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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

### PRAYER

The guest Chaplain, Rear Admiral Barry C. Black, U.S. Navy Chief Chaplain, offered the following prayer:

O God of light and truth, enter and abide with these leaders today, as they do the work of freedom. Give them Your wisdom, so that they will be instruments of Your peace.

Lord, thank You for this great land, and for our freedom, which is neither derived from, nor conferred by a state, but comes from You. May the liberty You bring keep our feet in right paths.

Eternal Lord God, today and always give us wisdom to perceive You, intelligence to understand You, diligence to seek You, patience to wait on You, eyes to see You, a heart to meditate on You, and a life to proclaim You. In Your strong Name we pray. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 6, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a

Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

### SCHEDULE

Mr. REID. The Chair will shortly announce that there will be a period of morning business until 10:30 with time equally divided between the majority and minority, with the majority controlling the first half hour. Senator CORZINE will lead that.

At 10:30, the Senate will begin 30 minutes of debate prior to a vote on a motion to invoke cloture on the emergency supplemental appropriations bill. As a reminder, all second-degree amendments must be filed by 10:30 a.m. today, this morning, in order to be considered as timely filed under rule XXII.

We are going to have votes, we hope, throughout the day as we endeavor to move forward on this most important legislation.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time will be under the control of the majority leader or his designee.

The Senator from New Jersey.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. LOTT. If the Senator would yield a couple of minutes before we get started, I will be very brief.

Mr. CORZINE. I would be pleased to yield to the minority leader.

### VOTE FOR CLOTURE

Mr. LOTT. Madam President, I understand there will be morning business now until 10:30 and the time will be equally divided. Between 10:30 and 11 a.m. we will have equally divided debate on the pending issue and the Stevens-Byrd cloture vote at 11 a.m.

I come to the floor to make sure that I have an opportunity to urge my colleagues to vote for cloture. I am not happy with this legislation. It is very unfortunate that it has been increased at every step along the way beyond what the President asked for, at least \$4 billion more than what the President asked for, and the mix within the rest is clearly not what the President asked for in this emergency supplemental for defense and homeland security. It is unfortunate that it has been brought to the floor in this way.

I remind my colleagues that postcloture, assuming cloture passes, amendments to strike would still be in order. I am sure there will be a number to try to pare back the bill and to take out nonemergency, nondefense, and homeland security issues. I hope they succeed, because, clearly, the bill has gotten out of control.

This is nothing new. Every Congress does it. Every President makes the mistake of asking for supplemental appropriations, and every Congress sees this as a vehicle on which we can enjoy a ride. We have all participated. I am not proud of that. But I say that to

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



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make the point this is not something new. They always tend to grow and grow. I have taken occasion with every President of both parties to plead with them not to send a supplemental; just do what we need in the regular appropriations process. But they always do it. And quite often we urge them to do it when there are, ostensibly, emergencies. Many of them are very legitimate.

On the other side of this coin, this is supposedly an emergency. We should have done it 2 months ago. The President should have asked for it earlier, the House should have acted earlier, and we should have found a way to act early, although it is hard to be too critical of the time in the Senate because we were not going to be able to move forward on it until the House acted.

If it is an emergency, if it is payback for what we have spent in defense, if it is to provide what we need on an emergency basis—homeland security, Coast Guard, whatever—in terms of making sure our country is safe, we should have already done it. To drag this out into next week would not be a positive thing.

I add that amendments that would be offered, if we don't get cloture, will make worse a bill that has a lot of problems. Substantive amendments would be offered that would cause problems. More spending would be added. The better part of valor is to vote for cloture, continue to work to try to pare it down to a more reasonable number, get it in conference, and get it closer to what the President wants so we can get our work done before the Fourth of July recess and get it to the President so he can sign it.

We are not unanimous on our side of this issue. The proper leadership position is to say, let's vote for cloture, go forward in the hours we have after cloture to cut it back and then get it into conference.

I urge my colleagues on both sides to vote for this cloture motion. Perhaps the cloture was filed too quickly. I understand, as majority leader, sometimes events or speeches prod you to do things that later maybe you wish you had not done. The fact is the majority leader filed it, and we will vote on it. After watching events the last 2 days, I think we should go ahead and support cloture.

With that, I yield the floor.

Mr. REID. Before the Senator from Mississippi, the Republican leader, leaves the floor, I express my appreciation for his leadership role in suggesting and advocating that we invoke cloture.

This is the right thing to do for the country. There are things in the bill I do not like. There are things in the bill the President does not like. But that is what conferences are all about.

We will get this thing out of here. There are some motions to strike. I understand we have been talking about bringing those forward for several days

now. Good, let's have them come forward. We will vote as to whether or not they are good or bad motions. Let's get the matter to conference as quickly as possible so we can help our troops and we can help homeland defense.

The Republican leader's advocacy is something that is good for the country, and I appreciate that very much.

Madam President, I ask unanimous consent the statement of the Senator from New Jersey not appear interrupted and he be given, minus the time he has already taken, the full 30 minutes as the Republicans would be given, and then we will shorten the time.

I am reminded, of course, it is not the full 30 minutes but whatever he was accorded, following the initial discussion, prior to his beginning. The Democrats would have the same amount of time as Republicans; we would just shorten the time before 11 o'clock for those for and against the cloture motion.

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

The Senator from New Jersey.

#### SOCIAL SECURITY

Mr. CORZINE. Madam President, this morning I would like to take a few moments to talk about one of my favorite subjects: Social Security and the privatization plans that have been developed by President Bush's Social Security Commission.

As I have discussed in the past, I, like many Members, have serious concerns about these privatization plans, primarily because they involve deep cuts in guaranteed benefits. Those cuts would exceed 25 percent for many current workers and would exceed 45 percent for seniors in the future. The cuts would apply even to those who choose not to participate in these privatized accounts. In effect, they would force many Americans to delay their retirement.

Over the past few weeks, I have engaged in an ongoing dialogue with privatization supporters, including the Cato Institute and a few of the members of the Bush Commission. The Cato Institute criticized the national radio address I gave on April 27 describing the privatization program the Bush Commission proposed. I then responded with a critique of their critique. And then, most recently, I received a letter from 6 of the 16 members of the President's Commission with a critique of my critique of the Cato critique.

Unfortunately, their critique also is flawed, as I have outlined in a letter back to the six Commissioners, and as I want to discuss today.

The most fundamental disagreement I have with the six Commissioners concerns the deep cuts in guaranteed benefits included in the Commission's report. The Commissioners state:

The Commission proposals do not "cut benefits" for anyone.

I am troubled by this statement, which, at best, is highly misleading.

Essentially, the Commissioners are arguing that reductions in benefit levels, relative to those proposed under current law, should not be considered cuts. That is just wrong on its face.

The Commissioners reach this conclusion by assuming that the assets in the Social Security trust fund will be deleted in the future and Congress will refuse to take the steps necessary to honor the promises made to workers who now are paying into the system. They make this assumption even though they also assume that massive amounts of general revenue will be available to subsidize privatized accounts.

In effect, the Commissioners are arguing that Congress, having used Social Security funds for other purposes, now should be able to break its promise to retirees because there is not enough money in the trust fund.

To me, this is tantamount to a borrower telling a lender: I haven't saved enough, and therefore I have a right to default on your loan. And, moreover, the reduction in my payments to you should not be considered a cut or a loss to your income.

I do not think that adds up. Surely the lender in such a situation would experience the loss and view it as a real cut—just as seniors would experience a reduction in their promised benefits as a cut.

In my view, it is a distortion of the English language to claim that changing the law in order to reduce benefit levels, as the Commission has proposed, should not be considered a cut. This claim is especially problematic because the Commission's proposed cuts would be so deep for many beneficiaries—exceeding 25 percent for many current workers, and exceeding 45 percent in the future. By the way, these numbers are confirmed by the nonpartisan Social Security actuaries. The Commission should be open and honest about this. The numbers are in the report.

It also is important to emphasize, as I noted earlier, that the benefit cuts proposed by the Commission apply even to those who choose not to participate in privatized accounts. This belies claims that the Commission's plan is based on voluntary choice. It's not. Even those who do not choose to use privatized accounts will get cuts.

Supporters of privatization may believe that income from privatized accounts will offset the cuts in guaranteed benefits. That is the argument they make. However, this is problematic for at least two reasons.

First, the combination of reduced guaranteed benefits and income from private accounts in many cases would be less than the benefits under current law, even under the assumptions used in the Commission's report.

That is certainly one of the possibilities. And that is particularly true if one takes into account the administrative costs which are going to accompany these private accounts. In Great

Britain up to 40 percent of the returns in private accounts are used just to pay for administering the accounts. This takes away from income and really does undermine the ability to maintain the same levels of benefits.

Second, relying on the whims of the market is inconsistent with the principal goal of Social Security—guaranteeing a basic level of security, even when private investments fail.

As one who worked personally as a trader and as the head of a major financial firm, I understand that stocks can move down, or sideways, for extended periods. While all workers should save on their own in private accounts, the purpose of Social Security is to establish a floor below which they will not be allowed to fall. The Commission's proposals would drastically lower that floor.

This would be a mistake, especially when one considers that average benefit levels are now only about \$10,000 a year—hardly enough to live on in many parts of the country. As I pointed out to the Chair on a number of occasions, the average benefit for women is closer to \$9,000. That is not sufficient to provide a secure retirement in most parts of the country—certainly not in New Jersey and I suspect not in Michigan.

Another argument in the letter I received from the six Commissioners focused on what some people have referred to as the "clawback" provisions in their proposals. The Commissioners don't like the term "clawback," and I am not going to get into a semantic debate with them about it. But my main point here is undisputed: each of the Commission's plans—there are three of them—would reduce guaranteed benefits based on amounts workers contribute to privatized accounts.

These cuts would be in addition to the direct cuts in guaranteed benefits that would apply to all seniors, even those who do not contribute to privatized accounts.

I think many Americans would see this as political sleight of hand—giving with one hand, and taking away with another.

Another issue addressed in the Commissioner's letter is whether this automatic benefit cut proposal would apply to "near retirees." The six Commissioners argued that the Commission's plans ban persons older than 55 from participating in privatized accounts. However, this actually isn't clear from the text of the report. Nor have the Commissioners explained why older Americans should be banned from participating in privatized accounts if that is such a great idea. Why are they being left out of such a wonderful opportunity to reduce their guaranteed benefit?

Next, the Commissioners dispute my point that the Commission's plans would force many Americans to delay their retirement. On this point, I acknowledge that their proposal does not explicitly raise the legal retirement age. And I have never claimed other-

wise. But my point is that their proposals cut benefits so drastically that the effect is the same.

Many people would be forced to work longer to build up more assets, in order to maintain the same level of retirement security. In fact, one of the Commission's plans would directly target benefit cuts at those who retire at 62. It seems clear that, as a practical matter, this will force many seniors to delay their retirement.

Another point in the letter from the six Commissioners is that their proposals would reduce the amount of general revenues that would be required to maintain the solvency of the Social Security trust fund. To the extent that they are calling for deep cuts in guaranteed benefits, that's right. But, by that logic, we could eliminate the need for any general revenues by eliminating guaranteed benefits altogether.

To me, this just isn't a good argument for the deep cuts in benefits.

I will not go into each and every argument raised by the six Commission members. But I ask unanimous consent that a copy of my written response to the Commissioners be printed in the RECORD at the end of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit I)

Mr. CORZINE. Madam President, I have been very critical of the letter written by the six Commissioners, as I have been critical of materials prepared by the CATO Institute in the past. But I know they reflect deeply held beliefs, and I sincerely want to thank them for engaging in the debate. In my view, the debate that has begun here with the CATO Institute and the six Commissioners is a good thing because it highlights our differences for the American people. Every American has a stake in the future of Social Security.

It is disappointing that the Bush administration is trying to push this matter under the rug, and seems to want to defer the debate until after the November election. That would be wrong. The American people have a right to be part of this process.

Let me close and again emphasize the important points that Americans need to understand. The Bush Commission's privatization plans involve cuts in guaranteed benefits for many current workers of 25 percent, and future benefits for seniors could be cut as much as 45 percent. These cuts would apply even to those who choose not to invest in privatized accounts. And they would have the effect of forcing Americans to delay their retirement.

For these reasons, I strongly oppose these proposals, and I look forward to continuing this dialogue with those who are supporters of privatization. The future of Social Security is too important to be left out of the limelight and negotiated behind closed doors. We need to have an open discussion.

I thank the Presiding Officer for this opportunity to speak about privatization.

EXHIBIT I

U.S. SENATE,  
Washington, DC, June 6, 2002.

Ms. LEANNE ABDNOR, et al.,  
Boulder, CO.

DEAR Ms. ABDNOR, MR. PENNY, MR. SAVING, MR. VARGAS, MR. COGAN AND MS. MITCHELL: Thank you for your letter of May 23.

I appreciate your apparent willingness to engage in a dialogue with respect to the report of the President's Social Security commission, and trust you agree that the future of Social Security deserves nothing less than a full public debate. Although we obviously disagree strongly about the merits of privatizing the program, I look forward to hearing more from you as we seek to educate the public about the plans you helped produce last December, along with the 10 other members of the Commission who did not sign your letter.

Having said that, I was disappointed by your letter and believe it presents several arguments about the Commission's report and my reactions to it that are, at best, misleading.

Perhaps our most fundamental disagreement concerns the deep cuts in guaranteed benefits included in the Commission's proposals. You attempt to obscure these cuts by arguing that reductions in benefit levels, relative to those promised under current law, should not be considered cuts. Instead, you begin by assuming that the trust fund's assets will be depleted and Congress will refuse to take the steps necessary to honor these promises in the future (even though you also assume that massive amounts of general revenue will be available to subsidize privatized accounts). You then use this assumption to claim that if Congress affirmatively reduces benefits through a change in current law, this should not be considered a "cut."

To me, this is tantamount to a borrower telling a lender: I haven't saved enough, and therefore I have a right to default on your loan—and, moreover, the reduction in my payments to you should not be considered a "cut" in your income. Surely the lender in such a situation would experience the loss of income as a real cut—just as seniors would experience a reduction in their promised benefits as a cut.

In my view, it is a distortion of the English language to claim that a change in the law that intentionally reduces benefit levels, as the Commission has proposed, should not be considered a cut. This claim is especially problematic because the Commission's proposed cuts would be so deep for many beneficiaries—exceeding 25 percent for many current workers, and exceeding 45 percent in the future. The Commission should be open and honest about this.

Furthermore, it is important to emphasize that cuts proposed by the Commission apply even to those who choose not to participate in the option of privatized accounts. This belies claims that the Commission's plan is based on voluntary choice.

The Commission's report also includes proposals for deep cuts in benefits for disabled individuals. These Americans would not be able to save in privatized accounts when they were disabled and not working. In any case, under the Commission's proposals, such disabled individuals would not have access to the privatized accounts until they reached retirement age. The treatment of the disabled again belies claims that the Commission's plan is based on voluntary choice. While I understand that the Commission expressed concern about the impact of its own proposals on the disabled, it nevertheless relied on savings from these cuts to make its numbers add up. Without these savings, the Commission's plans would not restore the Trust Fund to long-term solvency.

I recognize that you believe that privatized accounts will offset the cuts in guaranteed benefits. However, this is wrong for at least two reasons. First, the combination of reduced guaranteed benefits and income from private accounts in many cases would be less than the benefits under current law, even under the assumptions used in the Commission's report. Second, relying on the whims of the market is inconsistent with the principal goal of Social Security—guaranteeing a basic level of security, even when private investments fail.

As one who worked personally as a trader and as the head of a major financial firm, I understand that stocks can move down, or sideways, for extended periods. While all workers should save on their own in private accounts, such as 401(k) plans and IRAs, the purpose of Social Security is to establish a floor below which they will not be allowed to fall. The Commission's proposals would drastically lower that floor. This would be a mistake, especially when one considers that average benefit levels are now only about \$10,000 a year—hardly enough to live on in many parts of the country.

You also argue that I wrongly accuse the Commission of adopting a "clawback" proposal. But yours is a semantic argument that rests on a very narrow and arguably incorrect interpretation of this colloquial term. Your claim is that this term applies only to reductions in privatized accounts, not to reductions in guaranteed benefits. However, even if one accepts this narrow definition, my basic point remains undisputed. Each of the Commission's plans would reduce guaranteed benefits based on amounts contributed to privatized accounts. These cuts would be in addition to the direct cuts in guaranteed benefits that would apply to all seniors, even those who do not contribute to privatized accounts. To many Americans, this will seem like giving with one hand, but taking away with another.

To defend your proposal for automatic cuts, you cite a quote from page 99 of the Commission's report that is highly misleading as presented. That quote states that "no adjustments to traditional Social Security benefits would be made as a function of the accumulations in [privatized] accounts." This is technically true, but it obscures the more important point: traditional guaranteed Social Security benefits would be cut based on workers' contributions to privatized accounts. Thus, regardless of whether the market rises or falls, guaranteed benefits will be cut just as deeply, undermining the value of Social Security as a backstop against possible destitution.

Next, you argue that I was wrong to conclude that this automatic benefit cut proposal would apply to "near retirees." More specifically, you argue that the Commission's plans ban persons older than 55 from participating in privatized accounts.

However, while the descriptions of two of the plans in the Commission's report prominently include the ban, in the description of Model 1, the ban is conspicuously absent. You may want to check pages 110, 119, and 131 in the Commission's report to see this clear difference in the descriptions of the three plans. If one were to apply basic principles of statutory construction to the text of the Commission's report, the obvious conclusion would be that Model 1 does not contain the same age limitation as do the other models.

I understand your claim that it was not the intent of the signers of your letter to apply the automatic cuts to those who contribute to privatized accounts under Model 1. However, given the language of the Commission's report, this still seems a reasonable interpretation of the intent of the Commis-

sion as a whole. You may want to raise this with the other members of the Commission and have the entire Commission submit a modification of its report to the Congress, if they share your intent. Such a submission might include an explanation of why older Americans are banned from participating in privatized accounts if, as you seem to suggest in your letter, such accounts do not put the guaranteed benefits of participants at risk.

You also dispute my point that the Commission's plans would force many Americans to delay their retirement. To clarify, I never said, nor did I mean to imply, that your proposal explicitly raises the legal retirement age. My point is that cutting the level of guaranteed benefits so drastically could have the same effect. This is because individuals would be forced to work longer to build up more assets, in order to maintain the same level of retirement security. Note that one of the Commission's plans would target benefit cuts at those who retire at 62. It seems clear that, as a practical matter, this will force many seniors to delay their retirement.

Another point you make in your letter is that the Commission's proposals would reduce the amount of general revenues that would be required to maintain the solvency of the Social Security Trust Fund. To the extent that you are calling for deep cuts in guaranteed benefits, I acknowledge that your proposals would have this effect, and have never argued otherwise. In fact, the benefit cuts associated with the change in indexing are so substantial that, by themselves, they would restore long-term balance. However, the high cost of privatized accounts then forced the Commission to rely on massive general revenue subsidies to achieve long-term solvency.

Your letter also complains about critiques that "count 'current law benefits' but not the taxes required to pay them". This complaint seems disingenuous, considering that the Commission itself depends on substantial transfers from the rest of the budget without making clear how those would be financed. Under the Commission's plans, these transfers would be necessary to fully fund privatized accounts and partially address trust fund solvency. Yet given projections of deficits outside of Social Security for the foreseeable future, one might have expected the Commission to explain whose taxes would be raised and whose services would be cut to generate the need savings. The Commission's report includes no such explanation. However, one way to reduce the need for such taxes is to not subsidize privatized accounts in the first place.

I do accept your point that investing in broadly diversified funds reduces risks. That is true and, again, I have never argued otherwise. However, while diversification reduces risks, significant risks remain. The value of even a diversified account can decline significantly at any time, and can stay depressed for years. If this were to happen when an individual is retiring, the consequences could be catastrophic without Social Security's basic level of guaranteed benefits.

Finally, it is hard to argue that the Commission represented a balanced forum for the open consideration of differing points of view. After all, the membership of the Commission was stacked from the beginning with those who support a shift to privatized accounts, and the Commission was specifically directed to promote such accounts. That is not your fault, and I do not blame you for holding policy beliefs in good faith. But it seems to many observers that the basic recommendations of the Commission were largely predetermined by President Bush when he selected such a one-sided group of

members and then limited the scope of options they were allowed to consider.

In sum, I stand by my critique of the Commission's report and believe that the benefit cuts it proposes would be a serious mistake for our nation, and the millions of Americans who will depend on Social Security in the future.

