ranking member, Senator BREAUX, has very ably assisted the committee's work. His insightfulness and interest in issues affecting the elderly population has brought greater credibility to our work.

At yesterday's hearing, we learned much about the breakdown in the complaints process. In other words, when someone makes a formal complaint about the treatment of a loved-one in a nursing home. The various states operate the process. But the federal government has the ultimate responsibility to oversee it to make sure complaints are being addressed.

Yesterday we heard from two citizen witnesses who experienced firsthand a broken-down complaints process. Their stories were tragic, yet real. The committee, the government, and the public learned much from their testimony.

We also heard from the GAO and from the HHS IG.

The committee did not hear from the Health Care Financing Administration, or HCFA. HCFA is the federal agency charged by law to protect nursing home residents. HCFA must ensure that the enforcement of federal care requirements for nursing homes protects the health, safety, welfare, and rights of nursing home residents. Yet, HCFA was a no-show.

There is a very specific reason for yesterday's hearing, and this series of hearings. It's because the health, safety, welfare, and rights of nursing home residents are at great risk. Yet, the agency responsible was not here.

The committee invited the two private citizens in the public interest. Through their eyes, we saw a complaint process turned upside-down. It's a process that has put some nursing home residents at risk. Their testimony could help correct the process so others don't have to suffer the same wrongful treatment.

The reason HCFA wasn't here is puzzling, given the committee's focus on listening to citizen complaints. HCFA is an agency within the Department of Health and Human Services—HHS. HHS determined that HCFA should not show up because HHS witnesses do not follow citizen witnesses. That's their so-called policy.

In other words, HCFA—the organization that is supposed to serve our elderly citizens by protecting the health, safety, welfare, and rights of nursing home residents—was not here because its protocol prevents them from testifying after citizen witnesses.

Last Friday, when discussing this matter with HHS officials, my staff was told the following: ''Our policy is that we testify before citizen witnesses.''

Now, I have four comments on this. First, how serious is the Department about the problems we're uncovering in nursing homes when a protocol issue is more important than listening to how their complaints process might be flawed?

Second, I have conducted hearings, in which citizen witnesses go first, since 1983. Other committees have done the same. I don't recall any department at any hearing I conducted since 1983 that became a no-show, even when private citizens testified first. Especially for an issue as important as this.

Third, the Department may be trying to convince the public it cares. But this no-show doesn't help that cause. The public might confuse this with arrogance.

Finally, this situation yesterday could not possibly have illustrated better the main point of the hearing; namely, that citizens' complaints are falling on deaf ears. These witnesses traveled many miles yesterday. They were hoping that government officials—the very officials responsible—would hear their plea. Instead, what did they get? A bureaucratic response. Their agency-protectors were no-shows because of a protocol. Because of arrogance, perhaps.

So, we'll move forward with yesterday's testimony, learning how the nursing home complaint system is in shambles. And the agency responsible for fixing it wasn't here to listen. Of course, they can read about it once it's in writing—a process they are comfortable with.

Since I have been in the Congress, I have never taken partisan shots at an administration. I believe only in accountability. My heaviest shots were against administrations of my own party. The record reflects that very clearly.

The easy thing to do would be to take partisan pot shots over this. It's much harder to redouble our efforts, in a bipartisan way on the committee—which I intend to do—until HHS and HCFA get the message. When will HHS and HCFA hear what's going on out there in our nation's nursing homes? Perhaps when they learn to listen to the citizens we—all of us in government—serve. Until they get the message, these problems will get worse before they get better.

One key reason why HCFA's presence was important, yesterday, was to nail down just who is in charge. At our hearing last July, Mr. Mike Hash, HCFA's deputy administrator, told the committee that HCFA is responsible for enforcement for nursing homes. Yet in yesterday's written testimony submitted for the record, Mr. Hash says the states have the responsibility.

This needs to be clarified. Who's in charge, here? Is this why we're seeing all these problems in nursing homes? Because no one's in charge?

In my opinion, this matter has to get cleared up at once. Every day that passes means more and more nursing home residents may be at risk. The Department of HHS has to restore public confidence that it truly cares, that it's doing something about it, and that improving nursing home care is a higher priority than protocols for witnesses at a hearing.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:47 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

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

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

The legislative 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.

The majority leader.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, we are obviously dealing with very serious matters for the future of our country and our military men and women today. We want to make sure we proceed properly. We are looking at how to proceed on the Kosovo issue and the supplemental appropriations and be prepared for consideration of the budget resolution beginning tomorrow.

We have looked at a lot of options. Obviously, we have been talking among ourselves and the administration, and Senator DASCHLE and I have gone through a couple proposals.

Our conclusion is, at this time we should go forward with the cloture vote as scheduled. The cloture vote is on the Smith amendment, which is an amendment to the Hutchison amendment to the supplemental appropriations bill.

When that vote is concluded, depending on how that vote turns out, then we will either proceed on the Smith amendment or we will set it aside, if cloture is defeated, and work on the supplemental appropriations bill while we see if we can work out an agreement on language or how we proceed further on the Kosovo issue.

We thought the better part of valor at this time is to have the vote on cloture. Is that Senator DASCHLE's understanding, too? We will continue to work with the interested parties. A bipartisan group will sit down together and look at language to see if we can come up with an agreement on that language. We may be able to, maybe not. But we should make that effort. Then we also will press on the supplemental appropriations bill while we do that.

With that, Mr. President, I ask for the regular order.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule

XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Lott amendment No. 124 prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia:

Trent Lott, Paul Coverdell, Bob Smith of New Hampshire, Jeff Sessions, Don Nickles, Charles E. Grassley, Sam Brownback, Tim Hutchinson, Michael B. Enzi, Bill Frist, Frank Murkowski, Jim Inhofe, Conrad Burns, Mitch McConnell, Ted Stevens, and Jim Bunning.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 124 to S. 544, a bill making emergency supplemental appropriations and rescissions for recovery from natural disasters, and foreign assistance, for the fiscal year ending September 30, 1999, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. COCHRAN) is absent because of a death in the family.

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

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—55

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	Warner
Feingold	McCain	
Fitzgerald	McConnell	

NAYS—44

Akaka	Edwards	Lieberman
Baucus	Feinstein	Lincoln
Bayh	Graham	Mikulski
Biden	Harkin	Moynihan
Bingaman	Hollings	Murray
Boxer	Inouye	Reed
Breaux	Johnson	Reid
Bryan	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Cleland	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	

NOT VOTING—1

Cochran

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT. Mr. President, I ask unanimous consent that the pending Hutchison amendment, No. 81, be temporarily set aside under the same terms as previously agreed to with respect to the call for the regular order.

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

Mr. LOTT. Mr. President, we will resume consideration of the supplemental appropriations bill with amendments in order as outlined in the consent agreement reached on March 19.

I should advise the Senate that there is beginning now a working group of Senators who will be working to determine if they can draft language for the resolution regarding the Kosovo situation. We still have pending the Hutchison amendment and the Smith amendment. And there will be a bipartisan effort to see if there can be some compromise language worked out or some language that might be voted on in some form before the afternoon is over.

In the meantime, we are working now toward an agreement with regard to consideration of the supplemental appropriations and beginning of the consideration of the budget resolution. The managers are here, and they are ready to begin to work on some amendments, I believe, which have been cleared. We hope that within the next 30 minutes we can enter into an agreement with regard to finishing the supplemental today, with Kosovo language being considered in the process as a possibility, and then begin tomorrow on the budget resolution.

With that, I yield the floor so that the distinguished chairman can begin to have these amendments considered that are ready to be cleared.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I now ask unanimous consent that there be stricken from the amendment list Senator HARKIN's relevant amendment, Senator JEFFORDS' three relevant amendments, and Senator REED's OSHA small farm rider amendment.

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

AMENDMENTS NOS. 125, 126, AND 127, EN BLOC

Mr. STEVENS. Mr. President, let me state, so that everyone understands, that there is a sense-of-the-Senate amendment offered by Senator BINGAMAN regarding the use of sequential billing policy in making payments to home health care agencies under the Medicare Program; an amendment by Senators LEAHY, JEFFORDS, and COLLINS providing additional funds and an appropriate rescission to promote the recovery of the apple industry in New England; and the third amendment is offered by Senator LINCOLN to provide adversely affected crop producers with additional time to make fully informed risk management decisions for the 1999 crop year.

I send these amendments to the desk and ask for their immediate consideration, and ask unanimous consent that they be considered and agreed to en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendments en bloc numbered 125 through 127.

The amendments (Nos. 125 through 127), en bloc, considered and agreed to are as follows:

AMENDMENT NO. 125

(Purpose: To express the sense of the Senate regarding the use of the sequential billing policy in making payments to home health agencies under the medicare program)

At the appropriate place, insert the following:

SEC. ___. FINDINGS AND SENSE OF SENATE REGARDING SEQUENTIAL BILLING POLICY FOR HOME HEALTH PAYMENTS UNDER THE MEDICARE PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) Section 4611 of the Balanced Budget Act of 1997 included a provision that transfers financial responsibility for certain home health visits under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) from part A to part B of such program.

(2) The sole intent of the transfer described in paragraph (1) was to extend the solvency of the Federal Hospital Insurance Trust Fund under section 1817 of such Act (42 U.S.C. 1395i).

(3) The transfer described in paragraph (1) was supposed be ''seamless'' so as not to disrupt the provision of home health services under the medicare program.

(4) The Health Care Financing Administration has imposed a sequential billing policy that prohibits home health agencies under the medicare program from submitting claims for reimbursement for home health services provided to a beneficiary unless all claims for reimbursement for home health services that were previously provided to such beneficiary have been completely resolved.

(5) The Health Care Financing Administration has also expanded medical reviews of claims for reimbursement submitted by home health agencies, resulting in a significant slowdown nationwide in the processing of such claims.

(6) The sequential billing policy described in paragraph (4), coupled with the slowdown in claims processing described in paragraph (5), has substantially increased the cash flow problems of home health agencies because payments are often delayed by at least 3 months.

(7) The vast majority of home health agencies under the medicare program are small businesses that cannot operate with significant cash flow problems.

(8) There are many other elements under the medicare program relating to home health agencies, such as the interim payment system under section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)), that are creating financial problems for home health agencies, thereby forcing more than 2,200 home health agencies nationwide to close since the date of enactment of the Balanced Budget Act of 1997.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Health Care Financing Administration should—

(1) evaluate and monitor the use of the sequential billing policy (as described in subsection (a)(4)) in making payments to home health agencies under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) ensure that—

(A) contract fiscal intermediaries under the medicare program are timely in their random medical review of claims for reimbursement submitted by home health agencies; and

(B) such intermediaries adhere to Health Care Financing Administration instructions that limit the number of claims for reimbursement held for such review for any particular home health agency to no more than 10 percent of the total number of claims submitted by the agency; and

(3) ensure that such intermediaries are considering and implementing constructive alternatives, such as expedited reviews of claims for reimbursement, for home health agencies with no history of billing problems who have cash flow problems due to random medical reviews and sequential billing.

AMENDMENT NO. 126

(Purpose: To appropriate an additional amount to promote the recovery of the apple industry in New England, with an offset)

On page 2, between lines 20 and 21, insert the following:

AGRICULTURAL MARKETING SERVICE

For an additional amount to carry out the agricultural marketing assistance program under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), $200,000, and the rural business enterprise grant program under section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)), $500,000: *Provided*, That the entire amount shall be available only to the extent an official budget request for $700,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of such Act.

On page 37, between lines 9 and 10, insert the following:

FARM SERVICE AGENCY

EMERGENCY CONSERVATION FUND

Of the amount made available under the heading ''EMERGENCY CONSERVATION PROGRAM'' in chapter 1 of title II of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 68), $700,000 are rescinded.

AMENDMENT NO. 127

(Purpose: To provide adversely affected crop producers with additional time to make fully informed risk management decisions for the 1999 crop year)

On page 7, between lines 8 and 9, insert the following:

GENERAL PROVISION, THIS CHAPTER

SEC. ____. CROP INSURANCE OPTIONS FOR PRODUCERS WHO APPLIED FOR CROP REVENUE COVERAGE PLUS.—(a) ELIGIBLE PRODUCERS.—This section applies with respect to a producer eligible for insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) who applied for the supplemental crop insurance endorsement known as Crop Revenue Coverage PLUS (referred to in this section as ''CRCPLUS'') for the 1999 crop year for a spring planted agricultural commodity.

(b) ADDITIONAL PERIOD FOR OBTAINING OR TRANSFERRING COVERAGE.—Notwithstanding the sales closing date for obtaining crop insurance coverage established under section 508(f)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)(2)) and notwithstanding any other provision of law, the Federal Crop Insurance Corporation shall provide a 14-day period beginning on the date of enactment of this Act, but not to extend beyond April 12, 1999, during which a producer described in subsection (a) may—

(1) with respect to a federally reinsured policy, obtain from any approved insurance provider a level of coverage for the agricultural commodity for which the producer applied for the CRCPLUS endorsement that is equivalent to or less than the level of federally reinsured coverage that the producer applied for from the insurance provider that offered the CRCPLUS endorsement; and

(2) transfer to any approved insurance provider any federally reinsured coverage provided for other agricultural commodities of the producer by the same insurance provider that offered the CRCPLUS endorsement, as determined by the Corporation.

Mr. STEVENS. Mr. President, I move to reconsider the votes by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we have, I think, a process now to sort of relieve the roadblock, or remove the roadblock, on this supplemental bill and get it ready to go to conference tomorrow with the House. The House will pass this bill tomorrow. So I urge Senators to offer their amendments, and we will, to the best of our ability, take the Senators' amendments to conference, if at all possible.

AMENDMENT NO. 128

(Purpose: To eliminate any emergency designations from the bill and provide additional offsets from unused fiscal year 1999 emergency spending)

Mr. GRAMM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas (Mr. GRAMM) proposes an amendment numbered 128.

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

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a) Notwithstanding any other provision of this Act, none of the amounts provided by this Act are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) An additional amount of $2,250,000,000 is rescinded as provided in section 3002 of this Act.

AMENDMENT NO. 129 TO AMENDMENT NO. 128

(Purpose: To eliminate any emergency designations from the bill)

Mr. GRAMM. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas (Mr. GRAMM), for himself, and Mr. NICKLES, proposes an amendment numbered 129 to amendment No. 128.

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

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

The amendment is as follows:

At the end of the amendment add the following:

SEC. . Notwithstanding any other provision of this Act, none of the amounts provided by this Act are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. GRAMM. Mr. President, a continuing problem with the emergency supplemental appropriations is that it is not paid for.

I would like to remind my colleagues—and I will try to be brief—that last year the President in the State of the Union Address took the hard and fast position that we should save Social Security first. The idea was that the whole surplus of the Federal budget should go to Social Security and should be used to reduce the outstanding debt of the Government.

