subject to a civil monetary penalty of not more than $10,000 for each violation of this subsection. Each unlawful offer or provision shall constitute a separate violation. The provisions of paragraphs (3), (4), and (5) of section 303(g) shall apply to such a violation in the same manner as such provisions apply to a violation of a requirement of this Act that relates to devices.

''(4)(A) For purposes of this subsection, an arrangement between a drug manufacturer and a health care professional for the services of the health care professional shall be considered to be an arrangement for bona fide services if, of the factors described in subparagraph (B), the factors that are relevant to the arrangement are present.

''(B) The factors referred to in subparagraph (A) are—

''(i) a legitimate need for the services, identified in advance of requesting the services and entering into the arrangement;

''(ii) a written contract specifying the nature of the services and the basis for payment for those services;

''(iii) selection of the health care professional to provide the services, based on criteria directly related to the identified need, and conducted by a person with the expertise necessary to evaluate whether health care professionals meet the criteria;

''(iv) a number of health care professionals retained under the arrangement that is not greater than the number reasonably necessary to address the identified need;

''(v) maintenance of appropriate records concerning, and appropriate use of the services of, the health care professional; and

''(vi) a venue and circumstances for any meeting that is conducive to providing the services, with any social or entertainment events at the meeting clearly subordinate to the provision of the services.

''(5) In this subsection:

''(A) The term 'drug manufacturer' means—

''(i) a person who manufactures a prescription drug approved under section 505 or a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262); or

''(ii) a person who is licensed by a person described in clause (i) to distribute or market such a drug or biological product.

''(B) The term 'health care professional' means a physician, or other individual who is a provider of health care, who is licensed under the law of a State to prescribe drugs.

''(C) The term 'substantial value' means $100 or more.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 24, 2002, at 3 p.m. in SD–366.

The purpose of the hearing is to examine issues related to the need for and barriers to development of electricity infrastructure. The hearing will focus on DOE's National Transmission Grid Study and on information developed in a series of technical conferences held by the Federal Energy Regulatory Commission starting in November 2001.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS COMMITTEE ON FOREIGN RELATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on Foreign Relations on Wednesday, July 24, 2002, at 10:30 a.m. to conduct a hearing to review environmental treaties implementation. The hearing will be held in SD–406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 24 2002 at 10:30 a.m. to hold a hearing on Environmental Treaties.

Agenda

Witnesses

Panel I: Mr. John F. Turner, Assistant Secretary for the Bureau of Oceans and International Environment and Scientific Affairs, U.S. Department of State, Washington, DC; Mr. James Connaughton, Chair, White House Council on Environmental Quality, Washington, D.C.

Panel II: Mr. Maurice Strong, Chairman, Earth Council Institute Canada, Toronto, Ontario, Canada; Professor John C. Dernbach, Widener University Law School, Harrisburg, PA; Mr. Christopher C. Horner, Counsel, Competitive Enterprise Institute, Washington, D.C.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees:

Ms. Kristie A. Kenney, of Maryland, to be Ambassador to the Republic of Ecuador.

Mr. Larry L. Palmer, of Georgia, to be Ambassador to the Republic of Honduras.

Mrs. Barbara C. Moore, of Maryland, to be Ambassador to the Republic of Nicaragua.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 24, 2002, at 9:30 a.m. for a business meeting to consider pending business.

Agenda

1. To authorize withdrawal of the Committee amendments and offering of a floor amendment in the nature of a substitute to the National Homeland Security and Combating Terrorism Act of 2002 (S. 2452) which the Committee ordered reported on May 22, 2002.

2. Nominations:

(a) James ''Jeb'' E. Boasberg to be an Associate Judge of the Superior Court of the District of Columbia.

(b) Michael D. Brown to be Deputy Director of the Federal Emergency Management Agency.

(c) The Honorable Mark W. Everson to be Deputy Director for Management, Office of Management and Budget.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 24, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1344, a bill to Encourage Training to Native Americans Interested in Commercial Vehicle Driving Careers.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, beginning at 9:00 a.m. in room 428A of the Russell Senate Office Building to markup pending legislation.