I look forward to continuing our dialogue in the months ahead, and hope you will be able to convince the White House and the Republican congressional leadership to join in the discussion before this fall's elections.

Best regards,

JON S. CORZINE,  
*U.S. Senator.*

(Mr. NELSON of Nebraska assumed the chair.)

Ms. STABENOW. Mr. President, will my colleague from New Jersey yield?

Mr. CORZINE. Yes.

Ms. STABENOW. I appreciate my colleague stepping in the Chair so I might come down for a moment before my good friend from New Jersey leaves.

I wanted to indicate my personal thanks to him—as well as my colleagues whom I know share this gratitude—for his willingness to come to the floor and articulate in such a precise way and an understandable way what the challenge is to this whole question of Social Security and privatization of Social Security; and the fact the Senator has been willing to put the time in to really make it clear what is at stake for people, I am very grateful. I thank him on behalf of the people of Michigan for doing that.

I wanted to ask one question before the Senator left. I know one of the things we talked about before is that Social Security is not just retirement. It is also a disability policy. If you are a worker and become disabled, your family is able to receive assistance, as a disability policy. If you, unfortunately, lose your life on the job, it is a life insurance policy.

Isn't it also true that we really have three parts to that system? I know the Senator from New Jersey spoke to that as well. This is not only a question of retirement, but it is a question of a security system—disability, life insurance, and retirement. That is why it is so critical that it remain in place.

I would appreciate it if the Senator might speak to that for a moment.

Mr. CORZINE. Mr. President, I very much appreciate the comments of my colleague from Michigan, whom I know has been so vocal about the need for a prescription drug benefit and the cost containment issue. Actually, we need a whole list of approaches to make sure our seniors in America have access to the American promise, and we need to work to make that happen. Prescription drugs must be part of that. Protecting Social Security must be, as well.

As it relates to the disability benefits, the proposals in the Commission's report would be even more devastating to disabled individuals than to retirees. Disabled people would not be able to build up assets in a privatized account if they are unable to work. And to the extent that they have assets in such an

account, they would not be available until an individual retires. Even the Commission expressed discomfort with their own cuts in disability benefits, though in the end they relied on the savings from such cuts.

I very much appreciate the distinguished Senator from Michigan speaking out on this aspect of the Bush Commission's cuts. Because, as she suggests, these cuts do go beyond retirees, and also jeopardize the disabled and those young people who lose a parent. That needs to be understood by the American people.

Mr. President, privatized accounts can provide some benefits, if trees grow to the sky and the market never goes down or sideways. But if history is any guide, that is not really how the world works. In the real world, privatization would put at serious risk Social Security's floor level of support for the disabled, children, and our retirees.

Again, I thank the Senator for her question and for her support. I hope she will also see that same kind of support with regard to her efforts to contain the costs of prescription drugs, and to provide prescription drug benefits, both of which are serious and important issues for our country.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator is recognized.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that I be able to speak until about 6 minutes after 10.

#### STATE FISCAL RELIEF AMENDMENT

Mr. NELSON of Nebraska. Madam President, this morning I would like to talk about a very important issue that is affecting the States and the budgets at the State level.

While the national economy may be recovering from the recession, State budgets will take another 12 or 18 months to recover. Just last month, the National Governors Association and National Association of State Budget Officers found that over 40 States are facing an aggregate budget shortfall of \$40 billion to \$50 billion.

In my home State of Nebraska, the latest numbers show the highest unemployment level in 15 years. Tax receipts this year will be less than the previous year for only the second time in the history of the State. The State is cutting child care, rural development, and other essential services. Raising taxes to build up the budget cap and cutting aid to local governments will result in higher property taxes.

Many States face the same challenges as Nebraska. This is the appropriate time for some help to come from Washington. Part of the blame that can be assessed for States that are hurting can be laid at the feet of Congress.

A few months ago, this body passed—and the President signed into law—a bill to stimulate the economy and help workers. It wasn't a perfect bill. But

then there are very few. But the economy was hurting, and it was, in fact, time to act.

But there were unintended consequences of that bill. Not only did the economic stimulus bill fail to provide State fiscal relief in certain areas, but by making some changes to Federal tax law, the bill unintentionally added to revenue shortfalls. This means that we, in effect, cut State tax revenue streams. This, in turn, has put at risk programs such as medical assistance to the most vulnerable individuals in this country.

I am concerned about the crunch that the States are facing. As a former Governor, I know how hard it is to balance a State's budget. And every State has to balance its budget. The most important thing is that we recognize that this shortfall will continue, and it will affect the most vulnerable among us.

This supplemental appropriations bill that is being considered—and other bills will be coming up in the area of appropriations—is an important opportunity to do something helpful.

My good friend, Senator SUSAN COLLINS, from Maine, will be speaking shortly as well on the Collins-Nelson proposal that would provide a temporary 1-percent increase in the Federal Medicaid matching rate. In Washington, we require that the States deal with Medicaid and that they provide the services, and we offer some assistance. It is an underfunded Federal mandate.

At the present time, if we increase the amount of State funding to a temporary 1-percent increase, we will assist the States in being able to deal with the challenges in their budgets. At the same time, this bill will also permit them to continue to provide in the short term for the rising demand in social services from the economic downturn.

The bill would provide approximately \$8.9 billion in total fiscal relief to the States, which would allow them to expand—not contract—Medicaid and other health and social services.

States have worked very hard in order to be able to help people go from welfare to work. It is very important for us to help them continue that because if they are unable to continue, and they pull back on the Medicaid funding and they are not able to provide the social services, you could very easily have States returning to the process of bringing people from the workplace back into welfare. That is counterproductive. It works in the opposite direction. That is why we, in fact, must move forward and assist the States at this very important time.

The National Governors Association has embraced much of what we have proposed, and so have other organizations. And a number of cosponsors in our own body have stepped forward and said that this is the right thing to do, it is the right time to do it, and it is the right way to approach it.

The health care of Americans is part of our responsibility and our interest.

We must, in fact, help the States so we do not end up with the tough choices that the States are having to make, involving reducing Medicaid benefits to those among our most neediest in our midst.

According to the National Governors Association, Medicaid spending has been a particular struggle for States since expenditures have risen by an average of 12 percent over the last 2 years, while the State's revenues rose a total of 5 percent, as in the State of Nebraska. It appears that the revenues are flat.

Medicaid spending has been driven by high increases in health care costs nationwide, particularly the cost of prescription drugs, an issue that we are going to be facing to move forward to help our seniors deal with the high cost of prescription drugs as part of Medicare. These same pressures on the health care system and on our citizens are affecting the Medicaid population as well.

States have exhausted the usual ways of balancing their budgets. And so, given the projection of continued deficits, this means that we must, in fact, step up to the plate at this time and help our States work through this partnership that we have with Medicaid, where the States have a matching obligation with the Federal Government, with our budget. I hope we will be able to do that.

In closing, as a former Governor, I can say, having worked with this program, that it is an essential program. But it is a partnership with the Federal Government. Now is an opportunity for the Federal Government to do its share in assisting the States in dealing with this very important problem.

I urge my colleagues to join with Senator COLLINS and myself in this effort to show the States that Congress is not indifferent to their budget problems, and we will step in and provide meaningful assistance at a time when Governors need it most.

Madam President, I believe my time is about to expire, so I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, I rise today with my good friend, Senator BEN NELSON, to discuss the fiscal plight of our States. Here in Washington, consumed with our own budget challenges, we often forget that we have 50 partners in our efforts to provide needed health, education, and other essential services to our citizens. Our partners are our States and they need our help.

No one is more aware of the difficulties States are facing than Senator NELSON. As a former Governor, he understands that we are most effective when we work arm in arm, not toe to toe, with our partners, the States.

Senator NELSON and I have filed an amendment to the supplemental appropriations bill to provide emergency short-term fiscal relief to the States. Our amendment is needed, and it is needed now.

The recession may have eased earlier this year, but its effects still linger. They are felt acutely by States from Maine to Nebraska, from New York to Washington State. And I know the Presiding Officer is a cosponsor of the underlying bill that Senator NELSON and I have introduced. Though the recession has ended and economic growth has picked up in the first quarter of this year, unemployment continues to rise. Now it stands at 6 percent. It is an 8-year high.

The recession, the resulting rise in unemployment, and the tragic events of September 11 have placed tremendous and unanticipated demands on government services and resources. At the same time, these factors have contributed to a dramatic and unexpected drop in government revenues at precisely the time when more revenues are needed to respond to the confluence of challenges that confront us.

The combination of the increasing demands for services and the unexpected drop in revenues is causing a fiscal crisis for State budgets all across this Nation. According to the National Governors Association and the National Association of State Budget Officers, more than 40 States are facing a combined budget shortfall of between \$40 and \$50 billion. Most States have seen their estimates of tax collections for the current year decrease, often dramatically. State governments are scrambling to respond. Forty-nine States are required by law or constitution to balance their budgets, so running a temporary deficit is simply not an option.

Moreover, the problem is getting worse and is not likely to improve until next year at the earliest. A survey released by the National Governors Association shows that individual tax revenues for the first 4 months of this year are running nearly 15 percent below last year's levels.

The problem is not an isolated one. Thirty-nine States have been forced to reduce their already enacted budgets for fiscal year 2002, by cutting programs across the board, tapping rainy day funds, laying off employees, and reducing important services.

States have been forced to cut a number of critical programs. Twenty-nine States have attempted to balance their budgets by cutting spending on higher education. Twenty-five States have cut corrections programs. Twenty-two have been forced to slash Medicaid. Seventeen States have cut spending for K-12 education. And 10 States have reduced aid to local governments. In addition, a number of States have raised taxes and fees by a total of \$2.4 billion. We believe the Federal Government can and should help our partners, the States. We should do so in an effective and responsible way.

Our amendment would provide a temporary increase in the Federal Medicaid matching rate and would provide block grant funds to each and every State. Specifically, our proposal would

increase the Federal Government's share of each State's Medicaid costs by 1 percent and hold the Federal matching rate for each State harmless for the second half of this fiscal year and all of the next.

In addition, our proposal includes a temporary block grant to States that would help them pay for the rising demand in social services resulting from the economic downturn. Our amendment would provide approximately \$8.9 billion in total fiscal relief to the States that would allow them to continue rather than contract Medicaid and other vital services.

Our amendment would provide fiscal relief to each and every State that is struggling to balance the budget and care for their citizens. It has been endorsed by the National Governors Association, the American Hospital Association, the American Health Care Association, and the Visiting Nurse Associations of America. These groups understand the importance of providing assistance to States at a time when many are forced to look at cutting Medicaid and other essential health care programs.

For that reason, our bill targets most of the assistance to the Medicaid Program. That is the fastest growing component of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased by 11 percent. This year, Medicaid costs are increasing at an even higher rate—13.4 percent. My home State of Maine is one of a number of States that has been forced to consider cuts in the Medicaid Program in order to compensate for declining revenues and to balance the budget.

Earlier this month, after the legislature had already adjourned for the year, Maine's budget estimators determined that the State's revenues would come in some \$90 million under budget for this year and would most likely result in another \$90 million shortfall in the year to come.

Maine, despite the fact the legislature has gone home after enacting cuts earlier this year, is once again confronted with the need to reexamine its budget and make painful cuts.

Among the programs being considered for reductions in Maine are Medicaid and general purpose aid, which funds are vital for K-12 education. Maine is not alone. Maine is typical. If we do not help, if we do not provide some modest, reasonable aid to our States, States will be forced to slash health care, education, and social service programs in order to balance their books.

The amendment we have filed would help to bridge Maine's funding gap by bringing an additional \$56 million to my State. It would help us preserve Medicaid and other essential programs such as education over the next 18 months, while the economy continues to recover.

I emphasize, even with our amendment, States are still going to face

very difficult choices. They are still going to have to cut worthwhile programs. But with our amendment, States will be able to keep critical programs such as Medicaid, such as education, without having to slash them and cause real harm for the low-income populations in our States.

The challenges facing Governor King in Maine and other Governors across the country are considerable. The decisions they may be forced to make could affect the access of millions of Americans to health care and social services. They simply need our help. The proposal Senator NELSON and I have put forth would do just that.

We are very hopeful that the distinguished chairman and ranking minority member on the Appropriations Committee will join us in the effort to assist our States. If the supplemental appropriations bill is not the right vehicle for our amendment, we hope they will help us to identify very soon an appropriate bill to which our amendment could be attached.

We need to provide this help right away. Most States begin a new fiscal year next month, and we need to provide this much-needed assistance now.

It has been a great pleasure to work with the Senator from Nebraska on this important initiative.

Mr. NELSON of Nebraska. Will the Senator from Maine yield for a question?

Ms. COLLINS. I am happy to yield.

Mr. NELSON of Nebraska. If we are unable to find the appropriate legislative mechanism to get this legislation passed, what is the Senator's opinion as to what States will be faced with doing, and what will the impact be for the citizens of States?

Ms. COLLINS. Madam President, the Senator from Nebraska raises a very important question. If we do not act, if we do not act within the next few weeks, States will have no choice but to slash their Medicaid Programs, thus depriving our needy low-income families of the health care they depend on. They will be forced to cut education programs for K-12 and for State universities. They will be forced to make choices that will cause real harm to the citizens of this country.

They have no other option. Unlike the Federal Government, they cannot temporarily run a deficit. Forty-nine States are required to balance their budgets so they will have no choice, given that the fiscal year for most States is going to begin on July 1, but to make Draconian cuts in the programs that serve the most needy members of our society.

We need to act as their partners. We need to provide them with help to get over this difficult period.

I thank the Senator from Nebraska for his excellent question.

Mr. NELSON of Nebraska. I have another question, if I might ask the Senator from Maine, who so very eloquently expressed the concerns and so diplomatically suggested that we need

some help in finding the true mechanism to get this legislation through.

What, in the Senator's opinion, might happen to the efforts we made collectively as partners with the States for welfare reform and getting people off the welfare rolls and into the workforce? What might happen to that?

Ms. COLLINS. The Senator from Nebraska has asked a very important question. He was a leader, when he was Governor, in helping people in his State move from welfare to work, to give people the dignity and independence that comes from the ability to earn a living. Those efforts depend on child care. They depend on assistance with transportation. They depend on assistance with education, with expanded Medicare coverage. In order for people to be able to move from welfare to work, we have to have the social supports in place to ease that transition. Those supports would be in jeopardy if we do not provide our States with the assistance we are discussing.

Furthermore, there are States that are scheduled to have an actual decline in the amount of Medicaid match that they receive from the Federal Government. That could not happen at a worse time. It would cause them to slash services even more. We cannot allow that to happen.

This is a temporary problem. We are proposing temporary assistance to our States. The economy is recovering, but the effects still linger. States are still seeing the demand for social services.

I ask, through the Chair, the Senator from Nebraska—yielding some of my time to him—whether he has seen the kinds of problems in his State that we are seeing in Maine where revenues have dropped unexpectedly one more time, causing the legislature and the Governor to confront a pending deficit in a budget that had already been enacted.

Mr. NELSON of Nebraska. Madam President, the State of Nebraska's tax receipts, for the first time—maybe only the second time in history—are below what they have been in the past. We have had downturns in the economy previously, and the tax revenues may have been down, but they would continue to be greater than the previous year. That is no longer the case. You actually do have a downturn in the economy—much of it related to the difficulties in agriculture. But when you see unemployment moving up to the highest level in 15 years, together with tax receipts going down, it doesn't take a mathematician to figure out what will, in fact, continue to happen in the future.

When we require, at the Federal level, certain programs and do not provide all the funding, all we are really doing is underfunding a mandate to the States. Maybe it is an important mandate that we are requiring, but it is also important to not be inconsistent here, to try to further reform welfare with legislation that is going to be coming before this body in a short pe-

riod of time and, at the same time, as we try to have a higher requirement for work, and what have you, to improve the income level of people going from welfare to the workforce. We have to make sure we are consistent and we don't require that on the one hand and not make it impossible when it comes to funding on the other hand.

I thank my colleague from Maine for a very articulate and passionate expression of why it is important that we do this. I hope I have responded to her question.

Ms. COLLINS. I thank the Senator.

Madam President, I will make one final point. This proposal will not only help our States balance their budgets without slashing essential social services such as the Medicaid Program, but it will also provide much-needed help to struggling health care providers such as our rural hospitals, our nursing homes, and our home health agencies. Those health care providers have been struggling with inadequate reimbursements under Medicaid and Medicare. By increasing the Federal share of what is a partnership between the Federal Government and the States to provide health care for our low-income families, we will also be helping to stabilize the health care providers, particularly in rural States such as Nebraska and Maine. So that is another reason you will find that health care providers associations are strongly backing our legislation, as is the National Governors Association.

This is not a partisan issue; it is one where we have come together to provide much-needed relief to our partners, the States. My hope is that we will expeditiously enact our proposal before the July 4 recess.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4775, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for fiscal year ending September 30, 2002, and for other purposes.

Pending:

Daschle amendment No. 3764, to extend budget enforcement.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate to be divided by the chairman and ranking member of the Appropriations Committee.

The Senator from West Virginia.

Mr. BYRD. Madam President, the bill before the Senate is an emergency supplemental bill. It responds to emergency needs for our military. It provides emergency funds for enormous gaps in our homeland security network. It makes investments today to protect the people of this country against attacks tomorrow. We cannot afford continued delay and dragging of feet.

The Nation is unprepared for a biological or chemical attack. Our current public health system is ill funded, fragmented, and unprepared to respond to the threats posed by bioterrorism. We must expand State and local capacity to recognize and to treat deadly pathogens so that we are prepared to deal with weaponized disease.

The anthrax-laced letters that were sent through the mail afforded us just a glimpse of the terror that could result from a more serious biological attack involving smallpox or Ebola. We know Bin Laden loyalists have conducted research on chemical and biological weapons at 40 sites in Afghanistan. We know that more than a dozen nations, including China, Iran, Iraq, Libya, North Korea, Russia, and Syria, can produce biological and chemical weapons. So what are we doing about it? Are we taking action? No. Senators are dragging their feet. The Government's seemingly uncoordinated and chaotic response to the anthrax scare and the public's ensuing panic to anything both powdery and white had overwhelmed our public health systems.

Many of our local health departments were found impotent and ill prepared, lacking such basic forms of communication equipment as computers and fax machines. Astonishingly, according to the former Director of the Centers for Disease Control, only half of the Nation's public health departments have direct, secure Internet access.

State and local health officials will be first on the scene in a biological attack. It is essential that they be capable of quickly identifying a deadly organism and disseminating that information widely and rapidly so that new cases can be caught early and the spread of disease can be stopped. Many local health departments, however, do not possess modern communications systems because of funding constraints.

Simply put, in the event of a chemical or biological attack, our local health care providers are probably better able to get more accurate information and more quickly from CNN than they are from other health care officials. So what are we doing about it?

Are we taking action? No. Some Senators are dragging their feet.

Our Nation's seaports are the soft underbelly of our homeland defense. U.S. ports are home to oil refineries and chemical plants that process noxious, volatile chemicals. There are 68 nuclear powerplants located along U.S. waterways. A hijacked vessel that crashes into a port can be used to ignite volatile fuels or gases and produce a fuel air explosion equal to hundreds of tons of dynamite.

Within a mile of the Inner Harbor of Baltimore is a major east coast import and export hub for a broad range of dry and liquid chemicals. If ignited, many are capable of producing ferocious fires, explosions, and clouds of noxious fumes immediately adjacent to such densely populated rowhouse neighborhoods as Locust Point, Highlandtown, and Canton.

So what is being done about it? What are we doing about it? Is the Senate taking action? No. Senators are dragging their feet—some Senators.

U.S. ports receive 16,000 cargo containers every day—16,000 cargo containers every day—and 6 million containers per year, but only 2 percent of those containers are inspected. That means that a terrorist has a 98-percent chance of sneaking weapons of mass destruction into the United States.

Cargo containers are piled up by the thousands at ports, depots, and huge outdoor warehouses. Many big cities, such as Charleston, SC, and New Orleans, LA, were literally built around their ports, and they present an attractive target. The only thing separating that container yard from where people live and work is a barbed-wire fence.

Cargo containers that are not inspected are quickly loaded and shipped to practically every town in America on top of ships, trains, and trucks. It would not be difficult for a terrorist to track a container with a global positioning system and detonate a weapon hidden inside.

So what are we doing about it? What is the Senate doing about it? The Senate is stalling. The Senate is not moving. Are we taking action? No, we are not taking action. Senators are dragging their feet—some Senators.