As everyone remembers, in the waning hours of the session last year we passed an emergency appropriations bill that contained numerous nonemergency items. And the net result was to spend $21 billion—roughly one-third of the surplus—every penny of which was Social Security surplus. Therefore, in the words of the President, we had plundered the Social Security trust fund to fund all of these other programs of Government.

As I am sure everyone is aware, along with the budget that will come to the floor of the Senate immediately following disposition of the issue on Kosovo, we will consider a lockbox provision that requires a reduction in the debt held by the public by the amount of Social Security surplus. That will automatically lower the debt limit we will set by law each time we have a Social Security surplus. So the net result will be that each and every penny of the Social Security surplus will, in fact, be locked away, going to debt reduction in the name of Social Security. While none of that saves Social Security, it does mean that none of it is spent on general government and that we actually reduce the indebtedness of the Federal Government in the process.

Right in the face of this effort to lock away the Social Security surplus for Social Security, we found ourselves with an emergency supplemental appropriations bill which is not paid for. And, in fact, in its current form, the bill increases spending and therefore takes $441 million right out of the Social Security surplus in fiscal year 1999. And then, adding this year and the next 4 years, it would take almost $1 billion out of the surplus; $956 million would, in fact, be taken out of that surplus.

It seems to me we can't be credible talking about a lockbox to lock this

money away for Social Security at the very same moment that we are spending the money.

So I have sent two amendments to the desk. One makes across-the-board reductions in the previous emergency bill we passed in areas other than agriculture and defense to such a degree that we pay for the $441 million. So the emergency supplemental at that point will be deficit neutral in fiscal year 1999.

The second-degree amendment, which I have submitted on behalf of myself and Senator NICKLES, because in fact it was his amendment that he reserved the right to offer—the second-degree amendment is an amendment which waives the emergency designation, which will mean that this $515 million of spending in the years 2000 through 2005, will count toward the spending caps in those years. So by spending the money now, we will lose the ability to spend that amount of money in future years.

These are two straightforward amendments which have one overriding virtue, and that is, they pay for the supplemental.

Let me say of my colleague, the Senator from Alaska, that I am very grateful he has decided to accept these amendments. I know this only means postponing the battle until conference.

There was a clever little poem I learned as a boy. And I am sort of ashamed to say that I forget exactly what the rhyme was. But it was, ''He that is convinced against his will is unconvinced still.'' And I know that in this case, wanting to get on with this bill, our dear colleague, our loving colleague from Alaska, is convinced against his will to take these amendments, and I know he is unconvinced still.

But the point is, we would have the ability to go to conference with our bill fully paid for and with no emergency designation. That would put those of us who believe that this should be the way we do business in this country in a position in conference to try to sway others. On that basis, I will be willing, with the adoption of these amendments, to let the bill go to conference where, obviously, at that point this will be fought out again.

Let me conclude, before the Senator from Alaska changes his mind, by simply saying we are going to have to come to a moment of truth here. We cannot write budgets that say we are going to control spending and then continue to spend. We cannot lock away money for Social Security and then spend the money for Social Security. I know it is hard—when the President says one thing and does another—for Congress to say something and then actually do it because, obviously, it is easier to say it and not do it than it is to say it and then do it. But I do believe the American people have a higher standard that they apply to us, and I think the adoption of this amendment, especially if it can be held in conference, is a major step forward in getting credibility back into the budget.

On that basis I yield the floor.

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

Mr. STEVENS. Mr. President, my friend brought a smile to my face because I remembered Miniver Cheevy:

Miniver Cheevy, child of scorn,
Cursed the day that he was born.

He was born too late. Just think, I might have been chairman of the Appropriations Committee back in the days before the Budget Act, before scoring fights, when we just talked about what the country needed. Right? But it is one of those things.

Mr. GRAMM. But then you would be dead, Mr. Chairman.

Mr. STEVENS. No, Cheevy just hoped he had lived sooner. You understand? By definition, he is dead.

Mr. GRAMM. Oh, OK.

Mr. STEVENS. I cannot match the memory of my friend from West Virginia as far as poetry is concerned. I was trying to think of another poem I remembered that would have been appropriate, but right now I will say this:

Mr. President, here is the problem. We had a massive bill last fall. It had emergency monies appropriated that were outside the budget. Now we are reprogramming much of that money to new emergencies or to new programs which take the money away from the programs we appropriated for last fall. But now we are going to spend it somewhere else. OMB did not score that money last fall because it was outside the budget. Now the Senator from Texas has gone to the CBO and the CBO has scored that as money that is just being appropriated. We are really reprogramming appropriated money to new uses.

When they score it, they do not come up with budget authority, which is the problem of the legislative committees. They come up with outlays, which is our problem. We do not have the outlays. By definition, the money, if we leave it where it is, it is going to be spent. It is going to be spent unscored.

As a consequence, I have told the Senator from Texas, and I hope my friends from the other side of the aisle would agree, we will take this to conference. I made a commitment. I will sit down with the CBO and see if I can understand their point of view of why they should do this to us. Most people do not agree. It is only the Senate Appropriations Committee that is subject to this control. The House just waived the points of order. Over here, our bills are subject to points of order.

The amendment of the Senator would lead to dramatic cuts in several priorities that were funded in the omnibus bill as emergency issues and not scored on outlays. And we have a provision in this bill that says those monies will continue to not be scored as outlays if they are spent for the purposes we redesignated them for: Diplomatic security, to rebuild our embassies destroyed in Kenya and Tanzania, the funding that we put up for the U.S. Government's response to the Y2K computer problem. At my request last year, we went forward very early and the Senate started that process, $3.25 billion to deal with Y2K. It was not scored, and we are reallocating some of that. The agriculture relief from last year—again, it was an emergency. We are reprogramming some of that.

Above all, the FEMA disaster relief monies, all of those were not scored for outlays, Mr. President. But I understand what my friend is doing. He is trying to do the same thing we are trying to do, and that is preserve Social Security. I will be willing to do anything I can to preserve the position we have taken that Social Security funds not be touched. They were touched last fall. We are not touching them, we are reusing them. That is something the CBO cannot quite grasp right now, and I have said I will go sit down and talk to them. As a matter of fact, I will invite the Senator from Texas to come along so he will have a worthy advocate as we try to understand the new concepts of scoring outlays on monies that were already appropriated on an emergency basis.

I think the Senator from Texas raises some interesting points. I do hope we will be able to accept this. I have to tell the Senator from Texas that my decision to recommend these be taken to conference is still subject to being reviewed on the other side of the aisle, and I will have to defer the final approval of the amendment of the Senator until that time. But I will call him if there is any discussion to be had on his amendment.

I hope he agrees we set it aside temporarily while awaiting that response to my request. But I do intend to recommend the amendments of the Senator be taken to conference where we will explore them and try to see if we can accommodate what the Senator is trying to do without disturbing the process that we feel is our duty—to meet the emergencies as they are presented to us this year, not last year.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President and Senator STEVENS, before he leaves the floor, I am going to ask a question of the Senator from Texas on the speech that he just made, although it is not directly on point. I thank Senator GRAMM for the comments he made about Social Security and protecting it and the lockbox. He has explained the lockbox as legislation he has reviewed in my behalf, and described it as making it very difficult, if not impossible, to spend the Social Security surplus, because to do so one would have to increase the debt beyond that which is agreed upon, the debt held by the public, and in so doing they would need a supermajority.

Since the administration says they want to save the Social Security trust

fund, do you have any idea—can my colleague imagine why the Secretary of the Treasury would be against it?

Mr. GRAMM. Yes, I can tell you I not only have an idea, I think it is clear there is only one reason anybody would be against it, and that is they want to say they are saving Social Security, but they do not want to do it. They want to have it both ways. They want to give great and flowery speeches about ''Save Social Security first, save Social Security now,'' but when it gets right down to it, what the provision of my colleague in the budget does by changing the debt ceiling is it actually makes it impossible for them not to do it unless they can get 60 votes in the Senate to raise the debt ceiling. So the only reason they would oppose it is they do not intend to do it.

Mr. DOMENICI. That would require statute law to do what I have recommended and what my staff and I have worked out? We would have to bring that to the floor, and that will be another test after the budget resolution about how serious people are about not touching the Social Security trust fund; is that correct?

Mr. GRAMM. Anybody who is opposed to your bill is refusing to write into law in a binding manner what everybody pledges verbally to do. The provision of the Senator from New Mexico is an enforcement mechanism. And the only reason anybody would be against enforcing an antiplundering provision on Social Security is if they intend to plunder. I think that is what the whole issue is about.

Mr. DOMENICI. I ask one thing further. My colleague has been here working with me for most of my time on the Budget Committee, although I was there for a while when he was in the House working on budgets there. I have talked, heretofore, about whether or not we can lock up the Social Security trust fund. But it is my recollection that no legislation of the type that I propose has ever been suggested to the Congress as a means of not spending that money. Is that your recollection also?

Mr. GRAMM. Well, first of all, I don't know of any effort in the past, prior to 1979, when I came to the Congress. There had been no legislative action since 1979 that would have locked in a process to enforce debt reduction. This is the first in my experience of service in the Congress. My guess is there has never been a similar proposal before, but we do have an extraordinary circumstance. We have a President who is committed to saving Social Security money and using it for debt reduction. We have 100 Members of the Senate who say they are for it. Your amendment gives us a happy opportunity to marry all this up with a binding constraint. The question is, who is for real and who is not for real on this issue. That is what will be determined.

Mr. DOMENICI. I thank the Senator.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to put in the RECORD the scoring that we got on the supplemental bill as it came out of committee. It shows the problem. CBO showed we had $319 million in savings on outlays, and OMB said we had $567 million savings in outlays. OMB now has gone back and has changed the minuses to plus, and they say that we are over $441 million. It is because of a revision, I guess, of the way they have approached the bill.

Mr. President, I ask unanimous consent the scoring that we received on S. 544, as reported to the Senate, be printed in the RECORD and that it be followed by the Senator's chart, as of March 22, of scoring from CBO of the bill as it stands before the Senate today.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FY 1999 SUPPLEMENTAL S. 544, AS REPORTED

[In millions of dollars]

	Senate bill		
	BA	CBO Outlays	OMB Outlays
OFFSETS			
Agriculture:			
Food stamp program	−285	.....	.....
Net	−285	.....	.....
Commerce-Justice:			
DoJ OIG	−5	−5	−5
INS enforcement & border affairs	−40	−32	−32
INS citizenship & benefits, immigr. support	−25	−20	−20
NOAA operations, research & facilities	−2	−1	−1
NOAA procurement, acquisition & constr	−2	−1	−1
Contributions to Int'l organizations	−22	−22	−22
Contributions to Int'l peacekeeping	−21	−21	−21
Int'l broadcasting operations	−1	−1	−1
Net	−118	−103	−102
Defense:			
Operations & maintenance, defense-wide	−210	−78	−155
Net	−210	−78	−155
Foreign Operations:			
Global environmental facility (GEF)	−60	−5	−5
Economic support fund	−10	−1	−1
Assistance for E. Europe & Baltic States	−10	−1	−1
Assistance for Newly Independent States	−10	−2	−1
Int'l organization and programs	−10	−9	−9
Net	−100	−18	−16
Interior:			
BLM management of lands & resources	−7	−5	−5
Net	−7	−5	−5
Labor-HHS-Ed:			
State unemployment service	−16	−16	−16
Education, research, statistics	−8	−2	−1
TANF (deferral)	−350	.....	.....
Net	−374	−18	−17
Military Construction:			
BRAC	−11	−2	−3
Net	−11	−2	−3
VA-HUD:			
Emergency community development grants	−314	−1	−7
HUD management and administration	.....	−5	.....
EPA science and technology	−10	−4	−4
Net	−324	−10	−11
Chapter 1, title V, division B of P.L. 105–277	−23	−18	−18
Reduction in non-DoD emergency appropriations in division B of P.L. 105–277	−343	−67	−187
Reduction in non-defense discretionary spending from revised economic assumptions	−100	.....	−53

FY 1999 SUPPLEMENTAL S. 544, AS REPORTED—Continued

[In millions of dollars]

	Senate bill		
	BA	CBO Outlays	OMB Outlays
Total	−1,894	−319	−567

IMPACT OF S. 544 (EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FY1999) ON DISCRETIONARY SPENDING

[Net Impact of Appropriations and Rescissions, in millions of dollars]

	Outlays, FY1999	Total outlays	Budget authority
S. 544 as Reported	+$275	+$719	0
Amendments Adopted	+166	+237	+$4
Current Total	+441	+956	+4

Preliminary Congressional Budget Office estimates as of March 22, 1999. Total outlays in future years may be affected by subsequent legislation.

Mr. STEVENS. I think it demonstrates that there is a legitimate battle here over people who make estimates. We have one group of estimators downtown, another group of estimators over in CBO. We have our own on the committee. We make estimates of what we are doing, and it is like three groups of lawyers. Fifty percent of them are wrong all the time. I say this as a lawyer.

As a practical matter, there is no answer to the Senator from Texas' approach, unless we just set them all down in the same room and say find a way to come to an agreement. In the final analysis, there are three computers working on this bill and, as they say, if you put stuff in, stuff is going to come out; right? That is the trouble. I am not sure what color the stuff is that the Senator from Texas is using, but it is coming out. It disagrees with our conclusions of what this bill means.

I am told that the other managers of the bill agree with my concept that this is something we should explore in conference, and we will give it our best review in conference. We are willing to accept the Senator's amendments now.

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

Without objection, the second-degree amendment is agreed to.

The amendment (No. 129) was agreed to.

The PRESIDING OFFICER. Without objection, the first-degree amendment, as amended, is agreed to.

The amendment (No. 128), as amended, was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the votes by which the amendments were agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 130

(Purpose: To maintain existing marine activities in Glacier Bay National Park)

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI) proposes an amendment numbered 130,

At the appropriate place in the bill, insert the following:

''SEC. . GLACIER BAY.—No funds may be expended by the Secretary of the Interior to implement closures or other restrictions of subsistence or commercial fishing or subsistence gathering in Glacier Bay National Park, except the closure of Dungeness crab fisheries under Section 123(b) of the Department of the Interior and Related Agencies Appropriations Act, 1999, (section 101(e) of division A of Public Law 105–277), until such time as the State of Alaska's legal claim to ownership and jurisdiction over submerged lands and tidelands in the affected area has been resolved either by a final determination by the judiciary or by a settlement between the parties to the lawsuit.''

Mr. MURKOWSKI. Mr. President, if I may have the attention of my colleagues, let me identify specifically what is intended by this amendment.

First of all, I should identify the specific area about which we are concerned. This is my State of Alaska. Over here on the right is Canada. We have our State Capitol here in Juneau. Just north of Juneau is an extraordinary jewel of our National Park Service called Glacier Bay. Glacier Bay is a pretty substantial area in size. It consists of about 3.3 million acres. That is about the size of 3 Grand Canyons or 4 Yosemites or 17 Shenandoah National Parks or 825 Gettysburgs. It is part of the State of Alaska which has about 33,000 miles of coastline.