Agenda

S. 2753 Small and Disadvantaged Business Ombudsman for Procurement;

S. 2335 Office of Native American Affairs at SBA;

S. 2734 Non-Farm Drought Relief;

S. 1994 Small Business Federal Contracts;

HR 2666 Vocational and Technical Entrepreneurship Development Program;

S. 2483 Pilot Program To Provide Regulatory Compliance Assistance To Small Business;

S. 2466 Contract Consolidation Requirements.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, for a hearing on ''Mental Health Care: Can VA Still Deliver.''

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

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

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on ''Ensuring Corporate Responsibility: Using Criminal Sanctions to Deter Wrongdoing,'' on Wednesday, July 24, 2002, at 2:30 p.m. in SD226.

Tentative Witness List

The Honorable G. William Miller, Former Secretary of the U.S. Treasury, Former Chairman of the Federal Reserve Board, Chairman, G. William Miller & Co.

The Honorable Roderick Hills, Former Chairman of the U.S. Securities and Exchange Commission, Founder, Law Firms of Hills & Stern, Chairman, Hills Enterprises Ltd.

The Honorable J. Carter Beese, Jr., Former Commissioner of the U.S. Securities and Exchange Commission, Senior Advisor and Chairman, International Financial Markets Project of the Center for Strategic and International Studies.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, at 2:30 p.m. to conduct an oversight hearing on ''HUD's Management Challenges.''

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 24, 2002, at 2:30 p.m. on Women in Science and Technology.

The PRESIDING OFFICER. Without objection it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Madam President, I ask unanimous consent that my staff person, Krystle J. Klema, be able to be on the floor for my colloquy with Senator WELLSTONE.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 107–171, announces the appointment of the following individuals to serve as members of the Board of Trustees of the Congressional Hunger Fellows Program: the Senator from Iowa (Mr. HARKIN); the Representative from North Carolina (Mrs. CLAYTON).

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 507, S. 434.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 434) to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, as follows:

[Omit the part in black brackets and insert the part printed in italic.]

S. 434

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 ''Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term ''Santee Sioux Tribe'' means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term ''Yankton Sioux Tribe'' means the Yankton Sioux Tribe of South Dakota.

SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Yankton Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Santee Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 6. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 4(d) or 5(d) (referred to in this subsection as a ''tribal plan'').

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under [subsection (d)] *section 4(d) or 5(d)* to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the tribes in carrying out the tribal plans shall be audited as part of the annual single-agency audit that the tribes are required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit described in subparagraph (A) shall—

(i) determine whether funds received by each tribe under this section for the period covered by the audits were expended to carry out the respective tribal plans in a manner consistent with this section; and

(ii) include in the written findings of the audits the determinations made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audits described in subparagraph (A) shall be inserted in the published minutes of each tribal council's proceedings for the session at which the audit is presented to the tribal councils.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this Act may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, *or* any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe [of Nebraska] Development Trust Fund under section 5.

SEC. 10. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 4(b) and 5(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 2(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendments be agreed to; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 434), as amended, was read the third time and passed.

VICKSBURG NATIONAL MILITARY PARK BOUNDARY MODIFICATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 546, S. 1175.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1175) to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

Strike out all after the enacting clause and insert the part printed in italic.

S. 1175

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 ''Vicksburg National Military Park Boundary Modification Act of 2001''.

[SEC. 2. MODIFICATION OF BOUNDARY.

[The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled ''Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park'', numbered 80,015, and dated July, 2001. The map shall be on file in the appropriate offices of the National Park Service of the Department of the Interior.

[SEC. 3. ACQUISITION OF PROPERTY.

[The Secretary of the Interior may acquire the property described in section 2 from a willing seller or donee by donation, purchase with donated or appropriated funds, or exchange.

[SEC. 4. ADMINISTRATION.

[Upon acquiring the property described in Section 2, the Secretary of the Interior shall administer the property as part of Vicksburg National Military Park in accordance with applicable laws and regulations.

[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as may be necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Vicksburg National Military Park Boundary Modification Act of 2002''.

SEC. 2. BOUNDARY MODIFICATION.

The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled ''Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park'', numbered 306/80015A, and dated August, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

SEC. 3. ACQUISITION OF PROPERTY.

(a) PEMBERTON'S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the properties described in section 2 and 3(b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton's Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton's Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary add it to Vicksburg National Military Park and shall modify the boundaries of the park to reflect its inclusion.