International authorities have linked 20 merchant vessels to Osama bin Laden. Some of the vessels are thought to be owned outright by Bin Laden business interests while others are on long-term charter. The Times of London reported in October 2001 that Bin Laden used his ships to import the explosives used to destroy the U.S. Embassies in Kenya and Tanzania in 1998.

So what is the Senate doing about it? Is the Senate taking action? No, no, the Senate is spinning its wheels. Senators are dragging their feet—certain Senators.

Nuclear material is easily available if one knows where to look. In January 2001, a panel headed by former Senator Howard Baker and former White House Counsel Lloyd Cutler found that the

threat of terrorists getting their hands on Russian nuclear weapons is the most urgent, unmet national security threat to the United States today.

I served with Howard Baker. He is a man of great integrity, knowledge, and wisdom. He is a patriot.

Stealing or buying a warhead from Russia would be the quickest way for the terrorists or a rogue state to get a nuclear weapon, but it is much easier to construct a radiological bomb from poor-quality nuclear materials. A radiological bomb, or a dirty bomb as it is sometimes called, does not have a massive explosion, but instead it spreads radioactive contamination by using a conventional explosive.

So what are we doing about it? What is the Senate doing about it? The Senate is spinning its wheels. Are we taking action? Is the Senate moving on this bill? No. Senators are dragging their feet—certain Senators.

The list of gaps in our homeland defense structure is overwhelming. Senators should be ashamed of holding up action on this legislation. We ought to be doing everything within our power to ensure the safety of the American people to protect their lives and their property, but instead of moving quickly on this supplemental bill, instead of fulfilling their responsibility to protect the American people, some Senators would rather play politics. In other words, they would rather blow up the train.

What I fear is that with continued delay, we are making it far too easy for terrorists to blow up anything they want. We ought to move forward with this legislation. We ought to pass this bill. We ought to take steps now to protect the American people from terrorist acts. The administration ought to halt its opposition to this bill.

Senator STEVENS and I have tried our best to provide money for this country and for the needs of the Nation and for the Nation's defense, both at home and abroad. We held 5 days of hearings. We have brought a bill to this floor that we believe protects the interests of our citizens at home and continues our efforts to fight terrorism abroad. We had good witnesses. We did not omit important Department heads, important officials from the executive branch.

I, frankly, have difficulty in understanding the complacency about these matters.

We have alerts and prognostications, warnings, dire warnings, from the President, the Vice President, who has indicated quite clearly that another attack by terrorists of such dimensions as September 11 is virtually certain, almost certain.

Many other officials in this Government have indicated another terrorist attack on this Nation is a virtual certainty, and yet some people in this body appear to be asleep when it comes to the urgency of providing the funds that may prevent another attack.

Some Senators have problems with some of the items in the bill. They

know what to do. They can offer amendments. Let us have a vote. They ought to offer amendments and ask for a vote. Come on, bring your amendments. Ask for a vote. Get a vote on your amendment.

Yet we have spent 3 full days already on this legislation, much of that time begging Members to come to the Chamber and offer amendments. Those amendments have been very slow in coming. It is obvious there are some in this body who wish further delay. Perhaps they are being prodded and urged by the administration to delay this bill.

What does it take to awaken Senators to the emergency nature of our situation? What does it take to jar some of the Members of this body out of the usual political posturing that so bores and distresses the American public? Does it take another horrific attack, with thousands of more lives lost, to focus the attention of the Senate on the urgency of this matter?

Cloture must be invoked. We must move this urgent legislation. We must shake off the complacency. We must stop playing politics with this Nation's security and get this bill to conference and on the President's desk. So I urge all Senators today to vote for cloture.

Madam President, how much time do I have remaining?

THE PRESIDING OFFICER. The Senator has 4 minutes 20 seconds.

Mr. BYRD. I reserve that time.

THE PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent, on behalf of the chairman of the Budget Committee, Senator CONRAD, to modify amendment No. 3764 earlier submitted by the chairman of the Budget Committee, to comply with the agreement with Senator DOMENICI on the budget enforcement procedures, and ask that that modified amendment be in order postcloture.

THE PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, reserving the right to object, every other amendment which is nongermane would be barred postcloture. I do not see any reason why this amendment should be treated differently than any other, and I object.

THE PRESIDING OFFICER. Objection is heard.

Who yields time?

The Senator from Texas.

Mr. GRAMM. Madam President, I yield myself such time as I might consume.

I do not know if anybody is confused about what is happening. I guess with everything that has been said today and yesterday maybe they are, so let me try to straighten it out. The President sent a request to the Congress for an emergency appropriation for \$29.7 billion. In his request, the President outlined what he thought we needed to provide homeland security and to deal with the crisis that it poses. He urged Congress not to load up this bill with

extraneous appropriations and not to use this as a vehicle to spend a whole bunch of money that we do not have, now that we are looking at the potential of running a \$100 billion or \$150 billion deficit. That is the request that the President made.

Let me outline the bill before us. I hear my dear friend, the Senator from West Virginia, talking about people dragging their feet; we need this bill. The President has already said he will veto this bill. The President has already issued a detailed outline running four pages, single-spaced, saying what is wrong with the bill and saying in the clearest possible terms that he is going to veto it.

So is this a political exercise or is this making law? Well, I guess that depends on one's perspective.

Why is the President so upset about this bill that he is saying it will be the first bill he has vetoed since he has been President? That is pretty extraordinary. A bill he requested, a bill that is aimed at providing homeland security, the man who requested it, who has the responsibility to all the people of the country for providing homeland security, the man who under the Constitution is Commander in Chief, is now saying he is going to veto this bill. Why is that?

Here is why: First, this bill spends \$4 billion more than the President requested. That is \$4 billion, in the words of our dear colleagues on the other side of the aisle, that will come right out of the Social Security trust fund. That is \$4 billion that will not be there for trust fund accounts or for any other purpose.

The problem does not stop there. My guess is, if \$4 billion of add-on spending had been piled on to this emergency bill the President probably would have swallowed hard, noted this is the way Congress works, and signed the bill. But that is not the biggest problem. Four billion dollars of overspending is not the biggest problem, and I will read from the committee's own document, from their committee report, where they outline what they are doing.

The President requested in emergency appropriations, to deal with exactly the needs we are talking about, \$24.447 billion. When the President requested \$24.447 billion for emergency appropriations, what does the committee provide; what does the bill before us provide? It provides not \$24.447 billion. It provides \$14.041 billion. In other words, this bill not only spends \$4 billion more than the President asked for but in the committee report summary, it notes that it underfunds the President's request by over \$10 billion. In other words, \$10 billion in emergency appropriations the President asked for were not provided in this bill.

Now, one might say, they spend \$4 billion more than the President but they do not fund \$10 billion of emergency funding he asked for? How is that possible? I will explain how it is possible. In contingency emergency ap-

propriations, these are things that are not true emergencies, the President had \$2.7 billion of offset expenditures, but we do not provide \$2.7 billion for nonemergency items. We provide \$17 billion of nonemergency items and we do not pay for them. As a result, this bill funds \$14 billion of nonemergency items that the President did not request.

So is anybody startled that even a President who goes the extra mile to be bipartisan, even a President who has done everything he could do to try to make this effort a bipartisan effort, has finally balked and said, look, the Congress is spending \$4 billion more than I asked for? They are giving me \$10 billion less in emergency spending than I asked for, and they are giving me \$14 billion of nonemergency spending I did not ask for. As a result, the President is pretty upset. He kind of feels his effort to prosecute this war is being used to fund programs that he believes—and I am not saying he is the only person with an opinion—do not represent the right priorities.

Now given this is the situation we are in, given that our President has said he would veto this bill, is anybody shocked that Republicans are concerned about it and that we are objecting to it?

Mr. BYRD. Madam President, will the Senator yield?

Mr. GRAMM. I am very happy to yield.

Mr. BYRD. Will the Senator identify the emergency items that the President requested that the committee did not fund?

Mr. GRAMM. I do not have before me a detailed listing. I can get that and I would provide it. I simply point out to the Senator, in his committee report, which is dated May 29 of this year, in the classification of total amounts, the net appropriation is \$3.8 billion above what the President requested; emergency appropriations are \$10.4 billion; contingency appropriations are \$14 billion more. They are your numbers.

I am not saying everything the President says is an "emergency" is the right designation and everything you want to fund which is not an emergency is the wrong thing. I am simply saying that the man who was elected by the American people to prosecute this war and to protect security asked for \$29 billion. We are spending almost \$34 billion. He asked for \$24 billion of emergency spending, and we are giving him \$14 billion. He asked for \$2.7 billion in contingency emergencies—much of what he spends—and we are spending \$17 billion for that purpose. So we are spending \$14 billion more for non-emergency appropriations than the President asked for. Those are the facts in this.

I don't want to get into an argument with my dear friend, but I am reading from his report.

Mr. BYRD. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

I am on page 148.

Mr. BYRD. As I understand it—and I am confident I am right—there is only \$65 million in the President's request for emergency that we did not approve.

The Senator is not on the committee. Let me tell you what we did approve. Fourteen billion dollars, as requested by the President, for the Department of Defense, for the war on terrorism; \$1.95 billion for foreign assistance, virtually all of which was either requested or supported by the President.

Mr. GRAMM. If the Senator would yield, I would be happy to listen, but I only have a little bit of time left.

Mr. BYRD. The Senator is making some statements that are simply not true, and I would like to clarify them.

Mr. GRAMM. Let me give the Senator 1 more minute, and I will have to have my time back.

Mr. BYRD. There is \$8.3 billion for homeland reform that the Appropriations Committee determines is necessary based on extensive hearings. The Senator was in not in those hearings. The ranking member was in the hearings. They were well attended by Republican Members. There is \$5.5 billion requested by the President in response to the September attack on New York City.

The Senator has come to the Senate floor "loaded for bear," but he is saying some things that simply are not true about this bill. I think he had a bad dream. I think he had a nightmare. He is not feeling well. He is not feeling well this morning.

Mr. GRAMM. Let me read the words from the Statement of Administration Policy:

The administration strongly opposes this bill and also would strongly oppose any amendment to further increase spending above the President's request.

Mr. BYRD. Madam President?

Mr. GRAMM. Continuing:

The Senate includes scores of unneeded items that total billions of dollars all classified as emergency.

Mr. BYRD. Will the Senator yield?

Mr. GRAMM. I cannot yield now because I have a very limited time. If we had unlimited debate, I would yield.

Mr. BYRD. I would love to go to that point.

Mr. GRAMM. Maybe when we get into the postclosure we can.

Finally, to sum up—and this is a President who has not vetoed a single bill, who came to this city determined to work on a bipartisan basis—he says:

If the supplemental appropriations bill were presented to the President in its current form his senior advisors would recommend that he veto the bill.

The point I am responding to is that when people say they do not understand why there is opposition to this bill given that we are in an emergency situation, that simply leaves out that the President has already said he would veto this bill.

What we should be doing, it seems to me, is sitting down, perhaps the committee should go back and rewrite the bill, work with the President, and craft

something the President would sign. The idea that somehow there is foot dragging going on when the President has already said he would veto the bill, I don't view as productive work in which we are engaged. It seems to me what we should be trying to do is to make this bill acceptable to the President.

I also note that if you look at every agency of the executive branch of Government, you see that this bill funds every single agency of the executive branch of Government at a higher level than the President requested, except one. There is only one agency of Government that does not get more funding than the President requested under this bill. Guess what it is. Only one agency does not get more funding than requested by the President. What is the agency? The Defense Department. And this is a bill that is about homeland security.

So there are two sides to the story. We are at an impasse. Those who want to see a bill signed into law and want to support a President who believes his effort is being subverted have some responsibility to do that. It is not that we are trying to be mean or hateful, it is that the President, who asked for the bill, said he will veto it. The numbers provided by the committee show it grossly overspends what the President requested; and not only that, it overfunds in areas that the President has said do not represent emergencies.

Finally, in what I think is a twisting of the process, when we had a budget, we said there could be an emergency under two circumstances: With an agreement of two parties, the President and the Congress. If the President says something is an emergency and Congress says it is an emergency, it does not count on the budget. But under this bill, this \$14 billion of non-emergency spending that is added, the President cannot take any of the money that is provided for an emergency, even though it is \$10 billion less than he asked for; he cannot spend any of it, unless he designates this \$14 billion add-on as a nonemergency.

That is a perversion of the whole emergency designation.

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

The Senator from West Virginia.

Mr. BYRD. The Senator from Texas, I am sorry to say, is apparently having some hallucinations. The President requested—if the Senator will look at the report, the Senator questioned \$27,143,519,000.

The White House said the very same thing about homeland defense. They did not need the money. They did not want the money. Tom Ridge wrote me a letter—I believe he sent a copy of it to Senator STEVENS, or he may have written the same letter to Senator STEVENS, I am not sure, but he sent me a letter saying they did not need the money, they did not want the money, they would determine what they needed in due time and tell us what they needed.

This Senate added \$4 billion for homeland defense last year over the President's request. It is being used; it is making a difference. And after all of the hearings of this committee, before Republicans and Democrats, after all the hearings in which the executive branch participated, this is the outcome. This bill that we have brought to the floor is the result of those hearings. Go back and tell your firefighters, may I say to the Senator from Texas—go back and tell your firefighters, tell your law enforcement people, tell your policemen, tell your health officials, tell those people, tell the people back home they do not need this protection. Tell them; don't tell us.

The Senator was not on the committee. I greatly honor the Senator from Texas but he is absolutely wrong. He is dead wrong. He is having dreams. He is having nightmares. He is really wrong. The figures he quoted this morning, if we had the time, I would show, are absolutely false.

This committee, 29 members, backed this bill. Fourteen of those members were Republicans. They voted to report this bill, and they are right.

So I say to the Senator—if I may have his attention?

Mr. GRAMM. You certainly may.

Mr. BYRD. Would he please offer amendments. If he doesn't like this bill, offer amendments to take out the money, and then you can tell the people back home, you can tell the policemen, you can tell the firefighters, you can tell the health personnel, you can tell the people at the local level, that their safety doesn't matter. Their safety doesn't matter.

What the administration says is apparently what matters. But the administration was wrong last year. The Senate was right last year. The administration is wrong this year, and the Senate is right this year.

So I urge Senators to vote for cloture and then let's vote on the amendments.

#### WAGE INDEX FAIRNESS

Mr. SESSIONS. Madam President, I rise today, along with my distinguished colleagues, Senator SHELBY and Senator HUTCHINSON, to offer an amendment to the Emergency Supplemental Appropriations bill. I have come to the Senate floor many times in the last 5½ years to talk about this issue—the wage index—and I will continue to do so, and I will continue to offer my bill S. 1001, the Wage Index Fairness Act, as an amendment until we do something about it. I wanted to offer this amendment to the emergency supplemental bill because it is, in fact, an emergency. The wage index is causing hospitals in rural areas all over America to close their doors and to turn away patients. We cannot allow this to continue.

The wage index is an injustice to rural communities that I believe has reached emergency levels. This terrible inequity within the Medicare wage index formula must be addressed in order to ensure access to care for

Americans in need. This amendment, which is cosponsored by my colleague from Alabama, Senator SHELBY, as well as my colleague from Arkansas, Senator HUTCHINSON, will establish a floor on area wage index adjustment factors used under the Medicare Prospective Payment System for inpatient and outpatient hospital services.

Over the past years, I have visited numerous hospitals, and at every one, hospital administrators and hospital staff have urged me to do something about the wage index. They have illustrated for me the amount of money they lose each year as a result of this unfair formula, as well as the struggles that result including fighting to keep their hospitals staffed and their doors open. Time after time fixing the wage index has been cited as the number one issue for Alabama's hospitals, and I have worked closely with the Alabama Hospital Association and its members to develop a plan to address the wage index problem.

A complicated and mostly arbitrary formula, the wage index is part of the hospital Perspective Payment System, PPS, which was created in the early 1990s in an effort to cut Medicare spending. It established a base rate for Medicare reimbursement based on two components: labor and nonlabor related costs. While nonlabor related costs are similar nationwide, labor-related costs must be adjusted to account for the regional differences in wage costs. This adjustment is made according to a wage index.

Rural areas such as Alabama and Arkansas have low wage costs; therefore, their Medicare reimbursement is much lower than in other parts of the country. Alabama actually has the lowest average wage index in the country, and Montgomery, Alabama's capital, has the lowest wage index in the State. In fact, the wage index for all Alabama's hospitals is between 0.74 and 0.89—well below the national average.

The amendment I have introduced would establish a wage index "floor" for Medicare reimbursement to hospitals. By raising the minimum wage index to 0.925, we can help those hospitals that have been hit hardest by the unfairness of the wage index formula. Other legislative proposals may fix the wage index, but they also include additional funding for other portions of Medicare reimbursement policy. My bill addresses just the wage index and will help nearly half of the hospitals in the country. According to the American Hospital Association, this proposal will benefit 2153 hospitals across America.

Illustrating what an important issue this is, my friend and colleague, Senator HUTCHINSON, has also filed an amendment on the wage index and base payment amount, is that not correct Senator?

Mr. HUTCHINSON. I have also filed an amendment to the supplemental appropriations bill on this critically important issue. While my amendment,

cosponsored by Senator CLELAND, will not be considered relevant if the Senate invokes cloture on the supplemental appropriations bill this morning, I want to stress to my colleagues how important it is to the livelihood of hospitals across America who are struggling every day to survive and to meet growing health care demands.

Cuts in Medicare and Medicaid reimbursements, coupled with health care inflation and a dramatically growing health care worker shortage, are forcing many hospitals to shut down units, cut services, or close down entirely. This truly is an emergency situation, and Congress needs to take action.

The amendment I am offering is based on bipartisan legislation I introduced called the Area Wage and Base Payment Improvement Act, which now has 26 cosponsors. It is designed to help rural hospitals keep pace with today's salary requirements for their workers by setting a minimum payment on the area wage index. Such an area wage index floor—set at .0925 percent—would bring Medicare payments for at least 2,100 hospitals nationwide closer to the national average of 1 percent.

The amendment also eliminates the disparity in the Medicare inpatient base payment amount by moving rural and smaller metropolitan hospitals to the same payment level received by large urban facilities. This change in the base payment amount is also supported by the Medicare Payment Advisory Commission. In total, my amendment would provide an additional \$328 million in needed payments to rural hospitals in Arkansas.

These rural hospitals are truly the lifeblood of their community. Not only are they often the primary source of health care in a given community, they are also a major provider of jobs in a given area. The financial failure of a hospital puts its whole community at risk because, without these institutions, medical services, social services, and jobs disappear.

Small and rural hospitals have been especially hard hit by staffing shortages, particularly in the field of nursing, since lower Medicare reimbursements and the very nature of rural areas make it difficult to recruit and retain qualified staff. In Arkansas and Alabama, rural hospitals are losing staff to bigger salaries offered by large, urban hospitals out-of-state. Meanwhile, in many urban area hospitals, fierce competition for qualified workers is creating serious retention issues as workers are hopping from job to job.

I ask my colleague how is this competition for workers affecting hospitals in Alabama?

Mr. SESSIONS. Alabama is having to compete with surrounding urban areas such as Atlanta, GA, for health care professionals. In order to recruit these highly qualified health care personnel, Alabama's hospitals must offer urban wages. This has become nothing short of a bidding war due to the national shortage of health care professionals,

and nurses and health care technicians who are being offered high pay, living expenses and, in some cases, traveling expenses to leave Alabama and work in larger urban hospitals. Alabama hospitals must offer higher wages, but they are not fairly reimbursed by Medicare based on these higher costs. Their reimbursement continues to be adjusted by this capricious area wage index, which, as I have just illustrated, does not always reflect the actual labor costs.

The annual impact of the wage index formula results in a reduction of Alabama hospital payments by between 5.5 and 6.5 percent each year or close to \$46 million/year. Until we fix this problem, Alabama hospitals and hospitals all over the country will continue to lose millions every year. Already forced to make the most of limited resources and to continue to provide care for the State's uninsured, these hospitals will face tough decisions regarding health care services. They will continue to postpone important projects and the purchasing of much-needed equipment.

In my home State, it is easy to see how arbitrary and unfair this formula is. In Mobile, AL, the prevailing wage index is 0.81. Just across the border on the Mississippi side in Pascagoula, less than an hour's drive away, the wage index is 0.88. On the other side of Alabama, in Pensacola, FL, also about an hour's drive from Mobile, the wage index is 0.89. There is no reason for the difference. The wages are not that different. But what it means, is that the hospitals in Mobile get less Medicare reimbursement than those in the other two areas. This formula is arbitrary and unfair.