Let me further identify specifically what Glacier Bay consists of relative to the map of Alaska which is before you.

We have in southern Alaska in the northern tip, before you cross the Gulf of Alaska to go up to the Anchorage area, the area specifically known as Glacier Bay National Park and Preserve. Over in this corner we have Gustavus, which is a small community, Bartlett Cove, where the Park Service has its concessions, and down here we have Chichagof Island, and over here, Juneau. The purpose of this map is to give the visitor some idea of the extraordinary size and attractiveness of Glacier Bay and the realization that there are absolutely no roads in this area, with the exception of this very short road from Gustavus, where there is an airfield, to Bartlett Cove. This is very rugged, glacier-bound terrain. The only entry is by vessel or aircraft flying over the area. There are kayaks, small boats, and so forth. The activity is monitored by the Park Service quite effectively.

If you look at the map of Alaska, you also find that this entire area of Canada has no outlet to the Pacific Ocean. That is from roughly Cordova down through Ketchikan, all this area of northern British Columbia, Whitehorse, the Yukon Territory. There is no access. But there is in Glacier Bay a very tiny area, at the Tarr Inlet, where a glacier occasionally recedes and provides a bit of real estate in Canada at the head of Glacier Bay. Of course, the difficulty is you cannot go through a glacier for access. I just point this out to you so you will have a little better view of the real estate, the topography, and so forth.

What we have before us in this issue is the traditional right of fishermen and subsistence gatherers who live in the area, either in Gustavus or Hoonah, which is a Native village. These are gatherers. What does that mean? To these people it is part of their heritage, part of their lifestyle.

Mr. President, we do not have any chickens in this particular area. It is pretty wet, pretty cold. So the Natives occasionally go in and gather sea gull eggs. Now, there is not much demand for sea gull eggs. The question of their continued right to go in and gather those eggs as well as fish is what this issue is all about, because the action by the Park Service would preclude traditional fishing and gathering, which has been going on here for hundreds of years.

The fishermen and subsistence gatherers really can't go someplace else. It is my opinion and that of my senior colleague, Senator STEVENS, that their rights should be respected.

What have we got that is different about this issue? The difference is the State of Alaska has indicated its intent to file suit and our Governor, Governor Knowles, has asserted claim to the submerged lands within the park. Granted, the Park Service has control of Glacier Bay National Park and Preserve. The State, under the Statehood Act, was given control of the inland waters. The question is, Who has jurisdiction over waters within the park? That is the issue.

The conflict today is that the Park Service is enforcing today an elimination of fishing and an elimination of subsistence gathering, but the State has indicated it intends to bring suit.

I have a press release by the Governor of the State of Alaska dated March 4 indicating the State's intent of bringing suit against the Interior Department over Glacier Bay fishing. It is titled, ''Governor asserts claim to submerged lands within park.'' This matter is being brought before us today, because the existence of the suit suggests that until it is decided, the residents of the area should not be disallowed their conventional access for fishing and gathering.

In real terms, the delay does not jeopardize any park value. Gathering and fishing is fully regulated by the State of Alaska, the Department of Fish and Game, very effectively and very efficiently. All important fisheries are under the system that would prevent any increase—any undue effort on the resource. In the thousands of years that the Natives have been in the area, there has been no evidence of any resource problem.

Let me also identify a couple of other specifics here. This is a traditional Hoonah Tlingit village that existed at the turn of the century. You can see the fish drying on the racks and the homes, the summer camps, where the Native people resided. This picture was actually taken in Bartlett Cove in Glacier Bay.

The unfortunate part of this is, this village no longer exists. The Park Service eliminated it. The Park Service burned several Indian houses and smokehouses like this in the seventies. Again, this was a summer camp, a summer village.

The history of subsistence in Glacier Bay spans, as near as we can tell, Mr. President, about 9,000 years. The Tlingit name of the bay means ''main place of the Huna people'' or was referred to as the ''Huna breadbasket,'' because they depended, if you will, for their livelihood on some of the renewable resources there.

As many as five Native strongholds once existed inside the park boundary, but, as I have indicated, the Natives were gradually forced out of their traditional places, and in the seventies the National Park Service burned down the Tlingit fishing camps like this in the park.

Limited fishing began back in 1885, long before Glacier Bay was named as a national park. Again, it is interesting to reflect on the claim of jurisdiction of the Park Service. Not only did they claim the inland waters, but they claimed 3 miles out along the Gulf of Alaska, from roughly Dry Bay, which is near Yakutat, 3 miles out into these rich fishing grounds, which have always been open for commercial fishing under the State department of fish and game. They have the enforcement capability, and that is the point of mentioning this, for 3 miles out, to close that as well.

Again, my appeal is, let the court determine who has control over the inland waters of the park, and let's get on with allowing the traditional gathering and limited commercial fishing activity that takes place there.

As we look at a couple of things that are dos and don'ts, this is no longer allowed under the Park Service proposal. One- or two-person family-operated boats are not welcome. They are not welcome in the park anymore. There is no good reason for it. They say they do not want a commercial activity. But this is what they do allow in the park: A 2,000-passenger cruise ship as big as three football fields. That is allowed. If that is not a commercial activity, I don't know what is. I happen to support it. You can look at the topography, the glaciers. There is no better way to see Glacier Bay National Park than from the deck of a cruise ship. But to suggest there is something wrong with the subsistence dependence of the Native people and something wrong with limited commercial fishing because it is commercial, and then to support what is truly commercial—the cruise ships—why, I think that is a grave inconsistency.

I think it is important to go back to what the local residents were assured they would have—the local residents of southeastern Alaska. They were assured, as local residents, that the Government would not eliminate traditional uses, including fishing and subsistence gathering. That certainly is not the case anymore, is it?

I think it is also important to recognize that while nationwide park regulations adopted in 1966 prohibited fishing in freshwater parks, these did not prohibit fishing in the marine or salt waters of Glacier Bay.

I wish I had this in chart. The Park Service proposes closing fisheries in Glacier Bay, as we have already ascertained. But what is their overall policy nationally? In Assateague Island National Seashore in Maryland and Virginia, the Park Service authorizes commercial fishing. Biscayne National Park in Florida, the Park Service authorizes commercial fishing. Buck Island Reef National Monument, U.S. Virgin Islands, commercial fishing is OK there. Canaveral National Seashore in Florida, fishing is OK there. Cape Hatteras National Seashore, North Carolina, commercial fishing is OK. Cape Kruzenstern National Monument in Alaska—way, way, way up here by Kotzebue—commercial fishing is OK there. Channel Islands, California, commercial fishing is OK. Fire Island National Seashore in New York, commercial fishing is all right. Gulf Island National Seashore, Mississippi, Alabama, and Florida, commercial fishing is OK. Isle Royale National Park in Michigan, commercial fishing is fine. Jean Lafitte National Historic Park, Louisiana, commercial fishing is OK. Lake Mead National Area, Nevada, fishing OK. Redwood National Park, California, commercial fishing is OK. Virgin Islands National Park, fishing is OK.

Why kick out just Alaska, a few residents who rely on their traditional gathering? That is the question. And another question is, What is the justification?

The fisheries consist of small numbers of small vessels, as I indicated. These are a type of traditional vessels, trollers, mom-and-pop—many are a lot smaller than that—fishing for salmon. But Glacier Bay is not a significant salmon spawning ground, because there are no major rivers. The water is very glacially silty and, as a consequence, anadromous fish do not use habitat in the upper parts of the bay. They move in here a little bit to feed, that's all. Mostly, we have some crab fishing, we have some halibut fishing that is seasonal, and some bottom fish. These fish, as I have indicated, are not under any threat. There is no danger to the resource. All are carefully managed for subsistence harvest by the State of Alaska, and most of them are under limited entry.

There is an argument out there that fishing is incompatible with such uses as sports fishing or kayaking, but these have been rejected by the various groups, the sport fishing groups, the kayak concessions, who favor continuation of limited commercial fishing and subsistence gathering.

What are we really talking about in numbers? Because the big Department of Interior comes down and says they are opposed to this. They want to eliminate this activity. But for the people, this is their livelihood. They have no place else to go. They appeal to the Senate. I, as one of the two Senators from Alaska, proudly represent them in their voice crying out for fairness, crying out for justice.

The Gustavus community has 436 residents; 55 are actually engaged in fishing. Gustavus is right here. Elfin Cove across the way, directly across, has 54 people. Out of those 54 people, 47 are engaged in fishing. Hoonah, a Tlingit Indian village, has 900 people, 228 involved in fishing. Pelican City, 187 residents, and 86 in fishing. That might not sound like much, but these are real people. This is their real lifestyle, and they are pleading for fairness and justice. I think we have an obligation to them.

Mr. President, let me just read a note from Wanda Culp, a Tlingit historian. This was written February 13, 1998. I quote:

> The 1980 ANILCA law has done more damage to the Tlingit use of Glacier Bay through National Park Service management. Since the 1925 establishment of Glacier Bay National Park, the National Park Service has been systematically eliminating the native people, the Tlingit people, out of Glacier Bay through their management practices.
>
> In the 1970s, the National Park Service destroyed the Huna fish camps, burned down the smoke houses when tourism began its importance in Glacier Bay.

That is a little bit of the history. I could comment on the fisheries at greater length. I could comment on the research that suggests that the French explorer, LaPerouse, in 1746, saw the local Tlingit fishing here. The park was established in 1916. But the Tlingit people have used it as a fishing camp as long as recorded or verbal traditional history of that proud people exists.

I know we are going to have objections relative to prior arrangements concerning Glacier Bay, and I hope my colleagues will note that in the amendment we address the issue of the crab fishing, and I should like to refer to that.

In the amendment, we specifically say ''with the exception of the closure of the Dungeness crab fisheries under section 123(b) of the Department of Interior and Related Agencies Appropriations Act.'' This is a certain type of fishery, a crab fishery, and we concede that a previous agreement to close it is binding. So that crab fishery is closed. There is no question about that. Compensation for that closure was provided for, but has not yet been to fishermen.

The appeal to each and every Member is that while the State contests the question of who has jurisdiction in Glacier Bay, the Native people continue to be allowed to subsist and gather, and that the limited commercial fishery that is under the authority and management of the State of Alaska be allowed to continue.

Why deprive these people simply because this matter is going to be resolved in the courts of the United States, particularly—again, I would emphasize—when we have acknowledged the number of national parks, marine refuges, and so forth that commercial fishing is allowed to take place in. So if we get into a debate, as we may, about any reference to the Dungeness crab and the compensation issue, I want to make sure the RECORD reflects the reality that no binding agreement has been made on other fisheries in the bay. There was reference to allowing them to continue to fish without compensation for one generation. So we are accepting the agreement on the Dungeness crab, but we are asking respectfully that we be allowed to continue the other present practices within Glacier Bay until the court suit is settled.

You may wonder how this sits in the scheme of things, as we have expended a good deal of time and effort debating Kosovo and whether we should initiate an action there.

Well, here we are talking about a few real people in my State of Alaska, people who are out there whose lives and livelihoods, as they view it, are at risk. They are looking to us for relief. So by this amendment, I implore my colleagues to recognize equity and fairness; how these people have been, if you will, removed from their heritage by the Park Service, and now that heritage is about to be terminated inasmuch as it would remove subsistence activities.

I remind my colleagues that while there has been proposed remuneration for fishermen, there has never been any proposed remuneration for the subsistence-dependent Native people. So I encourage consideration be given to the merits of what we are asking. I think it is right. I think it is just. I think it is fair. If you consider the overall scheme of things, the Park Service, while managing Glacier Bay, for reasons unknown to me, has had a difficult time trying to determine what is, indeed, a commercial activity that is OK; namely, these large cruise ships, and what is no longer OK, which is a small fishing activity or the traditional rights of the Native people to gather in that area. There would be absolutely no harm done by allowing this moratorium to stand, if, indeed, it prevails, until such time as the courts resolve this issue once and for all as a consequence of the fact the State has seen fit to bring suit on who has jurisdiction over the inland marine waters.

I see some of my colleagues may wish to discuss this amendment. I am happy to respond to any questions.

I gather we are under no time agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. So if my colleagues want to talk about the amendment, I shall be pleased to respond to questions or comment a little later.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. MURKOWSKI. Yes. I intend to speak on this later though.

The PRESIDING OFFICER. The Senator yields the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the remarks of my good friend from Alaska. After all, he is one of the two Senators who represent the State of Alaska, and he believes strongly in this matter.

Mr. President, this is the very same matter we discussed 6 months ago, exactly the same. This is one of those environmental riders which has popped up again. It is the Glacier Bay environmental rider. That is the environmental rider on the Interior appropriations bill of last year, a bill that never came before the Senate, I think, with all due respect to my good friend from Alaska, because a lot of Senators did not want to have those votes on those environmental riders. There were several of them. And so the whole Interior appropriations bill was then submerged into the omnibus appropriations bill, that giant and super granddaddy bill that came up before the House and Senate last year, and in that omnibus bill there was an agreement—this was a provision which was an agreement essentially between the White House and the Senator from Alaska, the chairman of the Appropriations Committee, Mr. STEVENS, on this matter. We have already dealt with this. There is an agreement. It was written into the law, and let me read you the agreement. This is the law. The agreement says very simply:

> The Secretary of Interior and the State of Alaska shall cooperate in the development and the management and planning for the regulation of commercial fisheries in Glacier Bay National Park.

On and on. Then it goes on to say:

> Such management plan shall provide for commercial fishing in the marine waters within Glacier Bay National Park outside of Glacier Bay proper and within marine waters within Glacier Bay as specified in paragraph . . .

Anybody who wants to can read all of the relevant provisions. Basically, the agreement is this: That fishing, commercial fishing, outside of Glacier Bay is fine.

It is fine. Even fishing next to the boundaries of Glacier Bay is fine. A commercial fishery within Glacier Bay was to have certain restrictions because there was a conflict between the national park values within Glacier Bay—for example, wilderness areas within Glacier Bay—and commercial fishing interests within Glacier Bay.

So we worked out an agreement—the White House and Senator STEVENS, the chairman of the Appropriations Committee—worked out an agreement, of which I read part. Other parts of the agreement are not quite as relevant as the parts I read. That is the essential nature of the agreement.

We have debated this before. This is not new. I stood on this floor several hours, with other Senators, debating other environmental riders. Izembek was an environmental rider; now we have Glacier Bay, another environmental rider. After several hours of debate on the Senate floor, we concluded debate because the Interior appropriations bill never came up. It was withdrawn. It was then subsumed into the large omnibus appropriations bill with the agreement that I just outlined between the White House and the senior Senator from Alaska.