SEC. 4. ADMINISTRATION.

The Secretary shall administer any properties acquired under this Act as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1175), as amended, was read the third time and passed.

HONORING CORINNE ''LINDY'' CLAIBORNE BOGGS ON 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H. Con. Res. 439 just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 439) honoring Corinne ''Lindy'' Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. LANDRIEU. Mr. President, I rise today to express my admiration and gratitude to a woman who served the State of Louisiana and indeed the entire Nation with devotion and sense of unwavering dedication. Throughout her life, she answered every call to service made to her.

Lindy came to Washington in 1940 with her husband, the late Hale Boggs and following his tragic death in 1972, she became the first woman to elected to the House of Representatives from the State of Louisiana. She continued

her service to Congress until 1990, when she retired to New Orleans. In Congress she sat on the Appropriations Committee and the Select Committee on Children, Youth, and Families, spearheading legislation on issues ranging from civil rights to pay equity for women. She chaired the committees on the Bicentennials of the American Constitution in 1987 and the House of Representatives in 1989. In 1997, President Clinton asked her to assist her country once again, this time as the American ambassador to the Vatican.

But the reasons to honor Lindy go far beyond a recitation of her resume, distinguished as it may be. Lindy Boggs continues to be a role model for those of us in Congress and thousands of young women across this country who aspire to public service. She used her Southern charm and keen political mind to become one of the most formidable forces in the U.S. House of Representatives. She served as a mentor and teacher to me as well as the Congresswomen that followed her. She not only taught them the rules and expectations of Members of Congress, she taught us how to be a strong, independent women.

Lindy is the founder of the Congressional Women's Caucus, a legislative body that has done so much in its 25-year history. Twenty-five years ago, very few women had served in the Senate, and today we have 13. Thirteen women, and that number is sure to grow. As women, we champion the rights of women everywhere from Afghanistan to China and even here at home. We are a force to be reckoned with, and Lindy is our leader.

What is most impressive about Lindy is the long list of firsts that accompany her biography. She was the first female Representative elected from Louisiana, the first women to chair the National Democratic Convention, the first women to sit on the Board of Regents of the Smithsonian Institution and the first woman to serve as ambassador to the Holy See.

She continues to be my mentor and even more, my friend. It is an honor to join the entire Louisiana delegation and I am sure women in public service everywhere to honor this very special Louisiana and American, Lindy Boggs.

Mr. REID. I ask unanimous consent that the concurrent resolution and preamble be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

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

EXECUTIVE CALENDAR

NOMINATION OF JULIA SMITH GIBBONS, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. REID. Mr. President, I move that the Senate proceed to Executive Session to consider Calendar No. 810, Julia Smith Gibbons, to be United States Circuit Judge.

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

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit.

Harry Reid, Tom Daschle, Charles Schumer, Mitch McConnell, Fred Thompson, Bill Frist, Phil Gramm, Jon Kyl, Charles Grassley, Wayne Allard, Trent Lott, Don Nickles, Larry E. Craig, Craig Thomas, Mike Capo, Jeff Sessions, Pat Roberts, Jim Bunning, John Ensign, Orrin G. Hatch.

Mr. REID. I ask unanimous consent that the live quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate return to legislative session.

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

ORDERS FOR THURSDAY, JULY 25, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, July 25; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the Democratic leader or his designee; that at 10:30 a.m., the Senate resume consideration of S. 812.

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

Mr. REID. Mr. President, I apologize to the Presiding Officer. I indicated we would be finished by 7 p.m. and we missed that by 35 minutes.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Thursday, July 25, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 2002:

BROADCASTING BOARD OF GOVERNORS

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2002, VICE CARL SPIELVOGEL, RESIGNED.

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005. (REAPPOINTMENT)

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2006. (REAPPOINTMENT)

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003, VICE STEVEN L. ZINTER, TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROBERT MAYNARD GRUBBS, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE JAMES DOUGLAS, JR., TERM EXPIRED.

JOHNNY MACK BROWN, OF SOUTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE ISRAEL BROOKS, JR., TERM EXPIRED.

DENNY WADE KING, OF TENNESSEE, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE EDWARD SCOTT BLAIR, TERM EXPIRED.