The Centers for Medicare and Medicaid Services, CMS, and the Medicare Payment Advisory Commission, MedPAC, have recognized the problem, and they have even made recommendations to change the wage index.

In addition to these recommendations, several pieces of legislation have been introduced in this Congress to address the wage index. Senator GRASSLEY, ranking member on the Senate Finance Committee has been a champion of changing the wage index, in fact, he introduced legislation last year that I and several of my Senate colleagues cosponsored. I also appreciate the support we have received from Senators SPECTER and HARKIN during last year's Labor, Health and Human Services Appropriations debate. I thank them for their support and welcome their offer to help fix the wage index. Although many have recognized the problem with the wage index, nothing has been done to fix it.

While I understand the upcoming cloture vote will make my amendment nongermane as well, I still feel compelled to offer this amendment to the bill to illustrate to my colleagues the true urgent need to fix the wage index. I hope that my colleagues will realize the urgency of this matter and will work with me to fix this inequity. I

urge the Senate Finance Committee and my colleagues to join Senators SHELBY and HUTCHINSON and myself in our efforts to fix the wage index formula and to help our hospitals continue to provide the high quality of care and the access to care Americans deserve.

Does the Senator agree that there is broad bipartisan support for these changes?

Mr. HUTCHINSON. Yes, the area wage index floor and base payment change proposals both enjoy broad bipartisan support. As I mentioned earlier, 26 Senators have cosponsored the Area Wage and Base Payment Improvement Act. Elements of this legislation have also been included in legislative proposals introduced by both Senators, GRASSLEY and BAUCUS, and I thank them for their leadership in this regard. The fact is that rural hospitals desperately need Congress to fix this inequity. These hospitals are a vital link in our Nation's health care safety net, and we must ensure that they are able to continue to offer quality health care services to rural Americans.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Nevada.

Mr. REID. Mr. President, is there any time remaining to the Senator from West Virginia?

The PRESIDING OFFICER. There remain 45 seconds.

Mr. REID. I ask that time plus 1 minute be given to the Senator from North Dakota, and equal time be given to the Senator from Texas.

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

Mr. CONRAD. Mr. President, when the Senator from Texas objected to the unanimous consent request that was made by the Senator from Nevada, what he was objecting to was a bipartisan agreement on a budget framework and the extension of the budget disciplines that expired at the end of September. All we were asking was for the body to have an opportunity to vote after the cloture vote this morning. That is because under the rules of the Senate, postcloture, that amendment to have a budget, to have the budget disciplines extended, will not be permitted.

There has been criticism that we have not had a budget for this year. I think all of us understand the jeopardy of not having a budget framework and the lack of the budget disciplines, which expire in September extended. This was an opportunity to address those critical concerns. I regret that the Senator from Texas objected. He doesn't want to give the body an opportunity to vote, to discuss, to debate, and to decide.

We had a chance to put in place a budget framework and to extend the budget disciplines to keep the appropriations process from spiraling out of control. We will have to revisit that issue, but I hope people will think carefully about whether we really do not

want to have any budget disciplines as we go through the appropriations process.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, forgive me, but for the chairman of the Budget Committee, who has not brought a budget to the floor—for the first time in my entire period of service in Congress—to be saying that he wants to write a budget by changing the rules of the Senate to allow it to be germane in a appropriations bill, when it doesn't even set totals as to how much we are going to spend, and criticizes me for objecting—I am sorry, but I think that just simply goes too far.

Quite frankly, we should have brought a budget to the floor. We should have debated it. We should have voted on it. We did vote on the Senator's budget yesterday and not one Member of the Senate voted for it. I guess every Republican thought it spent too much and every Democrat thought it spent too little. But the net result was, unless I am wrong, and I will stand corrected if the Senator would correct me, it got zero votes. So I do not understand being criticized because the Senator did not bring a budget to the floor.

Mr. CONRAD. Will the Senator yield?

The PRESIDING OFFICER. All time has expired.

Mr. CONRAD. I ask unanimous consent for an additional 30 seconds.

Mr. GRAMM. And if I could have the same.

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

Mr. CONRAD. I say to my colleague from Texas, when he says there were no number limits in what I was offering, he is wrong. He objected to putting in the very limits that he requests. This was our opportunity. We had a chance to have a budget framework and to extend the budget disciplines and the Senator from Texas said no. We will not even allow the body to consider it.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. We voted on a discipline yesterday. The Senator voted against it, raised a point of order against it, and it was his number and he voted against it.

I would like to say, Senator BYRD asked me where are we not funding something the President requested? I just opened up the bill and just looked at the first two pages. For staff and expenses of the U.S. Marshals Service, this appropriation is down \$2.1 million; for the Drug Enforcement Administration, it cuts \$13 million. I don't know—I could go further but I see I am out of time.

#### CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, under rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the supplemental appropriations bill, H.R. 4775:

Harry Reid, Patty Murray, Barbara Boxer, Dianne Feinstein, Jack Reed, Dick Durbin, Tim Johnson, Jeff Bingaman, Robert Torricelli, Tom Harkin, Daniel Akaka, Byron Dorgan, Joe Lieberman, Tom Carper, Bill Nelson, Maria Cantwell, Barbara Mikulski.

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

The question is, Is it the sense of the Senate that debate on H.R. 4775, an act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, 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. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN) and the Senator from South Dakota (Mr. DASCHLE) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The yeas and nays resulted—yeas 87, nays 10, as follows:

[Rollcall Vote No. 135 Leg.]

#### YEAS—87

Akaka	Durbin	Lugar
Allard	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feinstein	Murkowski
Biden	Frist	Murray
Bond	Graham	Nelson (FL)
Boxer	Gramm	Nelson (NE)
Breaux	Grassley	Nickles
Burns	Gregg	Reed
Byrd	Hagel	Reid
Campbell	Harkin	Roberts
Cantwell	Hatch	Rockefeller
Carnahan	Hollings	Santorum
Carper	Hutchinson	Sarbanes
Chafee	Hutchison	Schumer
Cleland	Inhofe	Shelby
Clinton	Inouye	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Landrieu	Thurmond
Dayton	Leahy	Torricelli
DeWine	Levin	Voinovich
Dodd	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden

#### NAYS—10

Allen	Fitzgerald	Smith (NH)
Brownback	Kyl	Specter
Bunning	McCain	
Feingold	Sessions	

#### NOT VOTING—3

Bingaman	Daschle	Helms
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The PRESIDING OFFICER. On this vote, the yeas are 87, the nays are 10. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The Senator from Nevada.

Mr. REID. Mr. President, we are now on postcloture regarding this very important legislation. I have spoken to the majority leader. If we can finish tonight, of course, there would be no roll-call votes tomorrow. If we cannot, everyone should understand, we will work until we finish this bill.

The President wants a bill. He may not like what we have now, but I am sure he will like what comes out of conference.

I suggest that we, in the next little bit, work with those who want to change this bill. We will try to work out a list of amendments people can offer that are germane. We will be as cooperative as we can. Everyone should understand, we will finish this bill. It will be finished this week. That is the way it is. If we get no cooperation from everybody, then we will have a vote at approximately 5:30 tomorrow tonight on this legislation. We are going to finish the bill this week.

The President has been calling for action for more than 2 months. We have been working on this measure, wasting a lot of time this week. The wasteful time is over. As I told the Republican leader earlier today, I appreciate his coming to the floor advocating that Republicans vote for cloture, which they did.

I hope we can move forward expeditiously. I say again, we will finish this bill tonight if possible, with no votes tomorrow. Otherwise, we will work through tomorrow until we finish.

I yield to my friend from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I tell my friend and colleague from Nevada, I am happy to work with him to try to expedite consideration of the bill. I might note, the President sent the urgent supplemental request on March 21. It was just recently marked up—I believe, last week. So we have had it on the floor for a couple days. We have had a chance to review it.

We did cooperate with the assistant majority leader to invoke cloture, which is unusual. I can't remember invoking cloture on an appropriations bill. Maybe the chairman of the committee remembers. It has probably happened, but it is not often. We did it in an effort to try to streamline it.

There are a lot of people trying to pass a budget on this bill. I happen to be on the Budget Committee. I would like for us to consider a budget, but we haven't had a budget on the floor of the Senate yet. Some people were trying to rewrite the budget through the Appropriations Committee, and I questioned the wisdom of that. I was a little concerned about that. Invoking cloture eliminates the budget debate. We are not going to have four or five more proposals dealing with budgets and caps and budget rules, and so on. We will deal with appropriations bills.

Now we have a list of amendments, a list of amendments germane postcloture. I will work with the Senator from Nevada to review that list. I

don't know if we can possibly pass this bill tonight. I will try. I will work with him to try to do it. We will try to pass a good bill. Some of us are concerned about the expense of the bill. The bill is \$4 billion over the President's request, and we didn't fund everything the President requested. There is a provision in here that says we are going to change how we do emergencies. I have an amendment to deal with that. I will call it up pretty quickly.

I urge all my colleagues, Democrats and Republicans, if they have germane amendments, to bring them forward. Let's consider those and see how much progress we can make on the bill. I don't know if we can finish this bill tonight. I will work with my colleague to do so.

If not, we will work to see if we can't come up with a timetable, a framework to where it is mutually agreeable to finish this bill as soon as possible.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend, the distinguished Senator from Oklahoma, Senator BYRD and Senator STEVENS marked this bill up 2 days before the House reported it. This was following long, very productive hearings that Senator BYRD and Senator STEVENS conducted. In my 20 years in Congress, I don't know of more in-depth, important hearings that have ever been held. Everyone from the administration was called to make their opinion known as to what should happen with homeland defense and the security of the Nation. These were long hearings. I didn't spend the time in committee that the chairman and ranking member did, but these were great hearings.

For someone to suggest—I am not confident that the Senator from Oklahoma did—that the Appropriations Committee was dilatory in any fashion is a mistake. This is one of the most in-depth, prepared bills I have ever come in contact with, even though most emergency bills don't have the background and depth this bill has.

We have marked this up; the Appropriations Committee did it 2 days before the House reported it. As everyone knows, we were even willing to bring it up, as the chairman of the Appropriations Committee, Senator BYRD, tried to do, before the Memorial Day recess. There was objection heard from my friends on the other side of the aisle.

We are now to a point where we will finish the bill. There is no way to slow it down. There are a number of problems we have in postclosure, but one of them is not, as we usually have in the Senate, an indefinite time period. We have a definite time period. We have already notified the cloakroom to have Presiding Officers here all night tonight. We will finish this bill by tomorrow. We want this bill to go to conference next week. We want the bill to go to the President as soon as we can.

I am confident the chairman of the committee would say this: There are

many inadequacies in our homeland defense. This bill will plug some of those holes. The sooner we do that, the safer my State of Nevada will be and every other State in the Union. We are moving forward. We are ready for the first amendment whenever anyone is ready to offer it.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have a number of amendments. I will be ready to propose them. There is no sense in reviewing how quickly we got to this point. In my memory there has not been a cloture motion filed on the first day a bill is considered.

All that aside, we are where we are. I respect and appreciate the motivation of the Senator from Nevada for getting this done as quickly as possible, perhaps tonight or tomorrow. Therefore, I believe I ought to tell the Senator from Nevada that in order to expedite that, there should be no managers' amendment package because I will, because of the egregious aspects of managers' amendments in the past, packages which none of us have seen and all too often have been agreed to because it is late at night, unless we agree—first of all, there should not be a managers' package of amendments. We should debate and vote on all amendments. But if I am not in agreement with them and others are not in agreement, we will have recorded votes on those amendments, I tell the Senator from Nevada.

We will not have one of these deals that we have seen in the past so many times where at the very end—maybe at 10 or 11 o'clock at night—there is a unanimous consent agreement that a managers' package be accepted. We are not going to do that.

So if the Senator from Nevada wants to get it done tonight, I recommend that he play some role in making sure we don't either have a managers' package or the contents of it are well known to all Members of the Senate and not discovered by reading the newspaper in the following days. I tell the Senator from Nevada, I will be ready with the first amendment that we have very shortly.

I yield the floor.

Mr. REID. Mr. President, I say to my friend from Arizona, a State next door to Nevada, that we did not file cloture on the first day, but we filed it on the second day. On the first day, we came for business and there was nobody from the minority here. We did not stay in session very long because there was no business to be transacted. That is one of the problems we have in the Senate. People think that if we have a bill up on a Monday or a Friday, it is kind of a day that doesn't really matter. We should be conducting business on those days. So cloture was filed on the second day.

I agree with the Senator that it would have been better if we had held off a little bit, but we simply were getting nothing done. The Senator will remember that on that day we accom-

plished nothing. Out of frustration and the fact that my dear friend, the senior Senator from Texas, stated that there was an effort by him and others to "slow down the train"—and we read the next day in the Daily Press that there was an effort by the Republicans to slow-walk this legislation and other legislation—I think the majority leader had no alternative. I think he did the right thing. As the Senator from Arizona said, it doesn't matter, it is water that has already gone under the bridge. We are here now. Let's work together to try to get this bill, which the President says he wants badly and we believe he needs badly, to sign for our country.

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

Mr. DOMENICI. Mr. President, I am not trying to take the place of anyone who wants to offer an amendment. I thought there was a little loose time here. Is the Senator ready? I wanted to speak a couple of minutes.

Mr. MCCAIN. I am glad to wait.

Mr. DOMENICI. I thank the Senator.

Mr. President, let me make a couple of observations. It seems to me that there is no question that we are going to pass this supplemental. The President of the United States will have his rights, when this bill goes to conference, to argue with the Senate and the House conferees and have his input. It is very difficult to perceive a situation where, when you are talking of more than a few billion dollars and more than 100 or 200 projects or programs or activities that are funded—it is pretty hard to come up with the same number for the President and the Congress. As a matter of fact, it has taken me a long time. I fess up to understand that the Budget Committee ordered that the Congress pass a congressional budget, and it is most interesting that they didn't say a Presidential and congressional budget; they said a congressional budget. Then, of course, nobody took away the President's prerogatives as that budget was implemented. The President retains his prerogatives to be for or against the bills that come from that budget.

In fact, there have been some in both Houses who have attempted to change the Budget Act so the President could be part of it. They have never gone anywhere—those proposals—because we are supposed to do our job, and the President, with the OMB and others, does his job; and eventually we come to a rational conclusion somewhere down the line.

I believe the far bigger mistake we are making as we move toward appropriations this year than trying to square this bill up in actual dollars exactly the same as the President's, or that we not get any cap language that exceeds the President's, I think the most important thing is to try to save some of the enforcement provisions of the Budget Act so they will be living throughout this process next year and give everybody an opportunity to see

whether they want to get rid of the entire process or whether they want to maintain the seven, eight, or nine important provisions that help us around here.

I am not suggesting I know how to do that now in a postcloture position. I will continue to work with the leader on the other side and the leader on this side and the respective whips and Senator BYRD, Senator STEVENS, and anybody else to see if we cannot have a bipartisan agreement. Let's retain the amendment. Let's retain what? Let's retain some significant portion of the enforcement provisions in the Budget Act, adopt them as a statute for 1 year in this appropriations bill. I believe that is the most helpful thing we can do even if the numbers are not identical with the President's.

For instance, in the entire budget, it looks as if we are coming down with an agreement that probably would be supported by more than half of the Senate, which says we cannot meet the President's appropriations number, but we can put together pieces and be maybe \$8 billion to \$10 billion higher on this gigantic budget. That does nothing to change the President's budget, does nothing to put him in a position where he is getting the short end of what is expected to be a congressional budget provided for in our own language, and then we have one called a budget of the U.S. Congress.

I hope, for those who are interested, we will continue to work on that. In the meantime, clearly, with the last vote, we are on a path to hurry up. I think that is relatively good considering where we have been in the past.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 3764

Mr. NICKLES. Mr. President, parliamentary inquiry: What is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 3764 by the Senator from North Dakota, Mr. DASCHLE.

Mr. NICKLES. Is that amendment germane postcloture?

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane.

Mr. NICKLES. Does the amendment fall?

The PRESIDING OFFICER. On a point of order.

Mr. NICKLES. Mr. President, I make that point of order.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 3703

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. FEINGOLD, proposes an amendment numbered 3703.

The amendment is as follows:

(Purpose: To strike the amount provided for design of a storage facility for the Smithsonian Institution)

On page 73, strike lines 1 through 11.

Mr. MCCAIN. Mr. President, this is not a very big or important amendment, but I think it has some symbolism associated with it. The amendment concerns striking \$2 million for the Smithsonian to begin design of an alcohol storage facility for animal specimens away from The Mall.

In the Statement of Administration Policy that was sent up on June 4, the President states his strong objections to the increases in spending over what the President had requested, and it also states if the supplemental appropriations bill were presented to the President in its current form, he would veto the bill.

This is just \$2 million of a several-billion-dollar increase over what the President requested. But in the Statement of Administration Policy, the Office of Management and Budget goes on to specify certain expenditures that are, in their view, either unnecessary—it says the Senate bill includes scores—quoting from the message—“includes scores of unneeded items that total in the billions of dollars, all classified as an emergency.”

The bill adds unrequested funds for numerous programs and projects throughout nearly all of the Federal agencies. Some of these items relate to homeland security—many do not—including \$11 million to the National Oceanic Atmospheric Administration for economic assistance to New England fishermen and fishing communities; \$26.8 million for the U.S. Geological Survey for urban mapping activities; \$2 million for the Smithsonian to begin design of an alcohol storage facility for specimens away from The Mall. They go on to add that the President's fiscal year 2003 budget already includes funding for this project in fiscal year 2003.

So, basically, what we are talking about is a project that already is included in the President's budget for next year. Apparently, the people at the Smithsonian are seeking to accelerate that, which I can certainly understand because then they will have some millions of dollars—\$2 million extra—to spend on other projects at the Smithsonian, a wonderful and venerable institution. But to no objective observer could this be viewed as a response to, as the title of the legislation is: Making supplemental appropriations for further recovery from a response to terrorist attacks on the United States. This is clearly not it.

To make a long story short—I do not intend to spend too much time on it—the President believes it is unnecessary, I believe it is unnecessary, and I believe it needs to be taken out and the money spent at the normal time in fiscal year 2003, which is in the President's budget. I am sure they will receive those.

Someone who supports this will say this is a serious situation, that the

temperature control is an important aspect, alcohol is flammable, and we should be as careful as possible, et cetera. I agree with all of those arguments, but I also would argue that other measures can be taken and this project can be moved forward at the appropriate time.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the supplemental appropriations bill does include \$2 million for the Smithsonian Institution to begin planning and design work for construction of a storage facility that would hold specimen collections preserved in alcohol.

The House included this amount in its version of the supplemental appropriations bill. The amount is requested by the administration in the Smithsonian's fiscal year 2003 budget estimate. So the administration supports this item.

The Smithsonian's National Museum of Natural History on The National Mall holds one of the largest natural science specimen collections in the world. Most of this collection is preserved in alcohol, an estimated 730,000 gallons of highly flammable liquid occupying 50,000 square feet of space at the museum.

The storage space at the museum does not comply with the fire and safety codes, exposing the public—we are talking about exposing the public here—to significant risks. For example, large areas of the main building have no sprinkler system, and there are no firewalls between the newer wings and the older central exhibition spaces of the museum.

With the equivalent of several jet planes loaded with fuel—now get this—with the equivalent of several jet planes loaded with fuel now housed on The Mall, the committee has acted responsibly in providing funds to begin the work that will eliminate this hazard. We should not wait until next year. To wait is to take great risks with human lives.

Funds can be obligated immediately, thereby accelerating construction of an appropriate storage facility for 6 months to a year. This is a significant fire hazard on The National Mall, and we ought to attend to it now, not wait until next year.

The administration supports this item. They asked for it in the 2003 bill. What is wrong with going ahead with it now? The museum informed the committee that construction could begin early.

I know it sounds good that we are appropriating money for construction of a storage facility that would hold specimen collections preserved in alcohol.

Yes, it has a political sound on which it is easy to beat the drums. But this is something that involves human lives, not just worms, not just insects. It involves human lives. Let someone start a fire down there with all of this inflammable alcohol, and we will be spending more than \$2 million, and there will be human lives involved.

I urge that the Senate not support the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, will the Senator from West Virginia allow me to ask a question?

Mr. BYRD. Yes.

Mr. REID. Mr. President, it is my understanding that these products—and I certainly am not going to divulge the location publicly—are in a very sensitive location.

Mr. BYRD. No question.

Mr. REID. Very close to the Capitol where millions of tourists come every year.