Now, here we are all over again; same issue, same subject; nothing new.

I say to my colleagues, we have discussed this. We have debated it. We have reached an agreement on this issue. We are here now on the supplemental appropriations bill. We want to get this bill passed today so we can send it over to the other body and have a conference, come back, and be through with the supplemental appropriations this week.

Why prolong the Senate on an amendment which has already been debated, an amendment which has already been agreed to, in the sense that a compromise was worked out that recognized both the National Park interests and the wilderness interests—which, after all, are American interests—in Glacier Bay on the one hand, with the fishing interests and particularly the indigenous interests on the other hand?

I say to my colleagues, we are hearing this argument all over again. We have an agreement. Essentially, what the amendment by the Senator from Alaska provides is to rescind that agreement. That is what the amendment does, rescind it. It is couched a little bit by saying rescind it and tell the State that it will be rescinded until the State of Alaska has resolved its lawsuit with the Federal Government—but we don't know when that will be; some lawsuits go on forever with appeals and so forth. It is essentially a recision of the agreement that we already agreed to.

The State of Alaska and the Department of Interior are now engaging in discussions as to what the management plan at Glacier Bay should be. Those are ongoing discussions. To override the agreement we have reached just because a couple weeks ago we heard that the State of Alaska intends to file a lawsuit—a suit which may or may not occur, a suit which may last for years; who knows if it will ever be finally terminated—and for us to then stop an agreement on that basis, I think, does not make a lot of sense, frankly.

I think it makes much more sense—and this is a bit presumptuous on my part—for the State of Alaska to, in good faith, sit down with the Department of Interior and see if they can work out any remaining issues. Certainly filing a lawsuit raises questions as to how feasible an agreement is, whether one can be reached. I say don't file the suit. Sit down with the Department of Interior and try to work it out. If in good faith the State of Alaska believes the Department of Interior is not acting in good faith, then we will see what we can work out at that point. We are not at that point. We are certainly not at that point when a lawsuit has been filed by the State of Alaska which only muddies the waters—no pun intended—on this whole issue.

I am not going to go into all the details of this because we have gone over it so many times and in so many hours, except to say this has been debated, this very subject. This is one of those environmental riders which, incredibly, has popped up again. We have reached an agreement; the White House and the senior Senator from Alaska reached an agreement. I say abide by the agreement, try to make that work. If it doesn't work, then we will see if we can resolve it later.

We all understand the Senator from Alaska is here standing up for the people at Glacier Bay, and I understand that. However, there is an agreement worked out in the omnibus appropriations bill. I say let's stand by that agreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I reiterate some of the points that the Senator from Montana just made. I don't think anybody will dispute this. The facts are as follows: In last year's Interior appropriations bill, there was a provision prohibiting the Secretary of Interior from promulgating regulations affecting commercial or subsistence fishing in Glacier Bay. As the Senator from Montana said, first of all, the Department of Interior found that provision objectionable in the appropriations bill, so they worked out with the senior Senator from Alaska a compromise that was included in the omnibus appropriations bill.

In other words, this is ''deja vu all over again.'' We have been down this road. We reached a compromise, a compromise between Alaska and the Department of Interior. I really have great difficulty understanding why we are revisiting this 6 months later. I guess it isn't quite 6 months.

What did the compromise do? It required the Secretary of the Interior and the State of Alaska to develop a management plan, and the Senator from Montana has just referred to that. The management plan would allow commercial fishing in the waters outside Glacier Bay and it would regulate a closed fishery within the bay. The compromise consists of this management plan. They are going to work on it together.

In addition, shortly after that, in the supplemental appropriations bill, there

is an increase in compensation to the fishermen as a result of the compromise. In other words, the fishermen are receiving more money as a result of the compromise—the Federal Government is paying out money. We are doing our part of the bargain.

I hope that the Senator from Alaska, Senator MURKOWSKI, will not press this amendment. There is, as I say, the groundwork for a management plan and the State of Alaska has filed notice of an intent to sue within the past 2 weeks. They are in that suit; they are going to claim ownership over the submerged lands.

If they don't like the management plan that they work out, then they can go back to their suit. But I don't think we ought to be here debating this all over again just after we reopen everything. Can't we arrive at any conclusions around this place?

As I say, less than 6 months ago a deal was reached with the senior Senator from Alaska. My question to the chairman of the Energy Committee is, Why don't we stick with that agreement? Indeed, as I mentioned before, the Alaska fishermen have benefited from it because there have been payments to them pursuant to the compromise that was worked out.

Let me say I can totally understand the enthusiasm of the Senator from Alaska to get more. We all like more. It seems to me at some point we have to reach closure on these things. Indeed, as both of us have mentioned and referred to the compromise that seemed to settle this, the issues were exactly the same.

Mr. MURKOWSKI. If I may respond to my friend from Rhode Island, I think he is confusing or misinterpreting the intent of our amendment.

If one examines the amendment closely, there is a recognition of the deal that was made last year. That recognition is in line 5 where it says,

> . . . except the closure of Dungeness crab fisheries under Section 123(b) of the Department of Interior and Related Agencies.

We are abiding by that arrangement that was made and we are not changing that.

The crab fishermen, I might add, would much rather fish than be paid by the Federal Government not to fish. They are, in fact, being eliminated from their fishery in that particular part of Glacier Bay.

To suggest that we are changing the deal is, in fact, totally inaccurate and, again, is a misinterpretation.

I hope that my distinguished colleague will recognize that, indeed, there is a difference. First of all, the crab fishermen have not been paid one red cent by the Federal Government. They will, hopefully, be paid, but that has not occurred yet. We are talking about the balance of the fishery, which amounts to some bottom fish and some halibut.

We are also talking about something that is more important, which really, I say to the Senator from Rhode Island, is overlooked: What is the value of the subsistence to the dependent Native people who are being kicked out and eliminated? They are not receiving any remuneration or being taken care of in any deal. Would that be just, I ask my friend from Rhode Island, if it were his State? Would it be right if the indigenous people could no longer gather sea gull eggs when they don't have chickens? I mean that in a literal sense because, as the Senator is well aware, we don't have any chickens up there; it is too wet, too cold. They rely on a few sea gull eggs, and they have always been allowed to do that, for generation after generation. Is that justice?

Mr. CHAFEE. Mr. President, in last year's appropriations bill, there was language that went beyond the crabbers. It included a provision prohibiting the Secretary of the Interior from promulgating regulations affecting commercial or subsistence fishing. So that was the provision in last year's bill. The Department of the Interior found those, as I mentioned, provisions objectionable, so they worked out a compromise. The compromise was meant to cover the entire rider that was involved. It wasn't meant to settle the deal.

Mr. MURKOWSKI. That isn't what the amendment says.

Mr. CHAFEE. Which amendment?

Mr. MURKOWSKI. It eliminates the crab fishery. That was the arrangement made last year. Those fishermen are to be given remuneration for not fishing by the Federal Government. They would much rather fish.

Mr. CHAFEE. In other words, you exclude them?

Mr. MURKOWSKI. They are excluded, yes. That is the only agreement that has been made and binding for remuneration.

Mr. CHAFEE. There may not be provisions for remuneration, but the provisions that you originally had last year in your rider were encompassed within the deal with Senator STEVENS, and so the matter was settled as far as everybody goes, plus the admonition—I guess you can call it that—that they would reach this management plan—I don't know what has become of that—but also the State of Alaska proceeded to file suit in this thing anyway.

So it seems to me that what you are proposing here is to undo something that was agreed to last year—not just in connection with the crabbers, which you mentioned, but with the total package that you had in your rider last year. And so it was settled, it seemed to me. That is all I have to say.

Mr. MURKOWSKI. Well, Mr. President, perhaps I can enlighten my colleagues a little bit. I would be prepared to respond to questions. He refers to waiting for a management plan from the Park Service. We have that management plan, Mr. President. That management plan is quite explicit. It is to close the commercial activities associated with fishing. I encourage my colleague to recognize it for what it is. If you look at this picture, this is commercial fishing activity. They don't want commercialization of the park. I don't see my friends from Montana or Rhode Island commenting about this commercial activity, where 2,000 people are aboard this ship. That is a commercial activity. They are paying to come into Glacier Bay.

The management plan is a management dictate by the Department of the Interior to kick out the fishermen and to eliminate the Native people from Hoonah, Elfin Cove, and so on. There is not an awful lot of affection for the Park Service, which I think my friend from Montana, who knows something about rural America, understands when the Federal Government just comes in through a process of osmosis and dictates more and more attention.

Now, we have not changed this deal. Last year's deal eliminates the Dungeness crab for compensation. It is in the amendment. The other fisheries inside the bay were proposed to be closed—and this is what I think he is referring to—after one generation without compensation. They don't have any compensation. So basically, when you suggest that the State and Federal Government can work together on some kind of a management resolve, the Federal Government has spoken. It is kicking them out.

The Federal Government maintains that it has jurisdiction over the inland waters. The State has seen fit to indicate that it is going to file suit to determine who has jurisdiction. Make no mistake about it, Mr. President, the Federal Government and Department of the Interior has a philosophy of creeping bureaucracy where they extend their jurisdiction; and they can do it if the State is not successful in resolving its suit. They have jurisdiction 3 miles out from Federal land. Believe me, it is just a matter of time before they come around for Bartlett Cove and go out to Cape Spencer and north from Cape Spencer up toward Yakutat.

So we are accepting the Dungeness crab deal. But there is no justification for more—and I implore my colleagues to recognize this. Let the courts decide it, but for goodness sake, in the meantime, allow the Native people to continue what they have been doing for thousands of years; allow the limited commercial fishery to continue until such time as the court gets it resolved.

I would love to compromise on this, but there is no compromise with the Park Service. They want to eliminate the fisheries. The State has brought suit. That is what is new and different about this. My colleagues fail to recognize that the State is saying, OK, it is time to settle the jurisdiction issue. We have tried to negotiate and work out with the Park Service a management plan that would allow the State to continue to manage it. What does the Park Service know about managing fisheries? They have no biologists. The State of Alaska spends more than any other State on fishery biology; we are

good at it. That is why we have fish. To suggest that the Park Service should enter into an process to generate expertise in this area is unreasonable, impractical and, finally, unnecessary.

We have nothing but creeping advancement by the Department of the Interior within our State because we are a public land State. But it is time that the people of Alaska express their views, and they have expressed their views through the Governor's announcement of the suit.

Again, it is not the same as 6 months ago. The lawsuit changes that. The omnibus bill, in spite of what my colleagues from Montana and Rhode Island have said, was not ever considered satisfactory; it was only considered to delay more sweeping closures. To suggest that this matter has been debated on this floor is totally inaccurate. It has not been debated before. This is to allow the judicial process to be completed, and that is what the suit is all about.

Again, in the interest of fairness, Mr. President, why does the Park Service say it is OK to commercially fish in Maryland, in Assateague; in Florida, Biscayne; in the Virgin Islands, Buck Island; in Canaveral, Florida; in Cape Hatteras, North Carolina; in Channel Islands, California; in Fire Island, New York; in Gulf Island, Alabama and Florida, on and on and on. But it is not OK anymore here. Here you have an added dimension. You have the people—the few hundred people who are dependent on Glacier Bay for a subsistence lifestyle and a small amount of commercial fishing.

We are not reneging on any deal, we are merely keeping people working—keeping people working, keeping people employed, keeping people productive while the jurisdictional issue is decided. What in the world is wrong with that? The courts are going to make this decision. But, for goodness' sake, let the people who are dependent on it for their lifestyle and their traditions continue.

Mr. President, I have gone on long enough. If there are some questions of my friend from Montana, I would be happy to answer.

Mr. BAUCUS. Mr. President, I have a few brief questions, if I might. The question is, Has the State of Alaska filed a lawsuit?

Mr. MURKOWSKI. No. As I indicated, the State indicated its intent to file a lawsuit and will be filing it late this summer or early this fall.

Mr. BAUCUS. Assuming they will file late this summer, or early this fall, on this issue, how long might that lawsuit be pending?

Mr. MURKOWSKI. I am sure the Senator from Montana would agree that neither he nor I has any idea. The point is, these people have had access to the park for thousands of years. And what difference does 6 months or a year make?

Mr. BAUCUS. Might that lawsuit conceivably take a couple, or 5, or 10 years before it is resolved? Is that possible?

Mr. MURKOWSKI. I hope it will not. I hope it will be very short.

Mr. BAUCUS. But it is possible.

Mr. MURKOWSKI. I don't know. We have had access since we became a State in 1959 and the Federal Government always recognized the state's management. They have technically allowed this to go on since 1959. Suddenly, under this administration, they are kicking us out.

So I don't know what a year, or 2, or 3, necessarily has to do with it. The point is, it is going to be resolved. If the State loses, it is all over.

Mr. President, let me conclude by explaining why it is important for the Senate to address this issue. Again, we should not put people on public assistance without a cause. That is what we are doing here with these subsistence dependents. We shouldn't second-guess the court. Let the court decide, and recognize that there are real people out there—real constituents of mine and yours—whose lives and livelihoods are really at risk, and they are looking to you and me for relief. This is all they have.

So I implore my colleagues to recognize the legitimacy of this.

It will be my intention, Mr. President, at the appropriate time, to ask for the yeas and nays, subject to whatever the joint leadership decides to do about future votes. But I will ask for a vote on the amendment.

I thank the Chair.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will be very brief. I don't know why this issue needs to go on forever. It is deja vu all over again.

The Senator from Alaska has admitted that his amendment has the effect of preventing the management plan from going into effect for years—5, 10, who knows how many years—because his amendment essentially says no funds may be expended by the Secretary of Interior to implement the plan until such time as the State of Alaska's legal claim over ownership and jurisdiction, et cetera, is resolved. Who knows how long that is going to take? That could take a long, long time. That would mean for up to many, many years that this issue remains unresolved.

We resolved this issue in the omnibus appropriations bill. It was resolved. The senior Senator from Alaska agreed with the White House on the compromise, recognizing, on the one hand, the interests of the national park and the wilderness area and, on the other hand, the fishing interests of the people who live in and about Glacier Bay. It has already been agreed to. There is a compromise agreed to by both sides—the Senator from Alaska, the senior Senator, Senator STEVENS, and the White House—in the omnibus appropriations bill. It has been agreed to.

So here we are now faced with an amendment which undoes that agreement. It very simply undoes that agreement by saying no funds may be expended with respect to any management plan in Glacier Bay until a lawsuit, not yet filed, is resolved. I say that we should go ahead with the plan. We should go ahead with working out the provisions of the plan. The State of Alaska can still file its lawsuit if it wants to. And that lawsuit may or may not change the result.

In addition, I might add, this is a national park. This is a wilderness area. This has very pristine values which all Americans want to protect. We do at the same time want to recognize—and do recognize—the interests of the fishermen in Glacier Bay; thus, the compromise. The compromise, the agreement, is already reached. It has been debated ad nauseam. So I am going to stop right here.