Mr. BYRD. Absolutely; no question about that.

Mr. REID. Any kind of a suicide bomber, a car bomb would cause a conflagration that would be untoward if these products were ever involved.

Mr. BYRD. There is no question about that.

Mr. REID. The Senator knows, as has been developed—and I assume that is why the House put it in this bill—

Mr. BYRD. The House put it in the bill.

Mr. REID. The reason they did is they were concerned about the safety of not only hundreds of thousands of people who work in the Capitol complex area but the millions of tourists who come every year.

Mr. BYRD. No question about it. The Senator is absolutely correct. And I certainly would not want to be a Senator who voted for this motion to strike this item if something happened. And who knows what might happen today, tonight, tomorrow.

Mr. REID. Mr. President, I can say for this Senator, I appreciate the House putting it in the bill. I appreciate Senator BYRD and Senator STEVENS having it in the bill before us because I think to remove this legislation is such a wrong way to go.

If we are talking about homeland security, the place to start is with this amendment.

Mr. BYRD. I thank the Senator for his expression of support.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me outline for my colleagues what I think we are going to do. I do not speak for everybody on my side, much less everybody in the Senate. What we are going to do is pick out maybe a half a dozen instances of provisions that are in this bill that the President did not ask for, that do not represent an emergency as we conventionally define it. We are going to give Members of the Senate an opportunity to vote to keep them in or

take them out. Let me talk about the Smithsonian issue.

The President proposed in his budget for 2003 that we build a new state-of-the-art facility that will maintain the temperature at 65 degrees so that we can take specimens that are stored in alcohol at the Smithsonian Institution and move them to this building; that lowering the temperature would reduce the amount of evaporation and, in the process, preserve the specimens better than where they are currently stored.

No one argues—not one person I have heard argue or anything I have read on it, and I have read everything I could get my hands on about this issue—no one argues that we can build this facility right now. There is not even a blueprint for it. The funds, if we provide them, would be available on October 1 through normal appropriations.

Mr. BYRD. Will the Senator yield?

Mr. GRAMM. I will be happy to yield.

Mr. BYRD. This is the design money. The construction will follow. Why not get on with the design money? We could save some time, possibly save some lives.

I thank the Senator for yielding.

Mr. GRAMM. The President has asked for this funding as part of his ongoing appropriation process. The funds would be available on October 1. The odds that we are going to spend the money before October 1, in my opinion, given the experience we have in these kinds of matters, is relatively low. What this amendment does in reality is it takes an ongoing appropriation to provide funding for the storing of specimens in test tubes and jars in a new facility, makes it an emergency so that money that would have been provided in the regular appropriation process can be spent on something else.

I will read from the Washington Times statements about this issue.

Smithsonian officials acknowledged that the need for specimen storage did not result from the terrorist attacks on September 11. "It predates September 11," said Jerome Conlon, assistant director for facility operations. "It certainly has been on our wish list, yes."

The point is there are a lot of things on wish lists. Almost anything could be deemed to be an emergency. The point is the President sent us a targeted list of things that cost \$29 billion. This is an item that has to do with the storage of specimens in the Smithsonian. It is true that one can argue that someone could blow up the Smithsonian and get an afterburn from specimens in alcohol. One could argue that almost anything we would do would be an emergency, but the point is the Smithsonian does not say this is an emergency. The President did not ask for it as an emergency.

It seems to me that an explosive at a chemical plant in Beaumont, TX, would be a lot more dangerous than one in the Smithsonian with alcohol tubes.

I want to protect against both, but the point is where is the line drawn on

what is an emergency? If we took the standard that anything that could potentially be considered as a terrorist target is fair game for this emergency appropriation, we could literally spend \$100 billion, \$200 billion.

The point is the President did not consider this to be an emergency. The Smithsonian did not consider this to be an emergency, but it was added to this bill along with other items on which we will vote, some of which are even clearer, but I think this is a pretty clear example of something that was in the appropriation process that the President requested through the normal channels but it has found its way into emergency funding. I do not think we ought to do this. I think this is one of a dozen or so clear examples of where we have overreached in designating emergency. You can make an argument for anything that it has an emergency overtone to it, but basically this is an ongoing activity of the Smithsonian. It was in the President's request for 2003. I think logic would dictate that it be funded through the normal process.

Let me make this concluding point. The question before us, it seems to me, is not are we going to build this new building for the Smithsonian; the question is, does it represent such a dire emergency that it should be exempted from the budget process and we should fund it by running a deficit and funding that out of the Social Security trust fund?

I argue that where we are talking about clear examples, where the President and the Congress agree, which is our definition of an emergency, in law, that there is an imminent threat, the answer is yes, we should run a deficit to do it. But in a case where the President says this is not an emergency, where it is going to occur anyway through the normal appropriations process, where the Smithsonian admits that it is not an emergency, it has been on their wish list for quite awhile, something they want to do and that is worthy, it seems to me that under these circumstances this should not be funded as an emergency.

I think the case is clear cut. Obviously, people can vote however they want to vote, but what we are doing in this emergency designation is we are waiving the Budget Act, we are raising the deficit, we are spending the Social Security trust fund because this is an imminent emergency. The point is the Smithsonian says it is not. The President says it is not.

The question is, should we designate it as that or should we allow it to be funded through the normal appropriations process where the funds will be available on October 1? It seems to me that the clear answer is, this should not be in this list of dire emergencies.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Nevada.

Mr. REID. Madam President, for my friend to suggest that this is stuff stored in test tubes and jars, he certainly does not understand the issue.

There are 730,000 gallons at a site so close to where millions of people come every year, and it seems to me there are a lot of things that are emergencies but I think the Appropriations Committee in the House and the Appropriations Committee in the Senate did the right thing in getting the program on its way so they could find another place for 730,000 gallons of alcohol and formaldehyde. This is an emergency. It should remain in this bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. When the time is ready to expire, I intend to make a motion to table the Senator's amendment. I believe others may want to speak on it, so I do not want to do that in advance, but I will say this: This is money to start this project, one that we all believe is extremely necessary due to the location of the Smithsonian. It is a very small amount of money. Maybe that is why the argument was started. It may be about a very small amount of money, but it is one that collectively, on a bipartisan basis, we thought ought to be initiated now. We will address the full amount in the 2003 bill, and I think that is proper.

This is not the kind of money that has to go through all kinds of rigmorole at OMB to get released. It is money that will be immediately available to start this design, and by the time the money is released for 2003, it ought to be possible to move this really a year ahead if we start now.

So I urge the Senate to support our recommendation. I do not know how the House will feel about it, but it is a nice test case to see whether or not the Senate wants to support the judgment of the Appropriations Committee on the staging of monies for the Smithsonian. This is an emergency to get that collection and everything else out of that building and get it where it should be, away from the concentrated area of the District of Columbia and the millions of visitors who come to Washington, DC.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I will be very brief. I look forward to a vote. The Senator from Texas and I will have several votes, not an unending stream of votes because we will know after three or four votes whether there is going to be any imposition of fiscal discipline or is this just a spigot that is going to be turned on. It is not the amount of money that is symbolic about this vote. It is whether, as the Senator from Alaska said, we will rely on the judgment of the Appropriations Committee, as he just stated, or we will rely on the judgment of the Commander in Chief, the President of the United States, who specifically in his veto threat objected to this provision in the appropriations bill. It is really that simple.

So it is not \$2 million. It is, whose judgment are we going to trust? Are we going to—as with other amendments,

as I say, we will establish a precedent for it—be able to trust the judgment of the President of the United States or the judgment of the Appropriations Committee?

So I look forward to a quick vote. I say to the Senator from Alaska we have no further debate on this issue.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, I will be very brief. I have had the opportunity to sit on the Board of Regents of the Smithsonian Institution.

I have been in numerous meetings, especially since September and October, addressing this very specific issue.

Having listened to the presentation of the people who have studied this issue most carefully inside the Smithsonian Institution, I am very hesitant to back away from the recognition that we have over 730,000 gallons of highly flammable alcohol within about 150 yards of where we are sitting right now. I don't want to overstate or understate, and I read what has been written about this in the last several days.

Let me make several points. We are talking about the National Museum of Natural History located on the National Mall, right outside the door. It currently holds tens of thousands of specimens. These specimens are placed in highly flammable alcohol jars. The collections today occupy about 50,000 square feet of space in various areas of the museum. They do not today comply with the fire code that has been written locally in this area, in this region, in this district, in this part of the country. They do not comply with the fire code. They are stacked under a stairwell where we have thousands of people walking over the course of a month.

The National Museum of Natural History has 1,200 staff and 25,000 visitors on a weekday who are walking either over, because it is stored under a stairwell there, or around the flammable jars.

This issue has been a concern of the Smithsonian. I have been a regent for about 6 years, for some time. For my colleagues who have not been in the room, recent national security reviews highlighting the vulnerability of highly visited public buildings indicate this problem should be resolved as soon as possible.

The Smithsonian, as mentioned before, has planned to build a specially designed storage facility at the research and storage complex in Maryland, removing the collections from The Mall area where we have so many people coming from all over the United States of America to visit.

We need to remove this as soon as we possibly can. If the Smithsonian can plan it, it is in the underlying plan. If they do that—it will not be done in 2002—those 730,000 gallons will be over there in 2002 and in 2003 and in 2004 and they will be removed in the year 2005.

Failure to address this issue now would be a huge mistake on behalf of this body.

Mr. LEAHY. Madam President, I want to express my strong opposition to the McCain Amendment that would strike the \$2 million for the National Museum of Natural History that is provided in the Emergency Supplemental Appropriations bill.

The events of September 11 prompted multiple reviews of the security at all federal facilities. These reviews have highlighted a number of measures that need to be taken to improve the safety for employees and visitors at federal facilities.

One important item that has been brought to our attention is the potential volatility of a storage facility located in the heart of Washington, near the national Mall. The National Museum of Natural History is recognized internationally as a premier museum and research facility. Unfortunately, tens of thousands of specimens are currently stored in 730,000 gallons of highly flammable alcohol.

I commend Chairman BYRD and Senator STEVENS for including \$2 million to begin design for a new facility that would safely store the specimens and do so in a location that is away from such a high traffic area. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I move to table the amendment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Arizona. The clerk will call the roll.

Mr. BYRD. I believe the motion of the Senator from Alaska was to table the amendment to strike.

Mr. STEVENS. That is correct.

Mr. BYRD. I hope Senators will support the Senator from Alaska and vote to table the amendment to strike.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 67, nays 29, as follows:

(Rollcall Vote No. 136 Leg.)

YEAS—67

Akaka	Biden	Breaux
Baucus	Bond	Burns
Bennett	Boxer	Byrd

Campbell	Hatch	Nelson (FL)
Carnahan	Hollings	Nelson (NE)
Carper	Hutchison	Reed
Cleland	Inhofe	Reid
Clinton	Inouye	Roberts
Cochran	Jeffords	Rockefeller
Collins	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Crapo	Kerry	Shelby
DeWine	Kohl	Smith (OR)
Dodd	Landrieu	Snowe
Domenici	Leahy	Specter
Dorgan	Levin	Stabenow
Durbin	Lieberman	Stevens
Edwards	Lincoln	Thurmond
Feinstein	Lugar	Torricelli
Frist	McConnell	Voivovich
Graham	Mikulski	Wellstone
Gregg	Murkowski	
Harkin	Murray	

NAYS—29

Allard	Enzi	Miller
Allen	Feingold	Nickles
Bayh	Fitzgerald	Santorum
Brownback	Gramm	Sessions
Bunning	Grassley	Smith (NH)
Cantwell	Hagel	Thomas
Chafee	Hutchinson	Thompson
Conrad	Kyl	Warner
Craig	Lott	Wyden
Ensign	McCain	

NOT VOTING—4

Bingaman	Dayton
Daschle	Helms

The motion was agreed to.

CHANGE OF VOTE

Mr. SPECTER. Mr. President, on vote No. 136, I believe I voted "yea" to table. It was recorded as a "nay." I don't challenge the accuracy of the distinguished clerks, but I simply ask unanimous consent that I be recorded voting "yea" to table. The change will not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3635

(Purpose: To strike the amount provided for the National Defense Center of Excellence for Research in Ocean Sciences)

Mr. MCCAIN. Madam President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3635.

On page 25, strike lines 1 through 11.

Mr. MCCAIN. Madam President, this has to do with the \$2.5 million that is earmarked for the mapping of the coral reefs in Hawaii. The bill directs \$5 million under the Commerce-Justice-State appropriations bill for 2002 to be dedicated to conducting coral mapping in the waters of the Hawaiian Islands and

the surrounding Exclusive Economic Zone.

I remind my colleagues at the outset, again, the title of the legislation we are considering is: Making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year 2002.

I knew of many devastating effects of the attacks on our homeland. I did not know of any disruption of the coral reefs in Hawaii associated with the terrorist attacks on the United States of America.

The administration did not request this redirection of previously appropriated funding for coral reef mapping for the benefit of Hawaii. This is no surprise, since there is not an emergency need for coral reef mapping in Hawaii. It is even more of a reach to suggest that a coral reef mapping provision has a role on the war on terrorism. This is an attempt to preclude a competitive contracting process to benefit one State.

A recent report by the National Oceanic and Atmospheric Administration stated that the coral reefs in the northwestern Hawaiian Islands are some of the most pristine in the world and that the coral reefs in the Atlantic, which includes Florida, the Gulf of Mexico, and the Caribbean, are some of the most in distress. Why should a relatively healthy reef system receive extra attention and funding at the expense of those in most need?

I might add, the Federal Government has already been very generous with respect to Hawaiian coral reefs for fiscal year 2002. In fact, during this fiscal year, NOAA is scheduled to spend \$8.215 million of its \$28.25 million Coral Reef Conservation Program budget on programs specifically targeted toward the northwest Hawaiian Islands; that is more than a quarter of the program budget.

These funds include \$762,000 for mapping, \$893,000 for monitoring, \$1.25 million for the Hawaii Coral Reef Initiative, \$3.25 million on northwest Hawaiian Island Reserve operations and sanctuary development, \$210,000 for fisheries management, and \$3.1 million for marine debris removal.

So the State of Hawaii has already gotten \$8.215 million. Now they are asking for \$2.5 million more. Moreover, this does not include funding for NOAA'S overall program that is being spent across all of our Nation's coral reef, of which Hawaii also benefits.

Now the managers of the bill want to carve out another \$2.5 million for Hawaiian coral reefs. As I said before, what this bill does is earmark \$2.5 million of that funding for a specific project in the waters of the Hawaiian Islands and to a specific organization.

Are there other organizations that do mapping? I do not know. But why is it earmarked for a specific corporation to do this work? I believe that it is part governmental and part private, as I understand it. This specific earmark

would purposefully preclude the issuance of a competitive contract for this work. Congress should not be taking such action and should allow a competitive contracting process to go forward for any Federal funding involved.

I do not believe we should be providing special treatment to one part of the country when other parts also have a great need. If the Hawaiian reefs deserve this already appropriated funding, they should be able to secure it based on merit review through a competitive process at NOAA.

Therefore, this amendment would strike the directive provided in the bill and allow the competitive process to go forward.

Madam President, under no stretch of the imagination can this provision providing this money for a specific project in the State of Hawaii be deemed as a response to the attacks on the United States of America that took place on September 11. The administration opposes this legislation. And it has no relation to the war on terrorism or homeland security in the view of the President of the United States.

So I have gotten, from the last vote, a pretty good idea how these votes are going to turn out. But there is going to come a time, Madam President—there is going to come a time—when our deficits have ballooned well into \$150 billion, \$200 billion, from the surplus that we had and people will say: What happened to all that money? What happened to our money for Social Security? What happened to our money for Medicare? What happened to the surpluses that we were so confident of, that were going to be \$4- or \$5- or \$6 trillion over the next 10 years? We are going to look back, and we are going to point at votes such as these, where, in the name of fighting the war on terror, we will earmark millions of dollars for a project to map coral reefs. I think the American people will not be satisfied with that result or that decision made by the Congress of the United States.

As the distinguished ranking member of the Appropriations Committee from Alaska just said: We just made a judgment.

Do you want to trust the judgment of the Appropriations Committee or the President of the United States? We will probably again vote to trust the judgment of the Appropriations Committee, in the name of fighting the war on terror, of mapping coral reefs in Hawaii.

I would assume there will be a tabling motion made, and at that time I will ask for the yeas and nays.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, the provision in the bill does not add new spending; rather, it clarifies the allocation of funding provided for coral reef mapping in the fiscal year 2002 Commerce-Justice-State and the Judiciary appropriations bill.

This amendment directs \$2.5 million of the coral reef funds appropriated in fiscal year 2002 for mapping coral reefs in the Hawaiian Island chain and adjacent areas to complement the general mapping currently planned by the National Oceanic and Atmospheric Administration.

These funds will be used to begin identifying the location, type, and condition of coral reefs throughout the Hawaiian Island chain. This data will be used by resource managers and will provide valuable information for the northwestern Hawaiian Islands sanctuary designation process. This data will also provide a baseline for future monitoring of Pacific coral reefs.

The funds will be administered by the National Defense Center of Excellence for Research in Ocean Sciences through a cooperative agreement with NOAA, the National Oceanic and Atmospheric Administration. Established in 1993 with funds from the Department of Defense, CEROS is product oriented and seeks to advance innovative concepts and new approaches to technology while fully leveraging existing facilities and infrastructure in Hawaii.

I urge the Senate to vote down the amendment by the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, as the distinguished chairman of the Appropriations Committee has stated, this coral reef initiative does not appropriate any money, not even a penny. The sums involved have been appropriated and were appropriated in the last fiscal year.

It may interest the Senate to know that the administration does not oppose this initiative. In fact, they authored the initiative. The initiative as drafted in the supplemental was drafted by the staff of NOAA.

Eighty-four percent of the coral reefs of the United States are found around the Hawaiian Islands. Of that 84 percent, 15 percent are found around the occupied islands, the inhabited islands, the islands I live on; 69 percent are in the northwest. The Commerce Department is in the process now of establishing a sanctuary in the northwestern islands. In order to establish a proper sanctuary to identify the ecosystem, to identify the fishes, the plant life that all of us want to preserve for generations to come, we must have a mapping. We must know where they are.

This is a technical thing. Therefore, my staff was not adequately prepared to draft such legislation. It had to be done by the staff of Commerce.

This is not a pork item. One may get the impression that we were using this vehicle to get \$2.5 million for the people of Hawaii. Such is not the case. The moneys will be handled by the Commerce Department together with the National Defense Center of Excellence for Research in Ocean Sciences, CEROS. This was established by the

Defense Department. Under the rules of CEROS, this will be under a competition. No organization has been selected for the purpose of this mapping. We have no idea who that organization will be.

If we are to carry out the initiative started by the Government of the United States to protect our environment, to protect our coral reefs, this is absolutely essential. What we have done was to carry out the wishes of the people of the United States and the wishes of the administration.

I hope we can defeat the amendment. I move to table the McCain amendment.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

(Mr. MILLER assumed the chair.)

Mr. GRAMM. 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 question is on agreeing to the motion to table amendment No. 3635.

Mr. GRAMM. Mr. President, I rise in support of the McCain amendment.

The PRESIDING OFFICER. The motion to table has been made and is not debatable.

Mr. GRAMM. Mr. President, I ask unanimous consent that I might speak despite the fact that a motion to table has been made.

Mr. REID. Mr. President, if the Senator from Texas will allow, I have a unanimous consent request I would like to propound at this time. I think it will solve the problem.

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

Mr. REID. I ask unanimous consent that the McCain amendment No. 3635 be laid aside to recur at 2 p.m. today; that at 2 p.m. there be 5 minutes equally divided prior to a vote on a motion to table the amendment, with no amendments in order to the language proposed to be stricken; with the time equally divided and controlled between Senators MCCAIN and INOUE or their designees.

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

Mr. REID. Mr. President, Senator MCCAIN has graciously consented, as has Senator GRAMM, that if someone wants to offer an amendment prior to 2 p.m., they will have no objection to doing that. We could perhaps have two

votes around that time. It is up to the body as to whether or not someone wants to offer another amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, as I noted earlier, we basically find ourselves in a position where the President has asked for emergency funding.

We have a bill before us the President has said he will veto. We have a problem in that the proposal spends more money than the President asked for. It doesn't fund some of the emergencies he asked for, funds many things he did not ask for. The question is, how do we get this right so we get the money that the White House wants in a form that they will sign and that we can get on about the Nation's business?

It is fair to say the people on my side of the aisle decided that in the end the best thing to do is to go ahead and clojure this bill so it will have a vote hopefully sometime this afternoon or tonight, send the bill to conference, and then it will be up to the conferees to bring it into compliance with what the President has said he will sign, or have it vetoed. In either case, we decided that was a better approach than simply continuing to debate this issue on the floor of the Senate in the face of the President's first veto threat.

Senator BYRD and I had a discussion earlier today about that veto threat. I don't want to get back into that discussion. I want to talk about this amendment.

Senator MCCAIN and I are concerned that there are a lot of provisions in this bill that really are not emergencies. That doesn't mean they are not meritorious. The example we had before about building the storage facility for the Smithsonian so that specimens stored in alcohol could be in a building with the temperatures controlled, so you don't have to keep adding alcohol and will have better protection against fire, is something we need to do. The President has that in his 2003 budget. It is being funded here as an emergency. The President mentioned it in his veto message.

Senator MCCAIN and I decided that the way to deal with this problem is to pick out about four or five of these issues that the President has singled out as not being emergencies and give the Senate the opportunity to vote on them, and then we have two points of order on the bill.

One point of order is the emergency designation, where the body would decide whether or not it is an emergency by whether or not 60 Members would vote to deem it such. The other point of order has to do with a quirky provision of the bill where the President cannot designate what he called an emergency to spend the money unless he takes \$14 billion of spending that he has not designated as an emergency and spends that money.

We believe that circumvents the whole emergency designation process. We believe there is a point of order

based on that, and my guess is that at some point we will have a vote on those two points of order, assuming they lie.

In going down the amendments, one that Senator MCCAIN has identified is the mapping of the coral reef. Let me say this. I don't have any doubt in the world that mapping the coral reef is a good thing. Other than the State that I represent, my home and the State I was born in, I don't love any place more than I love Hawaii. Let me also say that no Member of the Senate has been sweeter to me and my family than the Senator from Hawaii. So if I had been picking amendments, I would not have picked this amendment. But I don't believe that mapping the coral reef around Hawaii is an emergency that warrants waiving the Budget Act and, in the process, spending money that will generate a deficit and that will take the money, ultimately, out of the Social Security trust fund.

Mr. BYRD. Will the Senator yield?

Mr. GRAMM. I am happy to.

Mr. BYRD. This is not designated as an emergency, so it does not violate the Budget Act. I thank the Senator for yielding.

Mr. GRAMM. Let me make my point. I hear the Senator. While the bill is \$4 billion above the level the President requested, the nonemergency parts of the bill are \$14 billion above the level the President requested.

What we have sought to do is come up with a series of amendments on things that we do not believe represent emergencies, to really give people an opportunity to say yes or no as to whether they believe they should be included in this emergency bill, which is—I think everybody agrees—\$4 billion above what the President requested.

We understand where the votes are here. We just find ourselves in a position where our President has said he is going to veto the bill. I intend to vote against the bill and make these points of order and vote for them. I wish we could start the process over and eliminate the veto threat and get this job done, but I don't have the power to control that. Maybe no single Senator at this point has that power.

In any case, Senator MCCAIN has offered this amendment. Despite all of the merits of what it is doing, it seems to me that this provision does not belong in an emergency appropriations bill. We will offer several more amendments that we believe fall into this category. Obviously, it is up to the Senate to decide whether or not they believe these provisions belong in the bill. In any case, Senator MCCAIN felt, and I felt, that it was important that at least some of these items be voted on, and so there will be two or three more of them that we will offer. I don't know what other people are going to do. Then I think we would have a budget point of order against the bill.

At that point, from my point of view, we have made the decision, despite the President's veto message, despite the

fact that the President has said this does not fund the emergency items he wanted and designates items as emergencies that he doesn't believe are emergencies—if at that time it is the Senate's will to move ahead, then I don't know that we serve any purpose to hold it back.

So the question we are trying to pose is—this is clearly an emergency bill. It is over budget from what the President requested by \$4 billion. I do not believe this provision is an emergency, though I don't doubt that it is meritorious. So I intend to support the Senator's amendment. I hope other people will as well.

There will be at least two more amendments. At that point, I think we would probably be through. I think we are establishing a pattern here that people are ready to pass this bill, spend this money, and worry about the problem later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, if I may repeat myself, not a penny is appropriated by the coral reef initiative—not one penny. Moneys were appropriated in the fiscal year 2002 bill. This is to set aside, of that amount, \$2.5 million for the mapping of the coral reef around the northwestern islands of the Hawaiian chain.

Mr. President, 84 percent of the coral reefs of the United States are found in the Hawaiian chain. Of that 84 percent, 6 to 9 percent would be found in the northwestern islands and 15 percent around the occupied islands. This is not important for the Hawaiian people. This is an emergency as far as the Commerce Department is concerned because they are in the process of establishing a sanctuary in the northwest islands. In order to set the sanctuary, you must begin mapping that area to determine what sort of fishes are there, what sort of plant life.

If we are to carry out the national mission of protecting our environment and protecting the species of this land and this planet, then this is an important part of it.

Furthermore, the funds that will be designated for this initiative will be administered by the National Defense Center of Excellence for Research and Ocean Sciences through a cooperative agreement with NOAA. One specific item they must live up to is that this will be done by competition, using a competitive process of selecting whoever does the mapping.

This initiative does not designate any person, institution, or organization to do this job. Yes, it is not part of homeland security, but as far as NOAA is concerned, this is an emergency. We are not appropriating any money; we are just saying let's use the money we have already appropriated for this purpose.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me make one point and then I will be through. Part of what makes it hard to determine what is happening is that the bill does make appropriations for the National Oceanic and Atmospheric Administration operations, research, and facilities of \$29.2 million. That is new money that is provided in this bill on an emergency basis.

What the Senator from Hawaii is saying is that his amendment does not require new money because he is taking it from money that was appropriated in Public Law 107-77. Our problem is that while you are taking \$2.5 million for this purpose from money that was appropriated for this general account, the bill puts in \$29.2 million into the account. So it is hard for us to tell—at least it is not obvious—that while you are spending old money, that the bill is not replacing that old money with new money which is, in fact, designated as an emergency. Perhaps this is a technicality, but it is the source of the issue we are trying to raise.

I do not know what the \$2.5 million—which is being transferred for this purpose—was going to be used for in the first place, and I would not be shocked if it were a lower priority than what the Senator wanted to use it for. But there is \$29.2 million of new money for the same account that the committee—let me read the language:

The committee recommendation includes \$29.2 million for NOAA to address critical homeland security requirements.

The problem is, is any of this \$29.2 million going to replace the \$2.5 million that is being transferred for this purpose? That is what we cannot tell. Hence, that is why this issue has been raised by the President and by others as an example of a nonemergency that is being funded.

It is clear that the money is being transferred from an existing account, but the question is, Is any of this \$29.2 million going to pay for what is being taken away? That is the question.

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

Mr. GRAMM. I will be happy to yield.

Mr. MCCAIN. Is the Senator aware that the money is going to the National Defense Center of Excellence for Research in Ocean Studies, which is a Hawaiian State government agency, but that Hawaiian State government agency is solely federally funded? We are proving that money is fungible. They give it to an outfit called the National Defense Center of Excellence for Research in Ocean Studies which happens to be a State government organization, but that State government organization is fully federally funded.

This is a remarkable movement of money and, frankly, the \$29 million which is added for new money for NOAA is something that was not requested by the administration either. Is the Senator aware of that?

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

Mr. GRAMM. Let me yield the floor and let the Senator have the floor.

I was looking to find my place in the bill. I do not know this bill as well as the people who are on the committee, but I believe this was an addition to the President's request, as far as I can tell.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, CEROS, the National Center of Excellence for Research in Ocean Studies, is not a State government institution. It is a Federal institution. It was established by the Department of Defense. That is why it is called a national defense center.

Secondly, the \$2.5 million does not come out of this bill. The sums have already been appropriated for mapping of coral reefs. This just expedites it because NOAA wants it expedited. The amendment itself was drafted by the staff of NOAA. It is not to benefit any Hawaiian organization, I can assure you, Mr. President. This is to benefit the people of the United States who have been crying about the environment, about protecting the species of this planet. This is how we are going to do it.

If we do not do it, then it is going to be wide open to fishermen, and if the lobsters disappear, if the exotic fishes disappear from that area, do not blame me. We are carrying out the wishes of the administration.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I will not be able to fully detail some very good work that staff has done for me on this supplemental appropriations bill, but I want to speak about one part of this legislation that is of great concern to me.

Overall, I absolutely support the supplemental, but I want to talk about some of the language and some of the additional funding for support for Colombia. First, I want to make it clear, having visited the country of Colombia twice now, I believe we have a very important role to play.

I rise today to raise concerns about the administration's proposal for lifting the restrictions on aid to Colombia and providing an additional \$35 million to help it fight terrorism. President Bush is seeking authority to permit U.S.-funded combat helicopters to be used directly against FARC and the ELN, the two biggest leftist insurgency groups. The administration claims that the best way to fight drugs in Colombia is to help the country end the threat from guerrillas.

Violence, has wracked the Colombian countryside for more than 75 years, a product of poverty, inequality and the state's chronic weakness. The FARC's four-decade old insurgency, which grew out of an earlier civil war, has intensified dramatically since peace talks broke down in February, after several high-profile kidnappings. Narco-traffickers, working with left wing guerrillas and right wing paramilitaries, continue to make large portions of the country ungovernable.

In short, Colombia's democracy is in crisis. Colombian civil society is under siege. Union members and activists, clergy, human rights defenders, journalists, and politicians continue to bear the brunt of human rights violations including murders, disappearances and threats in the escalating conflict in Colombia. Most Colombians living in rural areas unprotected by state forces are under constant threat by the left and right.

While I believe we must help Colombia, I also believe that we must do so wisely. The Administration has requested \$35 million for Colombia—\$25 million of which will be used to train and equip anti-kidnapping police units, \$4 million to support police posts in areas out of government control, and \$6 million to start training troops to protect an oil pipeline. This is on top of the nearly \$2 billion we have already dedicated to Colombia in recent years.

I have serious concerns about this proposal. Expanding our role in Colombia is a major change in U.S. policy. In my view, such a change deserves to be considered and debated on its own terms, not within the context of an emergency supplemental appropriations bill. I am concerned further that this shortsighted approach will only compound the already tragic toll on civilian life in Colombia.

There are several serious problems with this approach, not least of which is the fact that the majority of U.S. assistance to Colombia goes to the Colombian armed forces, which continue to maintain ties to paramilitary groups that are listed on the State Department terrorist list. I cannot emphasize this point strongly enough. The administration is proposing to send hundreds of millions of dollars to a military force that has long, well-established ties to one of the very terrorist groups we purport to be fighting.

Another immediate effect of the changes in policy would be to permit the United States to expand how it shares intelligence information with Colombian security forces. Again, I think we should be careful about providing intel to a Colombian military that is sullied by ties to right wing paramilitary terrorist organizations which are deeply involved in drug trafficking.

I also am concerned that the Colombian military does not have the will to adequately protect its citizenry. For example, a May 2002 report prepared by the U.N. Office of the High Commis-

sioner for Human Rights in Colombia has placed equal blame on the FARC, the AUC, the government, and the military on fighting that left 119 civilians dead in the small town of Bojayá, in the remote jungles of northwest Colombia.

The UN report says that the government, the police and the army not only ignored warnings of an impending tragedy but also may have collaborated with the outlawed paramilitary forces to allow them to enter the region. The report lays out evidence that a 250-person paramilitary unit sailed up the River Atrato in seven large boats and passed through two police and one army checkpoint without the slightest problem. Anders Kompass, director of the UN's Colombia office, said in his report that paramilitary commanders flew into the town aboard light aircraft at a time when the town was under full military control and only army aircraft were authorized to land on the small airstrip.

Although this is just one of the most recent examples of Colombian military cooperation with the outlawed paramilitaries, it is emblematic of a broader pattern in Colombia. Military-paramilitary linkages in Colombia are real. It's high time we addressed this problem.

Like Human Rights Watch, the Washington Office on Latin America (WOLA), and Amnesty International, I have serious concerns about the State Department's decision to certify the Colombian government's compliance with human rights. In my view, the Colombian government and military have shirked their responsibility to suspend high-ranking military officers implicated in serious human rights abuses. In addition, the Colombian government has failed to arrest known human rights violators, and when they have done so, have failed to vigorously prosecute these individuals.

In particular, I am concerned about the characterization of army actions in Barrancabermeja as an example of progress in breaking army-paramilitary ties. Despite the high concentration of security forces in Barrancabermeja, the city remains under virtual paramilitary control. Paramilitaries move freely through the city, and the civilian population lives in an atmosphere of unmitigated terror. Surely this cannot be seen as progress.

Over time, I think it's safe to say that we can expect requests by the Colombian government for additional substantial aid increases in the near future, perhaps as soon as next year. Now is the time to raise important questions about our end game. We must ask now, rather than a year or two from now: how far are we willing to go? We should not broaden our assistance until we get a satisfactory answer.

As you know, the administration's Foreign Operations Appropriations request includes \$98 million for FY2003 to

train an additional brigade of Colombian troops to serve as a rapid-reaction force protecting the Cano-Limon pipeline used by the U.S. oil company, Occidental Petroleum, against guerrilla attack.

U.S. Ambassador Anne Patterson told Colombia's El Tiempo newspaper that "there are more than 300 infrastructure sites that are strategic for the United States in Colombia." Are we going to pay to protect all of these sites as well? Where do we draw the line? Why protect this pipeline and not another? Why not a dam, a coal mine, a power grid? We need to openly debate these questions before targeting assistance to one entity.

I also am concerned that the Administration may appear to want to circumvent congressional authority. They have requested \$6 million in this emergency supplemental for a program that Congress has not yet authorized. However, I am pleased to see that Senator LEAHY has reduced the amount of funding for pipeline security to \$3.5 million. He also has inserted language requiring Occidental and the other oil companies that would benefit from such protection to repay these funds. I applaud these efforts to check this glaring example of corporate welfare.

This is not to say that the United States should not help strengthen Colombia's democracy. The United States can and should help Colombia. Here's what I believe we should be doing instead: Support the civilian part of Colombia's state—judges and prosecutors, oversight agencies, honest legislators, and reformist police officers; protect human rights and anti-corruption reformers inside and outside of government; provide and more effectively implement alternative development and rural development programs to create the conditions for a functioning legal economy and alleviate the desperation of Colombia's countryside, which fuels the conflict; step up our provision of humanitarian aid to internally displaced persons and refugees; use the full weight of our diplomacy to support efforts to restart peace talks, perhaps with UN involvement; press the Colombian military to break ties with the paramilitaries, without sending mixed signals—like waivers and disingenuous certification processes; and, spend more money at home on efforts to reduce demand through treatment and prevention.

In Colombia, we should do all we can to strengthen the rule of law and democratic institutions. Economic and social development should be our highest priorities, and humanitarian delivery is essential. In addition, we need to invest in demand side interventions here in the U.S. Our militarized drug strategy overwhelmingly emphasizes drug eradication, interdiction and law enforcement when studies show that these are the least effective means of reducing illicit drug use.

A landmark study of cocaine markets by the conservative RAND Corporation

found that, dollar for dollar, providing treatment to addicts is 10 times more effective at reducing cocaine use than drug interdiction schemes and 23 times more cost effective than eradicating coca at its source.

Our counter-narcotics policy in Colombia has not worked. Although some drug laboratories have been destroyed, coca production in Colombia has risen. In fact, despite massive fumigation across Colombia, the area of Colombia planted with coca grew by 24.7 percent in 2001 to 419,000 acres, 169,800 hectares. CIA figures for 2000 showed final cocaine output at 580 tons.

What's more, just last month, General Gustavo Socha, the head of Colombia's anti-narcotics police force was removed from his post on Friday amid an inquiry into how some \$2 million provided by the U.S. disappeared from an administrative police account. His removal—and subsequent resignation—are positive steps, but ultimately the perpetrators must be arrested and prosecuted prior to any new infusion of assistance money.

Also, we do not know what the policies of any new Colombian administration will be. With the recent landslide victory of Alvaro Uribe in the Colombian Presidential elections, I think we have cause to be concerned. I hope Mr. Uribe will keep his campaign pledge to combat illegal right-wing paramilitary forces with as much vigor as he does the rebels, but I have cause for skepticism. I have serious concerns that Mr. Uribe's plans could lead to increased abuses that would mostly befall poor villagers who live in the areas where the fighting often takes place.

Uribe, a 49-year-old former state governor, has promised to wage a war without quarter against both the FARC and the AUC. In my view, an escalated military approach is doomed to fail. He says he will double the size of the army's combat force to 100,000 soldiers and the National Police to 200,000, create commando teams to root the terrorists and drug traffickers out of Colombia's vast jungles, and recruit hundreds of thousands of civilians for security squads. As governor, paramilitary forces flourished in his department, and his chief election opponent has alleged paramilitary and narco-trafficker links.

Uribe, whose campaign slogan is "Firm Hand, Big Heart," has raised concerns among human rights groups, who fear his anti-guerrilla rhetoric might encourage right-wing paramilitaries. I share this concern.

Most analysts agree that the military offensive proposed by President-elect Uribe will make things worse before they get better. It will most likely result in an increase of Colombian refugees and a rise in kidnappings, violence and drug production by FARC rebels in neighboring countries. The spillover effect of the war on neighboring countries could be compounded by the fact that the armed forces of Venezuela, Ecuador and Peru are consumed by inter-

nal troubles, Brazil is focused on its October presidential elections, and Panama does not even have an army. Again, I must ask: what are we trying to accomplish here?

Between 1995 and 1998, when he was governor of the prosperous and tortured state of Antioquia, whose capital is Medellin, Mr. Uribe oversaw the creation of a network of civilian patrol groups. At least two of these groups evolved into notorious death squads, but Uribe insists that the others were merely efficient neighborhood peacekeepers. I believe that we should be wary of these civilian militias. Some see this as a new "Self-Defense," or paramilitary, initiative.

That said, with the exception of the civilian patrol groups that turned into death squads, and a military campaign against the guerrillas in the Uraba region of Antioquia, which is often described as brutal, Uribe's record as governor of Antioquia is outstanding, particularly in this chaotic nation. Public health, education, and highway systems, which are among Colombia's worst problems, improved greatly in Antioquia during his tenure. As a result, I hold out hope that he will advance a platform of economic, social, and cultural development all of which have been in short supply in Colombia.

Ultimately, there is no military solution to this conflict. Most observers agree that a political solution is the only way out. Mr. Uribe has issued a call for the United Nations to attempt to restart peace talks with the rebels. In my view, our government should be more active in the quest for peace by encouraging negotiations like the sputtering "Havana process" of talks between the government and the ELN. This model could pave the way for eventual negotiations with the FARC. Moreover, we should encourage the Colombian government to accept a United Nations "good offices" mission, under Chapter 6 of the UN Charter, without preconditions.

However, Mr. Uribe's ideas are unlikely to succeed despite his recent attempts to reach out to the UN. Before there can be any talks, he has demanded that both FARC and the AUC agree to an end to violence—an unlikely proposition. Yet I encourage his peace overtures and hope that he will agree that a military solution is not the most effective means for improving Colombia's plight.

In conclusion, Mr. President, I am an internationalist. I am a first-generation American. I am interested in the world and I very much want to see us promoting sustainable economic development, promoting the environment, promoting human rights. I want to see good economic development assistance to Colombia. The truth is, I have some concerns about Mr. Uribe, who recently was elected President of Colombia. President Pastrana, I think, is a very honorable man, and I think had tremendous support in the Senate among Democrats and Republicans dealing

with a tremendous amount of violence. The city I visited twice, Barrancabermeja, has been like the Sarajevo of Colombia, a very dangerous place, especially for the people who have to live there.

In Colombia, there are a lot of innocent people who have been murdered by savage violence. There is the FARC, which is the guerrilla—if a label has to be used—left. There is the ELN, also the guerrilla left. Then there is the AUC, or the paramilitary, on the right.

Certainly, the Government deserves and needs our assistance. My concern is about the direction we are taking in this supplemental bill. This is a supplemental appropriations bill, and I do not think we should be changing policy, but we are. The change in policy, as I understand it, is twofold.

First, our military equipment, such as the Blackhawk helicopter, has been used in the war against drugs. That is what the original Plan Colombia was all about. Now this military assistance can be directly used in the counter-insurgency war against the FARC and the ELN, no longer just for counter-narcotics. What worries me is the one-sidedness of the approach that the Government is taking, and I believe this new administration in Colombia will take.