I urge the Senate to uphold the original agreement, which most Senators already agreed to when they voted for the omnibus appropriations bill last year.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I urge all of my colleagues to read my amendment and recognize the consideration that has been made to live by the agreement by recognizing that the closure of a Dungeness fishery under this section will occur as agreed to, and the balance of the fisheries have never been addressed on this floor or debated.

I conclude by referring to one remark, which my friend made concerning this beautiful wilderness and the opposition of commercial activity. Just look at this cruise ship with nearly 3,000 people on it, if you want to see the commercial activity and compare that to the sensitivity of my subsistence-dependent Native people whose lives are at risk as a consequence of not having an opportunity to pursue their traditional resources and their appeal to you and me for relief.

I have no further statements. I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside so that I may take up an amendment which I believe has been or will be cleared on both sides.

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

AMENDMENT NO. 131

(Purpose: To authorize payments in settlement of claims for deaths arising from the accident involving a United States Marine Corps A–6 aircraft on February 3, 1998, near Cavalese, Italy)

Mr. ROBB. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. ROBB), for himself, Ms. SNOWE, Mr. LEAHY, Mr. BINGAMAN, Mrs. FEINSTEIN, and Mr. KERREY proposes an amendment numbered 131.

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

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

The amendment is as follows:

On page 27, between lines 11 and 12, insert the following:

SEC. 203. (a) AUTHORITY TO MAKE PAYMENTS.—Subject to the provisions of this section, the Secretary of Defense is authorized to make payments for the settlement of the claims arising from the deaths caused by the accident involving a United States Marine Corps EA–6B aircraft on February 3, 1998, near Cavalese, Italy.

(b) DEADLINE FOR EXERCISE OF AUTHORITY.—The Secretary shall make the decision to exercise the authority in subsection (a) not later than 90 days after the date of enactment of this Act.

(c) SOURCE OF PAYMENTS.—Notwithstanding any other provision of law, of the amounts appropriated or otherwise made available for the Department of Navy for operation and maintenance for fiscal year 1999 or other unexpended balances from prior years, the Secretary shall make available $40 million only for emergency and extraordinary expenses associated with the settlement of the claims arising from the accident described in subsection (a).

(d) AMOUNT OF PAYMENT.—The amount of the payment under this section in settlement of the claims arising from the death of any person associated with the accident described in subsection (a) may not exceed $2,000,000.

(e) TREATMENT OF PAYMENTS.—Any amount paid to a person under this section is intended to supplement any amount subsequently determined to be payable to the person under section 127 or chapter 163 of title 10, United States Code, or any other provision of law for administrative settlement of claims against the United States with respect to damages arising from the accident described in subsection (a).

(f) CONSTRUCTION.—The payment of an amount under this section may not be considered to constitute a statement of legal liability on the part of the United States or otherwise as evidence of any material fact in any judicial proceeding or investigation arising from the accident described in subsection (a).

Mr. ROBB. Mr. President, I rise today not only in my capacity as a U.S. Senator but also as a former U.S. Marine and as a father.

Along with Senators SNOWE, LEAHY, FEINSTEIN, KERREY, BINGAMAN, and others, I am offering an amendment that will permit the United States to shoulder unambiguously its responsibility, uphold the honor of the U.S. military, both at home and abroad, and begin to ease the grieving of 20 families who lost their loved ones in a tragic accident near Cavalese, Italy, last year.

On February 3, 1998, a U.S. Marine Corps EA–6B Prowler was flying low and fast through the Italian Alps on a training mission. Just minutes from its scheduled return to base, the pilot suddenly caught a glimpse of a yellow gondola off to his right at eye level.

A split second later, he spotted the two cables that carried the gondola, and, fearing for his life, he put the plane into a dive. His action probably saved the lives of the four-member crew, but it was not enough to prevent the wingtip from clipping the cables.

Unaware of the devastation left in his wake, he completed his mission and returned the damaged plane to Aviano Air Base.

The plane's wing had stretched and then snapped the cables supporting the gondola, which was then 307 feet above the valley floor. Inside were 20 people; among them, a Polish mother and her 14-year-old boy, seven German friends, and five Belgian friends, including an engaged couple.

I am told that those 20 people had just 8 seconds to live from the time the cable was struck. Eight seconds doesn't seem like a long time, unless you know you are going to die.

[Pause.]

That was eight seconds. The next day in Cavalese, Italy, a lone bell tolled. Shops ''closed for mourning,'' a memorial mass was planned and skiing was halted out of respect for the dead. And the families of those dead spent their first day of grief.

One year later, Cavalese is once again teeming with tourists. The cable car has been rebuilt, and a memorial stone erected.

One year later, however, the United States has not yet acted to accept full responsibility for those twenty deaths. Following a lengthy court martial, the pilot of the jet was acquitted of any criminal wrongdoing. President Clinton reacted by stating that the United States would ''unambiguously shoulder the responsibility for what happened.'' We need to follow those words with deeds. We need to accept our responsibility by compensating the families of the victims, quickly and fairly. While many factors contributed to this accident, and we may never know exactly which one was the proximate cause, we do know that it was our fault. They were our air crew. It was our plane.

Because there is no question whether the United States is responsible for the accident, the only question is whether we have the will to act honorably and settle the issue of compensating the families quickly—doing everything we can to not prolong their agony—for they have already suffered unspeakable grief.

Since last summer, I have repeatedly urged the Department of Defense to develop a mechanism that acknowledges our responsibility and allows the families to begin putting their lives back together. And I believe every official in the Department associated with this matter shares this desire to put the tragedy behind us. Unfortunately, the Department of Defense does not believe it has the authority to resolve these claims on its own.

This belief stems from the Department's conclusion that this case is governed solely by the Status of Forces Agreement, or SOFA, which regulates the relationship among the military forces of NATO allies. Following an accident in a host country involving a NATO ally, the SOFA requires injured third parties to file claims in the host country and pursue them as if the host country itself had caused the injury. Then, the claims are litigated or settled as the host country determines. Once a level of compensation is decided, the host country pays the claim and seeks reimbursement of 75% of that claim from the country at fault.

The Department of Defense has informed me of its belief that the SOFA provides the sole remedy in this case and that therefore the DoD does not have the authority to settle the claims of the families arising from this accident.

While I disagree with that conclusion, this amendment resolves the question. My amendment specifically grants the Department the authority they believe they presently lack, rather than forcing the families to wait to resolve this question in a judicial process that could take many years. The amendment allows the Secretary to settle the claims and sets aside $40 million for that sole purpose. It leaves to the Secretary the discretion to determine an amount of compensation, but limits the Secretary to offering no more than $2 million for any single claim. Further, it requires the Secretary to move quickly and resolve the claims within 90 days after enactment of this legislation. Finally, my amendment explicitly avoids interfering with the ongoing SOFA process.

This is an important point. The SOFA allows civil claims to be decided in the host country but criminal allegations to be decided in the country at fault. This structure protects local citizens in the host country from having civil claims decided on the ''home turf'' of the wrong-doer, while also protecting our troops from criminal prosecutions in another nation. Some have suggested that if we adopt this amendment, we put at risk this entire structure of the SOFA. I fail to see the logic of this assertion. I doubt any country would move to scrap the SOFA and begin trying members of our military in their courts simply because we offered a supplemental payment to own up to our responsibility for a tragic accident. In fact, I believe such an act of acknowledgment would have just the opposite effect, and reduce the tensions that the acquittal in this case have created. My belief is based in part on the fact that three of our NATO allies who lost citizens in this accident support this amendment. In fact, the ambassador from Belgium wrote to me that his country ''would welcome each initiative that might contribute to a quick settlement of the claims of the victims' families. In that spirit, we fully support your proposed amendment to S. 544, the Emergency Supplemental Appropriations Act, and hope that your proposal will gain the necessary support in the U.S. Senate.'' He goes on to state his belief that this

''legislative initiative is not incompatible with the SOFA-procedure.'' The German and Polish governments share this view.

I've been sensitive to the concerns of the Department of Defense regarding the importance of the SOFA, which is why the amendment speaks in terms of supplementing the SOFA, not displacing it. The SOFA has worked well for over forty years and I have no intention of disrupting that process with this amendment.

But we also need to consider the purpose of that process. In 1953, when the Senate Committee on Foreign Relations was considering the SOFA, they wrote that the structure of the claims process was ''calculated to reduce to a minimum the friction that almost inevitably arises from [injuries caused by members of a foreign military] against members of the local population.'' In this case, however, I believe blind adherence to the perceived requirements of the SOFA is causing friction with our NATO allies, not reducing it.

The procedures established in the SOFA are designed to do justice. In this case, under these circumstances, justice is best served by having the United States take responsibility for the harm we've caused.

Last July, the Senate adopted unanimously a Sense of the Senate I offered stating that ''the United States, in order to maintain its credibility and honor amongst its allies and all nations of the world, should make prompt reparations for an accident clearly caused by United States military aircraft'' and that ''without our prompt action, these families will continue to suffer financial agonies, our credibility in the European community continues to suffer, and our own citizens remain puzzled and angered by our lack of accountability.''

Since last July, each of our predictions have sadly been realized. Our allies, especially Italy where we have strategically important basing agreements, are outraged by our lack of accountability. They feel angry and betrayed. Americans everywhere cannot understand why we don't act to accept responsibility for the deaths of these 20 people. Editorial writers from the New York Times to the San Francisco Chronicle, the Cleveland Plain Dealer to the Atlanta Constitution have called for prompt and adequate compensation to the families of those who were killed.

Finally, I have met with many of the family members. Some have been pushed nearly into poverty, having lost their primary means of financial support. Last September, I met with three of the Belgian families, as well as the Polish doctor who would have been in the gondola with his wife and son if he had not strained a leg muscle and decided not to take the final run of the day. Last Thursday, I met with families of the German victims.

Having met personally with the families, I can tell you they are not angry with the United States, but they don't understand. They are grieving, but they are not greedy. They want accountability, but they are not vindictive. They simply want someone to be held responsible for the deaths of their children, their husbands, their wives.

That is what my amendment is about—responsibility. It is not about money. Compensation is no substitute for the companionship of a lost loved one. By resolving these cases now, however, the United States can clearly and unambiguously acknowledge its undeniable culpability in the deaths of these twenty people, something the families have so far sought without success.

In speaking with the families following the first court-martial, I have been struck by a single seemingly incomprehensible fact regarding its outcome. They were not so much determined that the pilot spend his life in jail. They simply sought closure on the question of who was responsible for the deaths of their loved ones so they could begin to cope with the loss. They also wanted the chance, at sentencing if it had come to that, to talk about those who had died. I invited them to do that when I met with them. As they described their children, I thought of my own. Last week, I asked the mother of one of the victims if she had a picture. She removed the locket from around her neck, with the photos of her dead son and his wife she keeps near her heart.

The Belgian families also shared pictures with me last September. I wanted to show those to you. Stefan, aged 28, shown here with his mother; and Hadewich, aged 24; and Rose-Marie, also aged 24. In an interview late last year, Rose-Marie's father said he drove by the graveyard every day, and said hello to his daughter. He explained why he did this: ''It's easy. We have lost our daughter, but she is still a little bit alive there. To say hello to her is a way for me to ease the stress a little bit. And it is also a tribute to her. I say: Rose-Marie, you gave us so much love and joy, I am trying to give it back to you as much as possible.''

Mr. President, I urge my colleagues to support this amendment and set aside $40 million for these families. To put that into some perspective, the plane involved in this accident cost some $60 million, and fortunately for us neither the plane nor the crew were lost.

In the Defense Appropriations bill last year, the Congress set aside $20 million to enable the town to rebuild its gondola, a project which has cost nearly $18 million to date. In fact, my amendment is modeled after Section 8114 of the bill we adopted last year, which set aside the $20 million from the Department of the Navy's Operation and Maintenance account to pay for ''property damages resulting from the accident.'' The President has acknowledged that our willingness to set aside these funds has helped ''speed the economic recovery process'' of the town.

Here is a picture of that new gondola. Last year, the Congress passed an amendment to help rebuild the gondola our aircraft destroyed. This year, the Congress should pass an amendment to help rebuild the lives of the loved ones our aircraft destroyed. Let us show the world we care as much about loss of life as we do about loss of property.

I urge adoption of my amendment. The honor of the United States is at stake.

I yield the floor.

Ms. SNOWE. Mr. President, I rise as an enthusiastic co-sponsor of the Robb amendment to the fiscal year 1999 emergency supplemental appropriations bill.

By giving the Secretary of Defense the discretionary authority to compensate the families of the 20 victims of the tragic Marine Corps aircraft accident near Cavalese, Italy last Winter, Congress would close a moral gap between the United States and millions of grieving citizens in our allied countries.

The victims of the Cavalese accident came from six European countries, and the depth of this tragedy has led Secretary Cohen to appoint a panel under the leadership of retired Adm. Joseph Prueher to determine whether faulty training, mapping, or equipment malfunctions contributed to the plane's severing of a ski resort cable that led to the 20 innocent deaths.

Depending on the findings of the Prueher Commission, the judgment of Secretary Cohen, and the outcome of ongoing U.S. military litigation regarding the Cavalese incident, our amendment gives the Pentagon the flexibility to provide direct cash payments of up to $2 million per victim to the families of the deceased.

Under the Status of Forces Agreement, or SOFA, between the United States and each of its NATO Allies, we have already repaid the $60,000-per-victim amount given to the families by the Italian Government. In addition, the administration has agreed to furnish up to 75 percent of any wrongful death civil suit damages awarded to the families by the Italian courts.

But SOFA culpability applies only to the negligent acts of U.S. military personnel operating on the territory of an allied nation. The agreement does not apply to reckless activities that occur on U.S. territory but contribute to the causes of an accident overseas.

These possible activities in the Cavalese case, such as reliance on an insufficiently detailed map, a potentially malfunctioning aircraft altimeter, or inadequate pilot training, remain unresolved. But if conclusive findings show that developments on American soil had a relationship with the tragedy of Cavalese, SOFA would prohibit the United States from offering any further compensation to the families of the victims. In the meantime, the Italian litigation could end

inconclusively and continue for several years.

Beyond our moral obligation on this matter, Mr. President, we have strong legislative precedents for the Robb amendment. The fiscal year 1999 Defense appropriations bill set aside $20 million for the property damage that the military plane caused at the resort.

In addition, the Senate unanimously adopted a resolution last summer calling for the United States to resolve the claims of the Cavalese victims ''as quickly and fairly as possible.''

Finally, this new funding would require no offsets, and the Congressional Budget Office has certified the Robb amendment as revenue-neutral.

Congress, Mr. President, acted wisely last year in compensating the Italians for the physical damage done at the ski resort. It should take similar action today to provide the Defense Department with legal authority for the compensation of the families who lost their loved ones in this tragedy.