That is to say, if we are concerned about narco-trafficking, there are a couple of things we can and should do. The first thing we ought to do is to reduce the demand for the drugs in our country. That is actually the most effective way to deal with this. I am not sure anybody has proven that we can—through aerial eradication, the spraying and the military effort—actually successfully fight this scourge.

The truth is, the drug trafficking business in Colombia continues to boom. Frankly, there is not anything we have done that has made much of a difference to date. The best thing we could do would be to reduce demand in our own country and have effective treatment programs in our own country. Above and beyond that, what has always worried me in what has been, up to now, counter-narcotics, is that all of the focus has been on the FARC and on the ELN, two organizations about which no one should have any illusions. These are not Robin Hood, justice organizations trying to redistribute the wealth and the income to the poor. These are organizations that are up to their eyeballs in narco-trafficking, having made a tremendous amount of money off of it.

These are organizations that have been engaged in a clear policy of terrorism, that is, of kidnapping and murder of innocent people. The truth is that if this Plan Colombia was all about going after narco-trafficking, we would have spent as much time focusing on the paramilitaries on the right because they are also implicated in the narco-trafficking up to their eyeballs.

My concern is that we are now becoming more involved in basically a

military effort. We are becoming more involved in what is now counter-insurgency, not counter-narcotics. I was never sure what the divide line was, but we have now changed this. We have said our military weaponry—and I also worry about our U.S. advisers being directly involved in the actual military effort—can now be used to fight an internal counter-insurgency effort. That is a different policy. We have now moved from counter-narcotics to counter-insurgency, and we are becoming directly involved.

Part of the problem is that we are relying on this Government and this military and we basically are turning our backs on blatant violations of human rights conditions. My concern is that the military in Colombia—and every human rights organization that does any independent research comes up with the same report—is too closely tied to the AUC or the paramilitary. And, therefore, I say to my colleagues, it is amazing to me, for example, that this administration has certified that the military is doing much better with respect to human rights, and they use Barrancabermeja, where I visited twice, as an example. In Barrancabermeja, it is not the case at all.

Senator LEAHY has shown important leadership on this question, but I see an administration that is turning its gaze away from all of this because in Barrancabermeja people's phones have been taken from them. They do not have any phones. The paramilitary moves into their homes. There is total terror and, frankly, many people have been murdered. The truth is that two-thirds of the extrajudicial killings every year in Colombia are done by the paramilitary, the AUC, the right. But we are now going to move forward and we are going to become directly involved in direct aid to the military, too much of which is closely tied to the paramilitary, which has been involved in too many slaughters of innocent people. It is counterinsurgency, and we are playing a different role than we played before. We are becoming more directly involved. This is all going to be done with our money. It is going to be done in our name. It is a change of policy.

I wish to say, so at least it is part of the record, that I think it is wrong to do so in the supplemental bill, and I want to issue a warning to people in our country that I think this is a profound mistake. I think this is a profoundly mistaken policy.

I have had a chance to visit and I especially have become familiar with the work of a priest, Francisco de Roux, who has done some of the finest economic development work, and his approach is manual eradication of the coca plant, not the aerial spraying where the chemicals are used, where many people say they have been sick, where legal crops also end up being destroyed. Frankly, on the ground, we were supposed to be providing money

for alternative social development. We haven't done that.

We have had the war on drugs. That has been quite unsuccessful. We have done this aerial spraying. Many say: This has affected our health; what are you doing? We have destroyed some of their legal crops. We said we would have alternative crops and economic development money. That has not happened on the ground. We have priests such as Francisco de Roux trying to do it a different way. I hope others will join me in supporting a more productive approach.

Now we have moved into a different kind of policy. We are now going to be involved in a joint effort to protect the pipeline. I think the oil companies, Occidental, et al, have a fair amount of money to protect their own pipeline. I don't know why we must use the taxpayers' money. Last time I looked, the oil industry was doing pretty well. I think they made \$40 billion in profits last year.

It is a long pipeline. I cannot remember how many miles. How many projects are we going to be directly involved in protecting? How much money goes to the military? What is the end game? What is a victory? What are we trying to accomplish? Why the change in policy?

We are told: By the way, this is part of the frontline fight against the terrorists. This is not al-Qaeda. A lot of this has gotten mixed up. This is now being justified as part of the war against terrorism. FARC and ELN are terrorist organizations. They have been involved in the indiscriminate murder of locals, and so has the AUC—which we indirectly support because they have ties to the some in the Colombian military.

When we directly let our equipment be used in military efforts in counter-insurgency against the terrorists and then try to wrap that up with the fight against al-Qaeda and what happened in the United States and what has happened in Afghanistan and what is going on in south Asia and the Middle East, it is sleight of hand. They are not one and the same. No one has presented one shred of evidence that al-Qaeda is operating in Colombia. No one has presented one shred of evidence this is part of this fight against this terrorist organization.

This is a slippery slope. We have made some policy changes. We better understand what we are doing. We are becoming more implicated in counter-insurgency. We are becoming more implicated in direct work with the military, which has been tied too closely to paramilitaries, and rightly have been harshly condemned.

I don't, with a broad stroke, condemn everyone, but there are too many elements of the military in Colombia that have been condemned, with irrefutable evidence presented by people who have done the reports—the State Department, human rights organizations and others—concerning massacres of innocent people.

We are basically turning our gaze from that and are quite uncritical. The good work that has been done has been done by Senator LEAHY. There are other Senators who care as well, and I appreciate some of the work on human rights conditions, and I appreciate some of the work he has done to slow this down.

Senators, I want it on the record—I will have a better formal statement in writing with much more clear evidence, many more facts and figures—that I believe we are making a profound mistake.

I say to the Ambassador, Anne Patterson, whom I met, I know we don't agree on all things. She is doing a heroic job under very difficult circumstances, but I do not believe this war against drugs has been anything close to a success. We are now making a change in policy that is of great concern to me. I don't want someone to say that nobody talked about this, or that there were no Senators who raised the questions about this change in policy. It is a small part of the overall bill, so I will vote for the bill, but I am absolutely opposed to this change in policy in relation to Colombia.

The administration is going in the wrong direction. I ask the administration to take human rights conditions more seriously.

With all due respect, do not certify that there has been compliance with human rights standards when that is patently not the case. I challenge anyone to go to Colombia and on the basis of 1 day come back here and say the military is doing a good job of protecting people. The people you met there, I am not talking about ELN or FARC, the civil society people, the people everyone here would respect who do the human rights work and economic development work, have nothing to do with the left guerrilla organizations. They are not opposed to the military and police but want their protection. They want to know how it can be that so many of them—innocent people who have had the courage to do this work—are murdered with impunity.

This administration seems to put all of those concerns in parenthesis, and this Senate, in this supplemental appropriations bill, to tell you the truth, is not giving a change in policy the kind of scrutiny and the kind of analysis or thoughtful deliberation we ought to give it. We are making a mistake.

#### MENTAL HEALTH RALLY

Mr. REID. Will the Senator answer a question?

Mr. WELLSTONE. I would be pleased.

Mr. REID. I was scheduled to appear with the Senator from Minnesota at a public hearing involving mental health. I was not able to be there because of floor duties. Would the Senator be kind enough to indicate what went on at that gathering today?

Mr. WELLSTONE. I thank the whip. First, we know Senator REID was not at the rally because of his duties in the Senate.

Senator REID from Nevada is a perfect example of someone who has taken his own life story in the most personal, powerful, and eloquent way and given a lot of other people inspiration. Thank you, thank you, thank you for your work.

It was very moving. I don't know what the temperature is out there, but it feels like it is 120. It was on the west side of the Capitol. The estimates were 1,500 or 2,000 people in attendance. There were a lot of people there for well over an hour.

A couple of things happened: First, this is a bill on the House side that now has 224 cosponsors. That is over a majority. That is enough to get a discharge petition. This is the work of MARGE ROUKEMA, Republican, and PATRICK KENNEDY, Democrat.

On the Senate side, the bill has 66 cosponsors. In addition, there are 200 organizations that support it. In addition, the majority of the people are saying end the discrimination. That is what it was about. Do not tell someone whose daughter is struggling with depression, and they are worried she might take her life: You only can have a few days in the hospital and that is it. You can only see a doctor a few times and that is it. Treat the illness like an illness, like any other illness, like a physical illness. End the discrimination.

It was very moving. People came to say end the discrimination. They came also to say it seems everyone is for it except the health insurance industry. Obviously, they are trying to block it. People are saying: We do not want to wait any longer.

My hope is the White House will be very involved in the negotiations. The President has called for full mental health parity. That is very important. We need the help. Last time we passed it on the Senate side and put it in the appropriations bill of Labor, Health, and Human Services, it was blocked in conference. This time, my hope is that we will get a chance to bring it to the floor this month. We have more than enough support. The House must pass it. The White House will weigh in. It may not be 100-percent perfect, but what a difference it will make.

Just to give some context, the people who came from all around the country, came to say the time is now. Just to give some context, I mentioned the New York Times, and the journalist should get a Pulitzer Prize for a three-part, front-page story. I could not bear to read it. It talked about adult care in New York City. Just imagine, in other States as well, people jumping out of windows because they do not get any care. They do not get pharmacological treatment—clients, men and women, adults in urine-stenched clothing day after day because of no adequate staffing; elderly people dying in the heat, in

the United States of America, in the year 2002. We can do better.

You asked me about the rally. Senator DOMENICI just came in, and it was really wonderful. Then we had a vote, so we had to leave. But Nancy Domenici was, what do you say, emceeding it? My own concern is that people drank enough water because it was so hot. But people are determined. People are determined to end the discrimination, to get this legislation passed. It was wonderful. I think it was really important.

They are working very hard today as citizen lobbyists, talking to Members of the House, hoping we will move to this legislation. That is what it is all about.

I see my colleague from New Mexico is here.

Mr. REID. The Senator from New Mexico and the Senator from Minnesota are in the Chamber. The Senator from Minnesota was speaking on another subject, and I asked him about the rally that I could not attend today, and he proceeded to tell us.

I want to spread on the record of this Senate the admiration and respect I have for the two Senators, both differing in political philosophies except that on this issue they are marching in lockstep to fruition. Because of their leadership and their advocacy, we are going to have, in this country, mental health care so someone who has a mental illness is going to be treated like someone who has a physical illness. They should be on a par. Because of the leadership of the two Senators, the Senator from Minnesota and the Senator from New Mexico, that is going to happen.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I did not quite get here in time to ask the distinguished majority whip where we were in terms of the business of the Senate. Might I ask, what is the parliamentary situation? What is pending before the Senate?

The PRESIDING OFFICER. An amendment of the Senator from Arizona was set aside by consent to recur at 2 o'clock.

Mr. DOMENICI. I yield the floor.

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

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

#### EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2001—CONFERENCE REPORT

Mr. REID. Mr. President, I submit a report of the committee of conference on the bill (S. 1372) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1372) to reauthorize the Export-Import Bank of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

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

(The report was printed in the House proceedings of the RECORD of May 24, 2002.)

Mr. SARBANES. Mr. President, I rise in support of the conference report to accompany S. 1372, the Export-Import Bank Reauthorization Act of 2002.

The Senate passed its version of this legislation on March 14 by unanimous consent. The House passed its version, H.R. 2871, by voice vote on May 1, then amended the Senate version and requested a conference to resolve the differences between the bills. The conference committee met on May 21 and reached agreement on the conference report. The House has now passed the conference report by a vote of 344-78, and it is before the Senate for consideration today.

I strongly urge my colleagues to support this conference report. In my view, it is a carefully developed and balanced piece of legislation that makes a number of constructive changes to the Export-Import Bank Act, which is the charter of the Export-Import Bank. Before describing some of those changes, I would like to thank my colleague, Senator BAYH, the chairman of the International Finance Subcommittee of the Senate Banking Committee, for his very able leadership in moving forward this important legislation. Senator BAYH took a particular interest in strengthening the adverse economic impact procedures of the Export-Import Bank, which is one of the most significant provisions of this legislation. I would also like to thank Senator HAGEL, the ranking member on the International Finance Subcommittee, who is a strong supporter of the Ex-Im Bank and contributed importantly to the provision of the conference report dealing with market windows. Senator ALLARD also took a strong interest in this bill and sponsored the amendment in the Senate which established an inspector general for the Ex-Im Bank.

In addition, I want to thank Representative OXLEY, chairman of the House Financial Services Committee, Representative LAFALCE, the ranking member, and Representative BEREUTER, chairman of the International Monetary Policy and Trade Subcommittee, for their strong commitment and leadership in reaching agreement on this conference report.

I believe there is a general recognition by most members of the Congress, on a bipartisan basis, that the Export-Import Bank has an important role to play in U.S. trade policy. Ex-Im Bank financing helps U.S. exporters level the playing field against foreign competitors who benefit from subsidized export financing from their governments. It also gives U.S. negotiators important bargaining leverage in efforts to reach international agreements limiting the use of such subsidized export financing. U.S. exporters are able to compete with great success in international markets on the basis of price and quality. However, when foreign exporters benefit from subsidized financing from their governments, the Ex-Im Bank is needed to help U.S. companies, and the workers they employ, compete on a fair basis.

This conference report makes a number of changes to the charter of the Export-Import Bank that I believe will strengthen the ability of the Ex-Im Bank to carry out its important mission. I would like to describe briefly some of the most important changes.

The conference report extends the authorization of the Export-Import Bank to September 30, 2006. This extension to 2006 is intended to take the reauthorization of the Ex-Im Bank out of the Presidential election cycle.

When the reauthorization of the Ex-Im Bank falls in the first year of a President's term, it runs the risk that a new President will be taking office, as occurred last year. In that case, a new administration must struggle not only to put in place a new Chairman of the Ex-Im Bank but also to cope with providing leadership for the reauthorization of the Ex-Im Bank as well. The conference committee believed that it makes more sense to put the reauthorization of the Ex-Im Bank in the second year of a President's term to assure that a new Ex-Im Bank Chairman has been put in place and has been on the job with sufficient time to provide leadership for the reauthorization of the Bank.

Tied aid is highly concessional financing provided by one country to another that is linked to the purchase of goods or services from the donor country. The U.S. government has targeted foreign government use of such financing as particularly harmful to U.S. trade interests, and has sought to limit the use of tied aid through negotiations in the OECD. Congress created the Tied Aid Credit Fund in the Ex-Im Bank to demonstrate to other countries that the U.S. would match their efforts to gain sales through the use of tied aid in order to level the playing field for U.S. exporters and to provide leverage to U.S. negotiators seeking to reach agreements to limit the use of tied aid.

The conference report makes a number of significant changes to the Tied Aid Credit Fund of the Export-Import Bank that I believe will strengthen its effectiveness. The charter of the Ex-Im

Bank requires cooperation between the Bank, which administers the Fund, and the Treasury, which leads U.S. negotiating efforts to limit the use of tied aid. Section 9(a) of the conference report directs the Ex-Im Bank and the Treasury Department to develop a set of principles, process, and standards for the operation of the Tied Aid Credit Fund to assure its smooth functioning.

The Ex-Im Bank and the Treasury made an extensive effort last year to develop an agreed set of principles, process, and standards for the operation of the Tied Aid Credit Fund which was submitted to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on July 16, 2001. It is expected that the initial principles, process, and standards for the operation of the Tied Aid Credit Fund required by section 9(a) of the conference report will be those agreed to and submitted by the Ex-Im Bank and the Treasury last year.

In addition, the conference report amends the Ex-Im Bank Act to require that the Tied Aid Credit Fund be administered by the Bank "in consultation with the Secretary (of the Treasury) and in accordance with the principles, process, and standards" developed pursuant to section 9(a) of the conference report. This replaces the language currently in the Ex-Im Bank Act providing that the Ex-Im Bank administer the tied aid credit program "in accordance with the Secretary's recommendations." This current language has been the subject of a dispute between the Ex-Im Bank and the Treasury over whether the language gives the Treasury authority to prevent or overrule a final decision by the Board of the Ex-Im Bank to extend a tied aid credit in a particular case.

The purpose of the conference report in removing this language is to make clear that the Board of the Ex-Im Bank makes the final decisions on extending tied aid credits. Section 9(a) of the conference report explicitly states that once the principles, process, and standards are followed in a given case, "the final case-by-case decisions on the use of the Tied Aid Credit Fund shall be made by the Bank."

The conference report provides that in the extraordinary circumstance in which the President of the United States determines, after consulting with the President of the Ex-Im Bank and the Secretary of the Treasury, that the extension of a tied aid credit would materially impede enforcing compliance with the existing OECD Arrangement restricting the use of tied aid credits and facilitating efforts to negotiate, establish, and enforce new or revised comprehensive international arrangements, then the Bank shall not extend the tied aid credit. However, absent such an extraordinary action by the President, the Ex-Im Bank shall make the final decisions on tied aid credits cases.

Section 10 of the conference report explicitly expands the authority of the Ex-Im Bank to use the Tied Aid Credit Fund to respond to the use of untied aid by foreign governments to promote exports as if it were tied aid. The conference report also directs the Secretary of the Treasury to seek to negotiate an OECD Arrangement restricting the use of untied aid, and to submit a report to the Congress on the success in initiating negotiations.

Section 10 of the conference report also amends section 10(a) of the Ex-Im Bank Act to establish two basic tasks for the Tied Aid Credit Fund. First, the Ex-Im Bank should match foreign export credit agencies when they engage in tied aid outside the confines of the OECD Arrangement and when they exploit loopholes such as untied aid in order to provide the United States with leverage in efforts at the OECD to reduce the overall level of export subsidies. Second, the Ex-Im Bank should support United States exporters when the exporters face foreign competition that is consistent with the OECD Arrangement on tied aid credits but which places United States exporters at a competitive disadvantage. The conference report also amends section 10(b)(2) of the Ex-Im Bank Act to require that the Ex-Im Bank administer the Tied Aid Credit Fund in accordance with these purposes.

Section 10 of the conference report also addresses the important issue of market windows. Market windows are government-sponsored enterprises (for example, government owned or directed financial institutions) which provide export financing at below market rates. However, the foreign governments—notably Germany and Canada—which support them claim that these enterprises are not official export credit agencies, and thus not subject to the disciplines of the OECD Arrangement. Currently, two government entities operate very active market windows. They are the German market window KfW and the Canadian market window, the Export Development Corporation, EDC. The result is that these foreign market windows can provide subsidized export financing outside the OECD Arrangement and give their exporters a competitive advantage over U.S. exporters. Also, because these foreign market windows are not subject to the OECD disciplines, there is often a transparency problem—it is difficult to find out the terms of the financing they provide.

The Ex-Im Bank Act currently authorizes the Ex-Im Bank to:

Provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with the United States.

Since market windows are government-supported entities, the Ex-Im Bank views its current statute as pro-

viding Ex-Im Bank authority to match market windows financing. The conference committee agreed with that view. However, the conference committee believed it would be helpful to make this authority explicit so as to remove any question about Ex-Im Bank's authority and also to send a message to the foreign market windows of U.S. concern about their operations.

As a result, the conference report contains two provisions which address market windows. The first provision directs the executive branch to seek increased transparency over the activities of market windows in the OECD Export Credit Arrangement. If it is determined that market windows are disadvantaging U.S. exporters, the U.S. would be directed to seek negotiations in the OECD for multilateral disciplines and transparency for market windows.

The second provision authorizes the Ex-Im Bank to provide financing on terms and conditions that are inconsistent with those permitted under the OECD Export Credit Arrangement to match financing terms and conditions that are being offered by market windows if such matching advances negotiations for multilateral disciplines and transparency within the OECD, or when market windows financing is being offered on terms that are more favorable than available from private financial markets. Ex-Im Bank could also match market window financing when the market window refuses to provide sufficient transparency to permit the Ex-Im Bank to determine the terms and conditions of the market window financing. The conference committee understood that Ex-Im Bank has the authority to match market windows financing that is consistent with the terms of the OECD arrangement.

In addition, the conference committee held the view that increased information was needed on the activities of foreign market windows. As a result, the conference report specifies that the Bank's annual report to Congress on export credit competition should include information on export financing available to foreign competitors through market windows.

The conference committee believed that it was very important to make clear that the Ex-Im Bank has the authority to match market windows financing in order to allow U.S. exporters to compete on a level playing field, and to direct the executive branch to seek negotiations in the OECD for multilateral disciplines and transparency for market windows financing.