I therefore urge all of my colleagues to support this amendment on a strong bipartisan basis.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from Virginia for his courtesy in working with us to try to assure that the provisions regarding the timeframe for decision by the Secretary were not a mandate but, rather, a period of time within which the discretion conferred on the Secretary must be made. Under the circumstances of the changed form of this amendment that the Senator has now presented, one which I find we are all very sympathetic to, I am prepared now to accept this amendment and ask that the Senate allow this amendment to go forward.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. ROBB. Mr. President, I thank the Senator from Alaska for his effort to resolve this so that we can go forward. I very much appreciate that. We have been working with the Department of Defense and many others, but I particularly appreciate his willingness to accept the amendment at this point.

I have no additional debate, and I yield the floor.

Mr. STEVENS. Mr. President, I know this part of Italy. I know what the Senator is trying to do. I think there is a national obligation on our part to try to reach out as much as we possibly can under the circumstances. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to, and the motion to reconsider is laid upon the table.

The amendment (No. 131) was agreed to.

AMENDMENT NO. 130

Mr. STEVENS. Mr. President, if I may, in connection with the debate that just took place involving my colleague, Senator MURKOWSKI, I would like to point out the statement that I made on October 21 of last year in connection with the proposal that was in the conference report regarding Glacier Bay commercial fishing. I made this statement about matters the way that we finally arranged them in that bill and the provision that was passed at my suggestion. I said:

> I view this compromise as an insurance policy, a safety net that offers better protection to Glacier Bay's fishermen than was offered by the draft Park Service regulations, but I do not view it as the end of the story. There are provisions that I do not like.

For that reason, I have cosponsored Senator MURKOWSKI's amendment this year.

I yield the floor.

Mr. BINGAMAN. Mr. President, I want to speak briefly about the amendment that Senator STEVENS just referred to. Senator MURKOWSKI's amendment related to Glacier Bay. Senator MURKOWSKI's amendment would prohibit the Secretary of Interior from expending any funds to implement closures or other restrictions of subsistence or commercial fishing or subsistence gathering within Glacier Bay National Park. This prohibition would continue under the language of the amendment. The prohibition would continue until the State of Alaska's claim to jurisdiction over ownership of the submerged lands in Glacier Bay were resolved, either by a final determination by the judiciary or by a settlement between the parties.

The amendment, as I understand it, would undo a compromise that Senator STEVENS entered into last year with Secretary Babbitt. Certainly it was understood by the Secretary of Interior as a compromise on last year's appropriation bill. In addition, Senator STEVENS has already included an amendment earlier this week in the supplemental appropriation bill which provides additional money to buy out commercial crabbing operations in Glacier Bay.

The issue of regulating commercial fishing in Glacier Bay is an extremely contentious issue. There were attempts in the last Congress to include an appropriations amendment that would have prohibited the Park Service from enforcing restrictions on commercial fishing in Glacier Bay National Park. The amendment was strongly opposed by the administration. The Secretary of Interior indicated that he would recommend the President veto the bill if the amendment was included. I have been informed that the Secretary of Interior will, if this amendment is included in the final version of this bill going to him, again recommend a veto.

The provision that was finally agreed upon last year between Secretary Babbitt and the Senator from Alaska, I understood, resolved the issue and provided the Park Service and commercial fishing operators with certainty as to future fishing operations in the park. If this current amendment is adopted, that certainty, of course, will be disrupted.

The amendment that is being offered this year would make major policy changes in the management of Glacier Bay. These changes should not be considered as part of this emergency spending bill.

As I am sure we all know, Senator MURKOWSKI is chairman of the appropriate committee to consider this legislation. I serve as the ranking member of that committee. What we should do is consider this matter in a hearing before that committee before bringing it to the Senate floor.

The amendment states that no funds may be expended by the Secretary to implement closures or other restrictions of subsistence or commercial fishing or subsistence gathering in Glacier Bay National Park. This would mean that the Park Service would be completely unable to regulate commercial fishing operations within the park.

The amendment would appear to override wildlife and resource protections required by other laws, including the Endangered Species Act. For example, fishing is currently prohibited for four fish species which provide critical food resources for the endangered humpback whale. No other park in the country is prohibited from protecting its resources as this amendment would prohibit this park from protecting its resources.

The amendment states that the funding and enforcement prohibition is to remain in effect until the claim of jurisdiction of the State of Alaska claim ''has been resolved either by a final determination of the judiciary or by settlement.''

Last week, the State of Alaska filed a notice of intent to file a lawsuit, but it should be clear to all here, everyone should understand that there has not been a suit filed yet.

The amendment that has been offered would prohibit the Park Service from taking any actions to protect any of its resources from commercial or subsistence fishing or from subsistence gathering for the entire time period that this future lawsuit might be litigated.

Senator MURKOWSKI is claiming that the amendment simply allows local Native communities to gather seagull eggs from the park. However, unlike some other parks in Alaska, subsistence is not an authorized use in this park. If these types of fundamental changes to the Alaska National Interest Lands Conservation Act are required, then it should be considered in the normal legislative process. This is not simply a Native issue. The amendment would allow all Alaskans to collect plant and wildlife resources in the park and with the Park Service unable to regulate any of these activities.

In short, Mr. President, this amendment makes far-reaching policy changes in the law that applies to this particular national park. It is contrary to the policy that applies in all other national parks. It is contrary to the action we took last year, and it is one which I am constrained to oppose.

I hope the Senate will not adopt this amendment as part of the bill. If it is adopted, I am advised that the Secretary of the Interior will urge the President to veto the bill.

Mr. President, I yield the floor, and 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. BAUCUS. 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. BAUCUS. Mr. President, I see the Senator from Alaska on the floor. I am about to move to table the MURKOWSKI amendment and to give the Senator notice as to when he may or may not want to vote on this.

Mr. STEVENS. Mr. President, will the Senator withhold that? I understand my colleague would like to respond briefly before that motion is made. If the Senator will accord him that courtesy, I will appreciate it.

Mr. BAUCUS. Fine.

Mr. NICKLES. Mr. President, in 1995, the Department of Defense agreed to evaluate a British missile, the Starstreak, for use as a helicopter borne air-to-air missile as an inducement to the British Ministry of Defence to choose the U.S. Army Apache Longbow helicopter as its own attack helicopter over a competing European candidate. The British did indeed agree to buy the Apache.

Increasingly, military helicopters are being outfitted with air-to-air missiles that increase their lethality, a development that began with the Russian HIND helicopter. According to the Army Air to Air Mission Need Statement, the proliferation of technology available on the open market will make it likely that U.S. forces will encounter threat helicopters, fixed-wing aircraft, lethal unmanned aerial vehicles and cruise missiles. The Army believes the probability is increasing that Army helicopters will encounter an airborne threat and recognizes that Army helicopters need an improved air-to-air capability to counter that threat.

This is why the Congress has been directing the Army to fulfill its commitment to the British Ministry of Defence and its own air-to-air needs by conducting an operational test and evaluation of the Starstreak through a live fire side-by-side shoot-off of the Starsteak and the Army's preferred alternative, the air-to-air Stinger.

Mr. President, at this time I would like to engage the chairman and ranking member of the Appropriations Committee in a colloquy along with my colleague from Oklahoma and the distinguished senior Senator from Vermont.

Mr. INHOFE. I thank my colleague from Oklahoma. He and I have worked together on this issue over the past several years. We proposed that the Appropriations Committee address the issue of an operational test and evaluation in its bill and they did so after the Army failed to comply with report language that was included in the FY 1998 Defense Appropriations Conference Report. To me, it is clear that the Congress directed the Army, in bill language in Title IV of the FY 1999 Defense Appropriations Act, to begin the development of a test and evaluation plan during this fiscal year using the $15 million provided in Title IV as well as to commence work integrating the two candidate missiles on an AH–64D helicopter; and that the money could be used for no other purpose. Does the distinguished Chairman agree with me?

Mr. STEVENS. I do.

Mr. LEAHY. As a member of the Defense Appropriations Subcommittee, I am familiar with the Congress' involvement in this program and the specific provisions under discussion. The law requires that the Secretary of the Army make certain certifications concerning the missiles and the program prior to the conduct of the actual test. The required certifications must be made at the appropriate time, which is just prior to the actual live-firings. I understand that the requirement for these certifications has caused some confusion about what efforts the Army can take during Fiscal Year 1999. I believe the law is clear with respect to what the Army should be doing. The Army was directed to commence its efforts in Fiscal Year 1999. We believe that such efforts should include, at a minimum, development of a test plan and the letting of contracts, using the $15 million provided by the Appropriations Committee, to begin the systems integration work. Is this the Chairman's understanding also?

Mr. STEVENS. Yes it is.

Mr. INHOFE. I am very familiar with this issue and have discussed it at length with the Army. We expect that the Secretary of the Army will provide the requisite certifications at the appropriate time, which is just prior to the actual conduct of the live-fire tests. I know that in the case of Starstreak, the missile contractor must make certain modifications at its own expense in order to make the missile compatible for use at air speeds consistent with the normal operating limits of the Apache helicopter and consistent with the survivability of the aircraft. The missile contractor has briefed these fixes to the Army and informed the Army in writing that the fixes will be made at no expense to the United States. By the time the Army is ready to conduct actual live firings the Secretary will be able to make all the certifications required by law.

Mr. LEAHY. So, I ask the Chairman and Ranking Member of the Appropriations Committee, is there anything in the law to prevent the Army from releasing the FY 1999 funds and beginning the necessary efforts to conduct an operational test and evaluation?

Mr. STEVENS. No there is not.

Mr. BYRD. I have been listening to this colloquy. I agree with the Chairman, the Senator from Vermont as well as the distinguished Senator from Oklahoma.

Mr. LEAHY. I thank the Chairman and the Ranking Member.

TRANSFER OF SUPPLEMENTAL CDBG MONEY FROM HUD TO FEMA

Ms. SNOWE. Mr. President, I rise to engage the Senator from Missouri, Mr. BOND, the Chairman of the VA/HUD Subcommittee, in a colloquy.

Senator BOND and I have been working, for over a year now, to see that Maine and the Northeast have their needs from the January 1998 Ice Storm which devastated much of New England and upstate New York addressed.

Mr. BOND. The Senator is correct, and I know that neither of us thought we would be here, almost a year later, still trying to ensure that adequate funding was provided to the Northeast, as we felt we had provided for that in the FY98 Supplemental.

Ms. SNOWE. The Senator from Missouri has been a real champion for my state of Maine in our efforts to ensure that the money this Senate appropriated went to alleviate some of the costs from the Ice Storm which could not be covered by FEMA.

Mr. BOND. I appreciate the Senator's kind words. I did a colloquy on the Senate floor last March on this issue with the then junior Senator from New York, Mr. D'Amato, outlining the funding needs of the Northeast. In that colloquy we discussed the fact that of the $250 million the Senate was appropriating for HUD's Community Development Block Grant Program (CDBG) , that $60 million was meant for Maine and the rest of the Northeast.

Ms. SNOWE. Of course in the conference the final funding figure was $130 million as the House had only appropriated $20 million.

Mr. BOND. Yes, the figure was smaller, but the fact remained that the Ice Storm, as the first big storm of the year, was the impetus for us to provide supplemental funding to the CDBG program to help Maine and other states cover the costs of the disaster where FEMA wasn't able to assist.

Ms. SNOWE. The FY98 Supplemental was signed into law on May 1. On November 6, the Department of Housing and Urban Development announced that it was giving Maine $2.1 million to address $80 million in unmet needs as reported by FEMA to HUD. Needless to say, this amount was wholly unacceptable, and I have been working with HUD to try and address this very serious situation, which has left Maine unable to fully address the costs of the disaster.

Mr. BOND. As the Senator and I have discussed, I also was dismayed at the treatment Maine and the other Northeast states received—the fact that the money was not provided until six months after the bill was enacted, and the fact that I have yet to receive an acceptable explanation from HUD as to

the funding formula used to allocate the money. The Northeast's experience is one of several reasons why the bill before us today transfers the money to FEMA.

Ms. SNOWE. At one point in Maine more than 80 percent of the people in the State were without power. In fact, as Vice President Gore explained it, during a visit to Maine on January 15, 1998 '' We've never seen anything like this. This is like a neutron bomb aimed at the power system.'' We asked for your assistance in obtaining money for the CDBG program because it would allow States to use the money for utility infrastructure costs, Maine's largest unmet need according to both FEMA, who listed it as first in their February 1998, ''Blueprint for Action'' and the Governor. With the transfer of the funding, will FEMA be able to provide funding for a State, like Maine, which wants to use the money to address the damage to the utility infrastructure in order to keep the utility rates—which are already the fourth highest in the country—from increasing to cover the storm costs?

Mr. BOND. The language will allow FEMA to assess and fund the States unmet needs, as determined by FEMA and the State.

Ms. SNOWE. Again, I wish to thank the Senator for his concern and hard work to help close this chapter in Maine's Ice Storm Disaster. I look forward to continuing to work with you, Mr. Chairman, HUD, and FEMA to ensure that Maine's disaster needs are finally addressed.

Mr. McCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth this legislation. This measure provides much-needed federal funding for foreign assistance, and recovery from the recent plague of natural disasters that have hammered many parts of the United States and its neighboring countries in recent months.

Mr. President, I am glad that the Appropriations Committee decided to reject the President's designation of this entire disaster supplemental appropriations bill as ''emergency'' spending. While the need for relief is clear, I believe it is important to provide offsets for any additional spending so that we avoid dipping into the surplus that is desperately needed to shore up the Social Security system and provide meaningful tax relief to American families.

Unfortunately, although well-intentioned, the Committee did not succeed in fully offsetting the costs of this bill. In future years, hundreds of millions of dollars in spending resulting from this bill will eat into future surpluses, whether we want to account for it or not. The better course would have been to fully offset all of the new spending in this bill, rather than continue the dangerous practice of profligate ''emergency'' spending.

Speaking of profligate spending, I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this bill and its accompanying report. This year's bill originally contained $72.25 million in pork-barrel spending. But, as usual, we added pork on top of pork through a litany of amendments. To make matters worse, many of these amendments were adopted without ever being seen by most Senators. This time around, we added an additional $13 million of pork-barrel spending to this already pork-laden spending bill.

Projections of surpluses into the foreseeable future should not lead to an abandonment of fiscal discipline. CBO now projects a non-social security budget surplus of over $800 billion over the next 10 years, but projections do not equate to ''real'' dollars until they actually materialize.

While each individual earmark in this bill may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low-priority programs.

I have compiled a list of the numerous add-ons, earmarks, and special exemptions provided to individual projects in this bill, such as:

Earmark of $50,000 for a feasibility study and initial planning and design of an effective CD ROM product to the Center for Educational Technologies in Wheeling West Virginia. The CD ROM product would complement the book We the People: The Citizen and the Constitution.

$1,136,000 earmarked for suppression of western spruce budworm on the Yakama Indian Reservation, and

$1,000,000 for construction of the Pike's Peak Summit House in Colorado.

I ask unanimous consent that a list of objectionable provisions be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS CONTAINED IN S. 544—EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR RECOVERY FROM NATURAL DISASTERS AND FOREIGN ASSISTANCE FOR FISCAL YEAR ENDING SEPTEMBER 30, 1999

BILL LANGUAGE

A $3,880,000 earmark for additional research, management, and enforcement activities in the Northeast Multispecies fishery, and for acquisition of shoreline data for nautical charts.

An earmark of $4,000,000 for Forest Service construction of a new forestry research facility at Auburn University, Auburn, Alabama.

A $2,200,000 earmark to meet sewer infrastructure needs associated with the 2002 Winter Olympic Games to Wasatch County, UT, for both water and sewer.

Earmark of $50,000 for a feasibility study and initial planning and design of an effective CD ROM product to the Center for Educational Technologies in Wheeling, West Virginia. The CD ROM product would complement the book We the People: The Citizen and the Constitution.

REPORT LANGUAGE

Committee language recommending $20,000,000 for farm workers in areas of California and Florida impacted by natural disasters through the Emergency Grants to Assist Low-Income Migrant and Seasonal Farm workers Program.

An earmark of $2,000,000 in section 504 of the Rural Housing Insurance Fund Program, for very low-income repair loans, and to meet rural housing needs in Puerto Rico resulting from Hurricane Georges.

$12,612,000 for construction to repair damage due to rain, winds, ice, snow, and other acts of nature in the Pacific Northwest and Nevada.

$2,000,000 in emergency funding earmarked for the Holocaust Memorial Council.

Language urging FEMA to work to ensure that the City of Kelso, Washington, receives such assistance as is necessary and appropriate to compensate homeowners in the federally-declared disaster area impacted by the Aldercrest landslide.

An earmark of $20,000,000 for partial site and planning for three facilities, one which shall be located in McDowell, West Virginia, to house non-returnable criminal aliens being transferred from the Immigration and Naturalization Service (INS).

$921,000 earmarked for FY 1999 to fund the hiring and equipping of 36 additional police officers to staff the security posts established to improve security for the Supreme Court.

$1,136,000 earmarked for suppression of western spruce budworm on the Yakama Indian Reservation.

A $1,000,000 earmark for the Bureau of Land Management's Wyoming and Montana state offices to pay for activities necessary to process applications for Permits to Drill (APD) in the Powder River Basin.

$5,200,000 for eradication of the Asian Long-horned Beetle, from the Commodity Credit Corporation. $2,500,000 of this $5,200,000 is set aside for the Chicago, Illinois area.

Committee report language urging the Forest Service to transfer funds appropriated in the Interior and Related Agencies Appropriations Act of 1999 to Auburn University for construction of a new forestry research.

OBJECTIONABLE PROVISIONS ADDED ON AS AMENDMENTS TO S. 544

AMENDMENT PROVISION LANGUAGE

An earmark of $5,000,000 for emergency repairs to the Headgate Rock Hydroelectric Project in Arizona.

$239,000 to be used to repair damage caused by water infiltration at the White River High School in White River, South Dakota.

An earmark of $750,000 for drug control activities which shall be used specifically for the State of New Mexico, to include Rio Arriba County, Santa Fe County, and San Juan County.

Earmark of $500,000 for technical assistance related to shoreline erosion at Lake Tahoe, Nevada.

Language for funds for the construction of a correctional facility in Barrow, Alaska to be made available to the North Slope Borough.

The Corps of Engineers is directed to reprogram $800,000 of funds made available in Fiscal Year 1999 to perform the preliminary work needed to transfer Federal lands to the tribes and State of South Dakota and to provide tribes within South Dakota with funds for protecting invaluable Indian cultural sites.

Language to appropriate $700,000 under the Agricultural Marketing Act of 1946 and the Consolidated Farm and Rural Development Act to promote the recovery of the apply industry in New England.

An earmark of $2,000,000 for the regional applications programs at the University of Northern Iowa.

$1,000,000 for construction of the Pike's Peak Summit House in Colorado.

$2,000,000 earmark for the Borough of Ketchikan to participate in a study of the feasibility and dynamics of manufacturing veneer products in Southeast Alaska.

Mr. McCAIN. Mr. President, I also wish to state my objections to a provision that creates a $1 billion loan guarantee program to support the domestic steel industry.

Specifically, this provision provides a loan guarantee of up to $250 million for any domestic steel company that ''has experienced layoffs, production losses, or financial losses since the beginning of 1998.'' The purported reason for this program is to help steel companies suffering because of a flood of foreign steel. The measure, however, does not require that the losses relate to the so-called ''steel crisis.'' The measure also fails to set terms, conditions or interest rates for the guarantees. Instead, it leaves these critical decisions to the discretion of the board making the loans. The only guidance given to the board is that the terms should be reasonable. These provisions are problematic and will eventually result in the taxpayer guaranteeing bad loans.

In the mid-sixties, the Economic Development Administration operated a similar program. The result of that program was disastrous for the taxpayer. Steel companies defaulted on 77% of the dollar value of their guarantees. An analysis of the loan program by the Congressional Research Service concluded that steel loans represent a high level of risk. Nevertheless, we are poised today to provide an additional $1 billion in guarantees.

I also have to question the need for such legislation. In a recent editorial, the Wall Street Journal declared ''there really is no U.S. steel 'crisis'.'' They went on to note that several U.S. companies are posting significant profits. For example, last year, Nucor earned $263 million, USX earned $364 million and Bethlehem Steel earned $120 million.

Finally, Mr. President I have problems with how this provision came before the Senate. The creation of a program like this on an appropriations bill is just wrong. The provision places at risk hundreds of millions of taxpayers' dollars. The Senate should have the opportunity to fully consider and debate this provision.

Mr. President, again, the amount of wasteful spending in this bill is less onerous than many other bills I have seen. However, I still must object strenuously to the inclusion of $85.5 million in pork-barrel spending. We cannot afford pork-barrel spending, even in the amount contained in this bill, because the cumulative effect of each million wasted is a million dollars robbed from the surplus or an additional million dollars in debt on which we must pay interest.

In the upcoming FY 2000 appropriations season, I look forward to working with my colleagues on the Appropriations Committee to ensure that we do not waste taxpayers dollars on projects that are low-priority, wasteful, or unnecessary, and that have not been evaluated in the appropriate merit-based review process.

OIL ROYALTY RIDER ON THE EMERGENCY SUPPLEMENTAL

Mrs. BOXER. Mr. President, I had planned to offer an amendment to repeal a special interest rider attached to the Emergency Supplemental Appropriations bill.

This rider prevents the Interior Department from acting to ensure that oil companies pay a fair royalty for oil drilled on public lands. My amendment would have stripped that rider—allowing the Interior Department to finalize their rule so that the taxpayers will receive the millions of dollars they are owed in royalty payments.

I have decided that while I still firmly believe that this rider should be stripped, because of recent action taken by the Interior Department, this amendment would not be timely. However, I would like to assure you that if I will block any future attempts to further delay this necessary and important rulemaking process.

Mr. President, this is a very simple issue.

For years, oil companies have been cheating the American taxpayers out of millions—if not billions—of dollars.

The Department of Interior took action to stop the cheating.

Now, Congress is preventing the Interior Department from stopping the cheating.

Just as the Interior Department was about to finalize a new rule to resolve arguments over royalties, here comes yet another rider on an unrelated must-pass bill to stop the new rule from going into effect.

So who benefits from this rider? Big Oil. And who loses? The American taxpayer.

We had this same debate last Congress. Some of my colleagues will say that this delay is necessary to force the Interior Department to listen to the oil companies.

Mr. President, the Interior Department has listened. In fact, in response to pressure from the Big Oil, the Interior Department has re-opened the comment period on the proposal to—once again—see if there is anything new.

Because of the Interior Department's action, it is unlikely that the Department will be able to finalize the rule before October 1, 1999 despite this rider. The rider is unnecessary and is just another attempt by Congress to bully the Interior Department.

The Interior Department has gone through a thoughtful and detailed process to get this rule done. The Interior Department has acted in good faith to respond to concerns of the oil industry and members of the Senate—meeting with Members of Congress on several occasions and reopening the comment period on the rule.

It is now time for the Congress to act in good faith and let the Interior Department proceed.

Mr. President, let me explain how royalty payments work. When oil companies drill on public lands, they pay a royalty to the federal government. This royalty is like paying rent. The oil companies want to use federal land or offshore tracts, so they pay rent—a percentage of the value of the oil—to the federal government to use this land. A share of this royalty is given to the state, and the remaining money is used by the federal government for the Land and Water Conservation Fund and the Historic Preservation Fund.

The oil companies sign an agreement to pay a fixed percentage of the value of the oil they produce on federal lands—12.5%. The question is 12.5% of what? It's that number that the big oil companies understate.

According to the signed agreement, that number for the value of the oil, ''shall never be less than the fair market value of the production.'' But the oil companies are currently understating the value, and as a result, they underpay their royalties.

The debate is over how to determine the true value of oil. Is the true value of the oil the value that the oil companies themselves decide? Or is the true value of the oil the market price that one would pay if they actually purchased a barrel of oil? I agree with the Interior Department that the oil companies must base their royalty payments on the market price.

Currently, oil companies themselves determine the value of the oil and pay a royalty based on that value. The value determined by the companies is called the posted price and merely reflects offers by purchasers to buy oil from a specific area. It is just an offer to buy and does not represent any actual sale of oil.

Now you may be hearing from the oil companies that this proposed system is unfair and that it harms the small independent producers. The Department of Interior has informed me that the new regulations will only increase royalty payments for 5% of all the companies. This 5% is not your mom and pop operations—this is Shell, Chevron, Exxon, Texaco, Mobil, Marathon and Conoco. This is the large integrated companies that trade with their affiliates and have no actual sale of oil.

You may also hear from my colleagues that the oil companies are hurting. With oil prices the lowest they've been in decades, how can we increase their royalties? This isn't about increasing the royalties, this is about the American public getting their fair share—whatever the value. And with the Interior Department's proposed regulations, as oil prices fall, so does the royalty. It's all based on the market.

So in summation, to guarantee taxpayers a fair royalty payment in the future, the Interior Department proposed a simple and common sense solution: pay royalties based on actual market prices, not estimates the oil companies themselves make up. The

new rule was proposed over 3 years ago. Since that time, the Department has held 14 public workshops and published 7 separate requests for industry comments on this rule—and three more public workshops are scheduled in the next month. High level Interior officials have met with Members of Congress and industry on several occasions and have made several changes to the regulations to address industry's concerns.

At some point the negotiating must stop and the Interior Department must be allowed to move forward with this fair rule.

This rider is outrageous. It saves the wealthiest oil companies in the world millions of dollars while shortchanging taxpayers and, in the case of California, our schoolchildren which is where my state's oil royalty payments go. What does this say about our nation's priorities?

The Interior Department's proposed regulations are fair and they are accurate. They are not based on the subjectivity of the big oil companies, but are based on actual market prices.

It is time that we end this flawed system of calculating royalties and move to an objective, market driven system. The Department of Interior has spent much time developing an equitable system and we should allow it to move forward.

While I am not offering my amendment this time, I am here to say that this cheating must stop and these riders must stop. Let the Interior Department do its job and move forward with these regulations.

Mr. President, I ask unanimous consent that a letter from the Secretary of the Interior, Bruce Babbit, be printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, March 18, 1999.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: I am writing to call on you and your colleagues to delete from the Fiscal Year 1999 Emergency Supplemental appropriations legislation the Senate provision extending the moratorium prohibiting the Department of the Interior from issuing a final rulemaking on the royalty valuation of crude oil until October 1, 1999.

Prior to a series of congressionally imposed moratoria, the Department was prepared to publish a final rule on oil valuation on June 1, 1998. On March 4, 1999, I announced that the Department would reopen the comment period for the federal oil valuation rule. On March 12, 1999, we formally reopened the comment period and announced a series of public workshops to discuss the rule in Houston, Texas, Albuquerque, New Mexico, and Washington, D.C.

We are committed to a constructive dialogue over the next few weeks as we seek new ideas that can help move the rulemaking process forward while ensuring that the public receives fair value for the production of its resources. Extension of the current moratorium, which ends on June 1, 1999, will not be conducive to constructive discussions.

Any action that further delays implementation of a final rule on oil valuation causes losses to the Federal Treasury of about $5.3 million per month. States, which use this money for education and infrastructure development, lose about $200,000 per month. In addition, potential delay of the proposed Indian oil valuation rule could cost Indian tribes and individual Indian mineral owners about $300,000 per month.

We urge you to delete the moratorium proposal and allow the rulemaking process to proceed. The process we have set in motion will ensure full and open consideration of all new ideas for resolving the concerns that have been raised and will lead to a solution that best meets the interests of the American public.

As you are aware, the Statement of Administration Policy on the Emergency Supplemental states that the President's senior advisers would recommend that he veto the legislation if it is presented with currently included offsets and objectionable riders.

Thank you for your continued involvement in this issue.

Sincerely,

BRUCE BABBITT.

TRANSFER OF SUPPLEMENTAL CDBG MONEY FROM HUD TO FEMA

Ms. COLLINS. Mr. President, I rise today to engage the Senator from Missouri, Mr. BOND, the Chairman of the VA/HUD Subcommittee, in a colloquy.

Senator BOND, you and I and the other members of the Northeast delegation have been working, for over a year now, to ensure that Maine and the Northeast have their needs from the January 1998 Ice Storm which devastated much of New England and upstate New York addressed.

Mr. BOND. The Senator is correct. It has been almost a year and I know that we are both extremely frustrated that we are still wrestling with using emergency CDBG funds for appropriations needs.

Ms. COLLINS. You have been a real champion for our state of Maine and of our efforts to ensure that the money this Senate appropriated went to alleviate some of the costs from the Ice Storm which could not be covered by FEMA.

Mr. BOND. I appreciate the Senator's kind words. I did a colloquy on the Senate floor last March on this issue with the then junior Senator from New York, Mr. D'AMATO outlining the funding needs of the Northeast. In this colloquy we outlined the history of the funding including the significant needs of Maine and New England.

In fact, as we both discussed at that time, the Ice Storm, as the first big storm of the year, was the impetus for us to provide supplemental funding to the CDBG program to help Maine and other states cover the costs of the disaster where FEMA wasn't able to assist.

Ms. COLLINS. For those that did not experience it, the devastation this storm caused in Maine is hard to imagine. Thick ice, in some cases up to ten inches thick, encased virtually every inch of the state and decimated our electric infrastructure. As a result of the Herculean efforts of hundreds of utility crews, power was restored to Maine after 17 long days. Like other Americans who have suffered natural disasters, Mainers need this assistance to recover from the costs incurred from the devastating blow nature dealt us.

Mr. BOND. As the Senator and I have discussed, I remain very concerned by HUD's treatment of Maine and the other Northeast states, especially the fact that initial funding was not provided until six months after last year's supplemental bill was enacted, and the fact that I have yet to receive an acceptable explanation from HUD as to the funding formula used to allocate the money. The Northeast's experience is one of several reasons why the bill before us today transfers the money to FEMA.

Ms. COLLINS. It is my sincere hope that FEMA will expedite this process and provide to Maine the assistance it has been promised by the current Administration and has been in need of for over one year. I wish to thank the Senator from Missouri for his continuing efforts on behalf of the people of Maine. He has truly been a champion in this long process, and his cooperation is greatly appreciated by the people of Maine.

ENVIRONMENTAL RIDERS IN THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. FEINGOLD. Mr. President, I rise today to express my concerns regarding two troubling sections of S. 544, the Supplemental Appropriations bill. Section 2002 further delays the promulgation of new regulations governing the management of hardrock mineral mining operations on federal public lands. Section 2005 extends the moratorium on the issuance of new regulations by the Minerals Management Service regarding oil valuation. I hope that all provisions which adversely affect the implementation of environmental law, or change federal environmental policy, will be removed from this legislation when it returns to the floor.

I want to note, before I describe my concerns in detail, that this is not the first time that I have expressed concerns regarding legislative riders in appropriations legislation that would have a negative impact on our nation's environment.

Mr. President, for more than two decades, we have seen a remarkable bipartisan consensus on protecting the environment through effective environmental legislation and regulation. I believe we have a responsibility to the American people to protect the quality of our public lands and resources. That responsibility requires that I express my strong distaste for legislative efforts to include proposals in spending bills that weaken environmental laws or prevent potentially beneficial environmental regulations from being promulgated by the federal agencies that carry out federal law.

Mr. President, the people of Wisconsin continue to express their grave concern that, when riders are placed in spending bills, major decisions regarding environmental protection are being

made without the benefit of an up or down vote.

Wisconsinites have a very strong belief that Congress has a responsibility to discuss and publicly debate matters affecting the environment. We should be on record with regard to our position on this matter of open government and environmental stewardship.

Mr. President, I have particular concerns regarding Section 2002. I think this rider is another attempt to move us away from implementing new mining regulations. This is the third time, in as many years, that a rider has been put forward on this matter. The rider, as drafted, would delay the regulatory process for at least an additional 120 days beyond the final rider compromise language in the Omnibus bill which passed in October 1999. The Omnibus language says that the regulations can not be issued before September 30, 1999. There is no basis for arguing that the Interior Department would not have time to review the on-going National Academy of Sciences study on this topic, which the Omnibus language required to be completed by July 31, 1999.

The ''3809'' mining regulations, as they are called, are the environmental rules that govern hardrock mining on publicly owned lands.

The Federal Land Policy and Management Act of 1976 directs the Secretary of the Interior to ''take any action necessary, by regulation or otherwise, to prevent unnecessary or undue degradation on the federal lands.'' The regulations in question are the Bureau of Land Management's promulgated in response to the requirements of this federal law.

The Emergency Supplemental Appropriations bill mining rider blocks the issuance of the final 3809 regulations certainly through the end of the fiscal year. The language further blocks the Administration from spending funds to seek public input on its new draft regulations until after the National Academy of Sciences issues its on-going study examining the adequacy of the existing patchwork of fedeal and state mining rules, as I mentioned earlier.

The rules are important, Mr. President, and so is the need to update them. Mining technologies, according to the Interior Department, have outgrown existing safeguards. The original regulations, released in 1981, have never been revised. Since that time, the mining industry has widely adopted new extraction technologies which raise environmental questions and concerns. One such technique, which caused grave concern two years ago in my state when it was proposed for use on private lands in the Upper Peninsula of Michigan, was the use of sulfuric acid mining.

In addition, Mr. President, existing regulations also need to allow the BLM to balance the fact that multiple activities take place on lands before permitting new mines. In determining whether a proposed mine is appropriate, BLM is not permitted to take into account other land uses that would be displaced by mining.

Finally, I believe that existing regulations don't do enough to require meaningful cleanup. Currently there is no requirement to restore mined lands to pre-mining conditions and they leave taxpayers paying for the mining industry's mistakes. To address this issue, I recently introduced legislation to repeal the percentage depletion allowance for mining on public lands and I set aside a portion of the increased revenue to be used to create an Abandoned Mine Reclamation fund. Any clean-up fund, however, needs good clean-up standards to put it to use.

In conclusion, I think that continued delay of these regulations is indefensible, and certainly inappropriate as part of a supplemental bill.

CROP INSURANCE REQUIREMENTS

• Mr. SESSIONS. I wish to thank Senator COCHRAN and Senator KOHL for agreeing to my amendment to provide fairness to the administration of the crop disaster program enacted by Congress last Fall. I also wish to thank Senator HARKIN for his interest in this issue.

Mr. KOHL. I thank the Senator for his remarks and would like to engage him and other Senators in a discussion regarding the purpose of the Senator's amendment and the overall policy considerations attached to it. When Congress enacted farm disaster legislation last Fall, we recognized the dire circumstances of farmers from both natural and economic conditions. Not only did that legislation recognize the problems farmers faced in 1998, but it also dealt with problems farmers have had over the past several years. From a policy perspective, it is well recognized that a sound, reliable risk management program, which includes crop insurance, needs to be established to avoid the inherently unfair and unpredictable ad hoc disaster programs of years past.

The amendment by the Senator from Alabama recognizes that crop insurance is available to farmers through both federally reinsured policies and policies based solely by private companies. His amendment modifies language included in last year's omnibus appropriations bill regarding the requirement that the Secretary not discriminate or penalize producers who have taken out crop insurance by stating the requirement applies to both federally reinsured policies and those offered solely by private companies. We all recognize the difficult times facing farmers and we want to see all farmers treated fairly and equally.

It is equally important that we do not take steps that inadvertently undermine our overall objectives for both long-term farm policy and immediate administration of the pending disaster payments. In accepting the amendment by the Senator from Alabama, we hope to continue a dialogue with him and other Senators as we approach conference to ensure the amendment is in the best interest of farmers.

Mr. HARKIN. I also want to thank the Senator from Alabama for his remarks and I want to associate myself with the remarks by my friend from Wisconsin. It is clearly our objective to make the administration of farm program as fair as possible, recognizing the geographical differences of agriculture in America.

Senator KOHL is correct in his observation that farmers need and deserve a reliable risk management program that will not be tied to the political winds of any given year. For that reason, we must do all we can to improve and promote the availability of crop insurance products to farmers across the country. I point out to my colleagues that farmers could have purchased federal catastrophic coverage for a cost of fifty dollars to cover an entire crop. That is a bargain and I am still troubled by the reluctance of some farmers to invest in that minimal amount. Had a farmer made that simple investment in recent years, the amendment by the Senator from Alabama would not be necessary.

I am also concerned, as is Senator KOHL, about the effect this amendment may have on administration of the pending farm disaster program. Secretary Glickman came under criticism lately when he announced that payments to farmers would not begin until this summer. I admonish my colleagues that we must take no action that would exacerbate that problem. Farmers in Iowa, in Wisconsin, and in Alabama all need assistance sooner rather than later.

Mr. KOHL. I agree with the remarks by my friend from Iowa and I would like to further note that farmers in Wisconsin are equally in need of assistance immediately. As we approach conference, I hope to stay in close contact with all interested Senators to ensure that nothing is done to overwhelm the Department's administration of the disaster program by imposing a new series of control and verification requirements. We want to be responsive to all Senators' interests, but we know farmers are looking for a responsive, and timely disaster program. As some have noted, many farmers believe we are past the period of a proper and timely response.

Mr. COCHRAN. I join my colleagues in approving the amendment by the Senator from Alabama and agree that we must proceed in a fair manner that will not disrupt the delivery of disaster payments to farmers. There is need for immediate and necessary relief from natural and economic losses. I will continue to work with the Senator from Alabama and my colleagues from Wisconsin and Iowa in order to address the concerns they have raised.

Mr. SESSIONS. Again, I thank the Senators.•

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Mr. President, I ask unanimous consent that I be recognized to speak as in morning business.

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

THE KOSOVO QUAGMIRE

Mr. INHOFE. Mr. President, it seems we are about to go to war with Yugoslavia. Our stated purpose is to stop the humanitarian disaster there caused by a civil war. If we do not act, we are told, innocent people will be killed, will be wounded, will be displaced from their homes. Indeed, over 2,000 have already been killed in the Kosovo civil war in just the last year. Many more have been uprooted. There are serious problems there. No one disputes that.

My question is, Where is the vital U.S. national interest?

The National Defense Council Foundation recently reported that there are at least 60 conflicts going on in the world involving humanitarian suffering of one kind or another. There are 30 wars being waged—civil wars, guerrilla wars, major terrorist campaigns. Many are driven by ethnic quarrels and religious disputes which have raged for decades, if not for centuries.

Just consider a partial list from recent years: 800,000 to 1 million people have been brutally murdered in Rwanda alone; tens of thousands killed in civil wars in Sudan, Algeria and Angola; thousands killed in civil war in Ethiopia; in January, 140 civilians killed by paramilitary squads in Colombia; including 27 worshipers slain during a village church service.

Why is there no outcry for these millions of people who are being brutally murdered in other places in the world, but we are all concerned about the humanitarian problems in Kosovo?

I have to say this, and I know it is very unpopular to say it, but I am going to quote a guy whose name is Roger Wilkins. He is a professor of history and American culture at George Mason University:

> I think it is pretty clear. U.S. foreign policy is geared to the European-American sensibility which takes the lives of white people much more seriously than the lives of people who aren't white.

Let me read a couple paragraphs from an article in the Minneapolis-St. Paul Star Tribune on January 31, 1999:

> But no one mobilized on behalf of perhaps 500 people who were shot, hacked and burned to death in a village in eastern Congo, in central Africa, around the same time. No outrage was expressed on behalf of many other innocents who had the misfortune to be slain just off the world's stage over the past few weeks.
>
> Why do 45 white Europeans rate an all-out response while several hundred black Africans are barely worth notice?

And this is all in that same timeframe.

Further quoting the Minneapolis-St. Paul Star Tribune:

> While U.S. officials struggled to provide an answer, analysts said the uneven U.S. responses to a spurt of violence in the past month illuminates not just an immoral or perhaps racist foreign policy, but one that fails on pragmatic and strategic grounds as well.

So now the President wants us to send the U.S. military into Kosovo, not to enforce a peace agreement—we do not have a peace agreement, as we were told 2 weeks ago—but to inject ourselves into the middle of an ongoing civil war, with no clearly defined military objective, no assurance of success, no exit strategy and great, great risk to our pilots and men and women in uniform.

We know that the Yugoslav leader, Mr. Milosevic, is a bad guy. No one disputes that. But are we absolutely sure that there are some good guys, too? Are there any good guys in the fight that stretches back over 500 years?

When I was in Kosovo recently, I was horrified as I was going through the main road—Kosovo is only 75 miles wide and 75 miles long, and there is one road going all the way through it. I was only able to see two dead people at the time. They turned them over and both of them were Serbs. They had been executed at pointblank range. And they were Serbs, not Kosovars, not Albanians. So the national interest here is not at all clear.

Let me quote Dr. Henry Kissinger, the former Secretary of State and National Security Adviser. In an op-ed piece in the Washington Post on February 24, Kissinger said he was opposed to U.S. military involvement in Kosovo. He is not unaware of the humanitarian concerns that the President and others talk about. Here are just a few of the highlights of what he said:

> The proposed deployment in Kosovo does not deal with any threat to American security as traditionally conceived.
>
> Kosovo is no more a threat to America than Haiti was to Europe.
>
> If Kosovo, why not East Africa or Central Asia?
>
> We must take care not to stretch ourselves too thin in the face of far less ambiguous threats in the Middle East and Northeast Asia.
>
> Each incremental deployment into the Balkans is bound to weaken our ability to deal with Saddam Hussein and North Korea.

I think this is very, very significant, the last two points.

First of all, I have asked the Chairman of the Joint Chiefs of Staff, I have asked the Chiefs, I have asked the CINCs, the commanders in chief, this question: If we have to send troops into Kosovo—keep in mind that people may lie to you and say this is going to be an airstrike. Anybody who knows anything about military strategy and warfare knows you can't do it all from the air. You have to ultimately send in ground troops. So we are talking about sending in ground troops. That is in a theater where the logistics support for ground troops is handled out of the 21st TACOM in Germany. I was over in the 21st TACOM. Right now, they are at 110 percent capacity just supporting Bosnia. They don't have any more capacity. The commander in chief there said, if we send ground troops into Iraq or Kosovo, we are going to be 100 percent dependent upon Guard and Reserve to support those troops. And look what has happened to the Guard and Reserve now because of the decimation of our military through its budget, finding ourselves only half the size we were in 1991.

Right now, we don't have the capacity. We have to depend on Guard and Reserves, and in doing this we don't have the critical MOSs. You can't expect doctors in the Guard to be deployed for 270 days and maintain their practice, so we now have ourselves faced with a problem, a serious problem, and that is we cannot carry out the national military strategy, which is to be able to defend America on two regional fronts. We don't have the capacity to do it. If we could do it on nearly simultaneous fronts within 45 days between each conflict, then we go up from low-medium risk to a medium-high risk, which is translated in lives of Americans.

Going into Kosovo for an unlimited duration at who knows what cost, who knows the amount of risk, the risk will be higher.

I chair the readiness subcommittee of the Senate Armed Services Committee, Mr. President, and I can tell you right now that we are in the same situation we were in in the late 1970s with the hollow force. We can't afford to dilute our military strength anymore. And that is not even mentioning the immediate risk to our forces that they will face in Yugoslavia where the Serbs have sophisticated Russian-made air defense and thousands of well-trained and equipped troops motivated to fight and die for their country.

In recent testimony before the Senate Armed Services Committee, some of our top military leaders were very frank about what they expected for any U.S. military operation in Kosovo.

Air Force Chief of Staff General Ryan said, ''There stands a very good chance that we will lose aircraft against Yugoslavian air defense.''

Navy Chief of Staff, Admiral Johnson, said, ''We must be prepared to take losses.''

Marine Commandant, General Krulak, said it will be ''tremendously dangerous.''

And then George Tenet, the Director of Central Intelligence, said this is not Bosnia we are talking about, this is Kosovo where they are not tired, they are not worn out, and they are ready to fight and kill Americans.

So we are faced with that serious problem, Mr. President. We should not under any circumstances go into Kosovo. Our vital security interests are not at stake, where we don't have a clear military objective or an exit