Section 10 of the conference report also makes significant changes to section 2(e) of the Ex-Im Bank Act. Section 2(e) prohibits the Ex-Im Bank from making a loan or loan guarantee to expand production of a commodity for export by another country if the Ex-Im Bank determines that the commodity is likely to be in surplus on world markets or the resulting produc-

tion capacity is expected to compete with U.S. production of the same commodity, and the Bank determines that the loan will cause substantial injury to U.S. producers of the commodity.

The conference report amends section 2(e) to prohibit the Ex-Im Bank from providing any loan or loan guarantee to an entity for the resulting production of substantially the same product that is the subject of a countervailing duty or antidumping order under title VII of the Tariff Act of 1930, or a determination under title II of the Trade Act of 1974 that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

The conference report also requires the Ex-Im Bank to establish procedures regarding loans or loan guarantees provided to an entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedure shall help to ensure that these loans and loan guarantees are not likely to result in a significant increase in imports of substantially the same product covered by the preliminary determination and are not likely to have a significant adverse impact on the domestic industry. In addition, in making any determination under section 2(e) that a loan or guarantee will cause substantial injury to U.S. producers, the conference report requires the Ex-Im Bank to consider investigations under title II of the Trade Act of 1974 that have been initiated at the request of the President, the U.S. Trade Representative, the International Trade Commission, the Senate Finance Committee or the House Ways and Means Committee. The conference report also requires the Ex-Im Bank to establish procedures to provide a public comment period with regard to loans or loan guarantees reviewed pursuant to those provisions.

The Ex-Im Bank Act currently requires that:

The Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns which shall not be less than 10 percent of such authority for each fiscal year.

The conference report increases the requirement to 20 percent.

According to the Ex-Im Bank, in fiscal year 2000 small business comprised 18 percent of the total value of all Ex-Im Bank financing authorizations and 86 percent of all transactions supported by Ex-Im Bank. In fiscal year 1998 these numbers were 21 percent and 85 percent respectively.

The conference committee believed that the requirement for Ex-Im Bank small business financing could reasonably be raised to a level of 20 percent without causing disruption to Ex-Im Bank's lending programs, Ex-Im Bank remains free to go above this level, as

it has in the past, but the conference committee was concerned that requiring a higher level could have the unwanted effect of tying up available Ex-Im Bank resources if the Ex-Im Bank could not achieve higher levels of small business financing in a given year. The conference report also requires the Ex-Im Bank to conduct outreach to socially and economically disadvantaged small business concerns, small business concerns owned by women, and small business concerns employing fewer than 100 employees.

The conference report also makes a number of other significant changes to the Ex-Im Bank Act. It establishes an inspector general for the Export-Import Bank. It makes clear that the Ex-Im Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers. It increases the aggregate loan, guarantee, and insurance authority for the Bank to \$100 billion by 2006. The conference report also requires the Ex-Im Bank to submit its annual competitiveness report to Congress by June 30 of each year in order to ensure its availability for oversight, and requires that the competitiveness report contain an estimate of the annual amount of export financing available from other foreign government and foreign government-related agencies.

The conference report to accompany S. 1372, the Export-Import Bank Reauthorization Act of 2002, makes a number of significant changes to the charter of the Ex-Im Bank that I believe will greatly strengthen the Ex-Im Bank's effectiveness as a tool to help U.S. exporters and the workers they employ to level the playing field of competition in international trade, and strengthen the ability of U.S. negotiators to achieve meaningful international agreements to limit the use of export subsidies. Taken together, these changes represent a major enhancement of the Ex-Im Bank charter. I strongly urge my colleagues to support the conference report.

Mr. BAYH. Mr. President, I rise today to offer my support for the conference agreement on the charter reauthorization of the Export-Import Bank of the United States.

As chairman of the Subcommittee on International Trade and Finance, I have worked with my colleagues to craft a bill that creates a level playing field for all U.S. companies. The conference agreement includes a number of important provisions that will help make the Bank more competitive with other export credit agencies.

Although the Ex-Im Bank has played an important role in increasing our country's exports, there have been a few instances in which the Bank has lent its support to exports that have helped foreign companies who are engaged in dumping products into our domestic market. For this reason, I included a provision in the conference

agreement that would prohibit the extension of a loan or guarantee to any entity subject to a determination of injury under section 201 by the International Trade Commission, ITC or subject to a countervailing duty or anti-dumping order. Action by the President is not necessary. Additionally, it would required a heightened level of scrutiny and comment period for transactions where a preliminary injury determination exists.

Since its creation in 1934, the Export Import Bank of America has contributed greatly to the welfare and well-being of America's economy. I hope that we will allow the Bank to continue its function, and I encourage my colleagues to support reauthorization of this important organization.

Mr. DURBIN. Mr. President, I would like to commend the conferees to the Export-Import Bank Reauthorization, S. 1372, and particularly Senators BAYH and DODD, for preserving language that helps protect the U.S. steel industry from illegal dumping.

By facilitating foreign purchases of U.S. goods and services that might not otherwise be possible, the Bank helps promote economic growth at home and abroad. Since its creation in 1934, the Export-Import Bank of the United States, has helped several Illinois companies, such as Caterpillar and Motorola, finance exports to foreign countries. However, there have been some instances in which the Ex-Im Bank has lent support to foreign companies that have engaged in dumping products, including steel, into U.S. markets. Such support is inconsistent with our desire for a strong domestic steel industry and our belief in a level playing field for international commerce.

The reauthorization legislation that passed the Senate today requires significantly increased scrutiny of transactions that could adversely impact domestic industries. Furthermore, it prohibits the extension of a loan or guarantee to any company or country subject to a determination of injury under Section 201 by the International Trade Commission (ITC) or subject to a countervailing duty or anti-dumping order. This is a significant step forward and I am pleased to have aided in this effort.

Mr. REID. I ask unanimous consent the conference report be adopted, the motion to reconsider be laid upon the table, and any statements relating to this be printed in the RECORD, without any intervening action or debate.

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

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

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

SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 2002—Continued

AMENDMENT NO. 3635

Mr. REID. Mr. President, the hour of 2 o'clock has arrived; is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. Mr. President, is it true that the 5 minutes of time that has been allocated to both sides is running at this time?

The PRESIDING OFFICER. That is correct.

Mr. REID. Mr. President, I ask unanimous consent that it be charged equally against both sides.

The PRESIDING OFFICER. It will be done.

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

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

The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, is it time for the vote to occur?

The PRESIDING OFFICER. It is time for the vote on the motion to table.

Mr. REID. Have the yeas and nays been ordered on that motion to table?

The PRESIDING OFFICER. They have not.

Mr. REID. Senator MCCAIN asked that there be a rollcall vote on that, so I ask there be a rollcall vote.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—65

Akaka	Cantwell	DeWine
Baucus	Carnahan	Dodd
Biden	Carper	Domenici
Bond	Chafee	Dorgan
Boxer	Cleland	Durbin
Breaux	Clinton	Edwards
Burns	Cochran	Feinstein
Byrd	Collins	Graham
Campbell	Corzine	Gregg

Harkin	Lincoln	Schumer
Hollings	McConnell	Shelby
Hutchison	Mikulski	Smith (OR)
Inouye	Miller	Snowe
Jeffords	Murkowski	Specter
Johnson	Murray	Stabenow
Kennedy	Nelson (FL)	Stevens
Kerry	Nelson (NE)	Thurmond
Kohl	Reed	Torricelli
Landrieu	Reid	Warner
Leahy	Roberts	Wellstone
Levin	Rockefeller	Wyden
Lieberman	Sarbanes	

NAYS—31

Allard	Feingold	Lugar
Allen	Fitzgerald	McCain
Bayh	Frist	Nickles
Bennett	Gramm	Santorum
Brownback	Grassley	Sessions
Bunning	Hagel	Smith (NH)
Conrad	Hatch	Thomas
Craig	Hutchinson	Thompson
Crapo	Inhofe	Voinovich
Ensign	Kyl	
Enzi	Lott	

NOT VOTING—4

Bingaman	Dayton
Daschle	Helms

The motion was agreed to.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I advise the leaders and managers that I wish to bring up an amendment entitled, "American Service Members Protection Act." I would think this Senator and perhaps those who are cosponsors—of which there are nine—would desire some time. We will try to expedite this matter. I wonder if I could send it to the desk and ask it be the pending amendment and then defer to the leadership and others to see whether if I lay it aside I can get some—

Mr. REID. If the Senator will yield.

Mr. WARNER. Yes, I yield.

Mr. REID. I say to the Senator from Virginia, I have been told that a Senator on this side wants to be involved in his amendment. So I cannot agree now that we would have a queue to put his amendment in. We recognize the Senator has a right to offer his amendment, but when the Senator does offer it, I will have to get the other Senator over here.

I say to the Senator from Virginia, the Senator from Arizona has indicated he has one or two more amendments he wants to offer, and that is the arrangement. If the Senator from Virginia has a subsequent time he wants to offer the amendment, I certainly have no problem with that. But if he offers it now, we will have to go into a quorum call and have the other Senator come to the Chamber, and we will not be able to expedite this process as much as we want.

Mr. WARNER. I wonder if the Senator standing next to the leader, who is a principal cosponsor, the Senator from Georgia, wishes to be heard on this matter?

Mr. MILLER. After the Senator from Virginia.

Mr. STEVENS. Will the Senator yield?

Mr. WARNER. Yes.

Mr. STEVENS. The Senator from Arizona was kind enough to give us notice of two additional amendments, and we sequenced them. I urge the Senator to wait until that is over. We are going to establish sequencing of amendments after that time. There have been others waiting, too, during the morning until this first series is over. I urge the Senator to cooperate with us, and we will put his in the sequence that comes next.

Mr. REID. If the Senator from Alaska will yield, we have known the Senator from Virginia is going to offer an amendment. I think it would be in everyone's interest, as suggested by the Senator from Alaska, that after Senator MCCAIN finishes with his amendments, we move to the amendment of the Senator from Virginia and other amendments.

Mr. WARNER. Mr. President, that is most accommodating. If we can have a gentleman's understanding that at the conclusion of the two amendments by the Senator from Arizona, the amendment the Senator from Georgia and I want to put before the Senate could be considered at that time without binding the leadership.

Mr. REID. Without that being a unanimous consent request, we will do our best to put the Senator's amendment in the queue as quickly as we can.

Mr. WARNER. Mr. President, I thank my colleagues. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, before the Senator from Virginia leaves the floor, I say to him that we intend for sure to do one more amendment. I want to discuss with the Senator from Texas if we have to do an additional amendment because it is clear there is about a 30-vote ceiling. The Senator and I have made our point.

Also, the Senator from Texas is probably going to at some point make a budget point of order. How that falls into the queue the distinguished managers of the bill will establish. In the interest of full disclosure, I thought the Senator from Virginia should know that perhaps there may not be a second amendment, only the one we are about to offer, and the Senator from Texas is going to make a budget point of order.

Mr. WARNER. Mr. President, I thank my colleague.

AMENDMENT NO. 3704

(Purpose: To strike the appropriation for Agricultural Research Service buildings and facilities)

Mr. MCCAIN. Mr. President, I have an amendment on behalf of myself, Senator GRAMM of Texas, and Senator SMITH of New Hampshire, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. GRAMM, and Mr. SMITH of New Hampshire, proposes an amendment numbered 3704.

On page 2, strike lines 24 through 26.

Mr. MCCAIN. Mr. President, the amendment that has been offered would remove extraneous items from the supplemental and emergency appropriations bill. In particular, I propose to remove language in the bill that provides \$50 million for buildings and facilities construction at the National Animal Disease Laboratory at Ames, IA.

Mr. President, \$50 million is designated to add new facilities to the National Animal Disease Laboratory currently located in Ames, IA. The current plans by the Agricultural Research Service, an estimated \$380 million, will be utilized to construct new buildings and facilities to further animal disease research and related activities.

These new facilities are approved and sanctioned by the administration with funding previously allocated in the fiscal year 2002 budget. However, despite this support, the administration has stated its view that additional funding suggested in this supplemental bill is not an essential priority at this time.

According to the message sent by the President—to be totally accurate, the Statement of Administration Policy sent by the Executive Office of the President, Office of Management and Budget:

Funding provided for the construction and renovation of an Ames, IA, facility is redundant because a total of \$90 million has been provided for fiscal year 2002 as part of the ERF and regular appropriations so that additional funding is not needed in fiscal year 2002 and 2003.

The study of foreign animal diseases and controlling known and unknown animal diseases are clearly national and public health issues. As part of the Government's efforts to improve its knowledge of disease agents and mechanisms, this institution and other related agencies serve an important purpose. The work is already underway as the administration asserts. Adding an additional \$50 million as part of this emergency spending measure is neither required nor necessary.

This ongoing project will clearly be subject to additional appropriations in future years during the routine appropriations process. These particular renovations are not scheduled to be completed for another 8 years.

The renovations are not scheduled to be completed for another 8 years.

I find it difficult to believe that removing this \$50 million earmark at a time when it is not needed will jeopardize its continued planning and construction. The report also indicates that this program was asked for and funded long before the events of September 11.

I do not dispute the merit of a facility such as this. In 1998, it says both agencies, the National Animal Disease Research Center and the National Veterinary Services Lab, saw an excellent

new opportunity to create a single new center encompassing all their work. The joint plan promises to provide many advantages over separate new facilities, including a large cash saving and much shorter completion time. The proposed facility will cost \$375 million and an 8-year completion plan beginning in 1999.

I am sure the National Animal Disease Center is an important project. I have no doubt in my mind it has merit. I also note that it was in May of 2001, I quote from the committee report, correspondence to this committee, the Secretary of Agriculture noted, that there is an urgent need to renovate and modernize existing facilities in Ames, IA, since the events of September 11, in view of the fact that the primary mission of this facility is research on highly infectious animal diseases such as bovine spongiform encephalopathy, which is mad cow disease, and others which terrorists might use with devastating results to the U.S. economy. The needs outlined by the Secretary have become even more pronounced.

I have heard a long catalog of threats. The one at the Smithsonian has risen now to national consciousness, that insects in alcohol are now one of our highest priorities and deemed an emergency, but I did not know the spread of mad cow disease was one of the tools of preference for the terrorists. I understand that mad cow disease is a serious problem. I am fully aware of the events of Europe where thousands of cows had to be killed. But the administration, which is responsible for the construction of these facilities, clearly states in the President's veto threat that this \$50 million is not necessary at this time because it is an 8-year project.

I am sure the Senators from Iowa will rise, and the Senators from Hawaii will rise, as will the Senators from whatever State that is affected by these projects will rise, and stoutly defend them and make it in the defense of freedom and democracy. The fact is that the name of this bill is to respond to the acts committed on September 11 and how to prepare for further responses to them. I do not believe it is needed in this supplemental appropriations bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. The supplemental provides \$50 million in construction funds toward the modernization of the National Animal Disease Laboratory in Ames, IA, under the Agricultural Research Service Buildings and Facilities account. The full \$50 million is offset. This is not designated as an emergency. The money is fully offset. The total construction costs for modernization of this laboratory are estimated at \$430 million. To date, including the \$50 million in the supplemental, the Congress will have provided \$149 million.

Mission responsibilities of the Ames, IA, lab include the eradication or con-

trol of devastating diseases, including bovine tuberculosis; vaccine development; disease control strategies for scrapie; chronic wasting disease; and others.

The National Animal Disease Laboratory combines the research and regulatory responsibilities of the Agricultural Research Service and the Animal and Plant Health Inspection Service.

The National Animal Disease Laboratory has been responsible for research on anthrax and it is the national research center responsible for the prevention of mad cow disease in this country. Recent episodes of mad cow disease, foot and mouth disease, and others in the United Kingdom, are stark evidence of the public health and economic disasters that result from such outbreaks.

In a May 25, 2001, correspondence to the committee, the U.S. Department of Agriculture Secretary, Ann Veneman, stated:

There is an urgent need to renovate and modernize the existing facilities at Ames. Grossly debilitated and inadequate for animal health programs of high national priority, these facilities must be modernized.

Supportive documents provided by the Secretary on May 25, 2001, state:

If facilities in Ames are not modernized, both agencies could lose their ability to respond to animal disease emergencies.

On May 15, 2002, the Secretary again notified the committee on progress of the NADL modernization, including the implementation of fast-track initiatives to begin construction of part of the laboratory in fiscal year 2003, and approval by the USDA Office of General Counsel of a justification for other than full and open competition to hire the architectural/engineering firm.

In addition, on May 15, 2002, the Secretary notified the committee that under the current schedule:

Construction of the animal health facility will be delayed if less than \$331 million is appropriated in fiscal year 2004.

So if we fail to provide the \$50 million now in the supplemental, the Congress will be required to appropriate \$232 million in the next 2 years for this project, just to stay on the USDA's schedule. Construction information from USDA has indicated that longer term construction schedules than the one now in place could result in an additional \$117.7 million in construction costs. So the committee has made its judgment that this money is appropriate, and I hope that the amendment will be defeated.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me be brief and try to put this amendment in context. The President, as Commander in Chief, sent the Congress a request for some \$28 billion of emergency funding; that is, funding that we deem so critical that we are going to waive the Budget Act, increase the deficit, and spend Social Security money for the purpose of funding it, to basi-

cally try to respond to the attack on 9-11 and to try to prevent another attack.

The President made that request and the Senate Appropriations Committee has now come forward with a bill that spends \$4 billion more than the President asked for; that underfunds his request for emergency items by \$10 billion. That overfunds nonemergencies by \$14 billion.

There is no way on the floor of the Senate that we are going to get this bill back in line with the President's request. Hopefully, that will happen in conference. But the President has sent a letter saying he is going to veto this bill because it spends \$4 billion more than he asked, he does not give him \$10 billion he wanted, and it gives him \$14 billion he did not want.

Obviously, it is within our capabilities and within the ingenious ability of the Senate and Senators to make almost anything an "emergency."

I make the following points about this building. First, the President did not ask for it. The President did not include this in his emergency request. I assume he did not include it because, while he supported funding it consistently in each budget, he did not believe it met the high threshold of a national crisis.

Second, it is not as if we are talking about money for research. We are talking about money for a building that will be built over an 8-year period. It looks to me as if what we are seeing is an effort to take this emergency bill and tack on money to speed up a project that would be funded anyway.

Now maybe if we built this building in 7½ years instead of 8 years there would be a benefit to come from it. I don't doubt it. That might very well be. I am against animal diseases, so I might be a beneficiary. Next year I might be in the goat business and there might be a benefit directly in this for me.

But the question is, Is this such a dire emergency that it ought to be funded in an emergency bill that is aimed at the threat of terrorism? A plausible case, even though the President did not ask for it, that if this were direct funding for research that we were going to conduct over the next 3 or 4 months, one might make a plausible case. I don't believe you make a plausible case in a building that will be built over the next 8 years, that giving it \$50 million more now is an emergency.

Again, some people want to view this as Senator MCCAIN and I are trying to be tightwads and that we are trying to take out these projects that have merit. I assume since we have been funding this for a while, and intend to fund it for another period of years, that it does have merit. The question is, Is it a dire emergency? I don't believe it is.

Senator MCCAIN and I could have gone on and on and on in offering these little amendments. After this third

one, we will have made our point. Our point is that no one cares. Our point is, the fix is in, we have done this bill, and 31 people cared, but the vast majority of Members of the Senate are not willing to try to trim this bill back.

I don't want to use up the time of the Senate. I want the President to sign an emergency bill. I personally believe we would get there quicker if we get it closer to what he requested. I don't understand why we want to move forward with a bill he said he would veto. Maybe it will be fixed in conference.

After this vote, we will have made the point that the bottom line is, when it gets right down to individual programs, even in what is supposed to be a dire emergency, a crisis, and even though the President did not request it, we just simply do not have the vote to take these things out.

There is no lesson in the second kick of a mule and this is the third kick Senator MCCAIN and I are experiencing. If you didn't learn anything from the first or second one, you are unlikely to learn anything from the third one. It would be our intention, I believe, that we have a vote on this, and whatever happens here, happens. Then I have a point of order if there are 60 votes for this bill, so as far as I am concerned, it is off to the President and conference and see what happens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the question really before the Senate is whether or not we are going to provide \$50 million for the modernization of the USDA national animal disease facility.

I have listened to the comments made by the Senator from Arizona and the Senator from Texas and, of course, I listened to the statements made by the distinguished chairman of our committee laying out why this is necessary.

I will not speak about any of the other amendments offered on this bill, but this one is of the utmost importance if we are concerned about homeland security. Perhaps one of the most vulnerable parts of our country in terms of a terrorist threat that could have a multiplier effect more rapidly than anything else in affecting more people is our food supply chain. That is the most vulnerable right now, and we all know it.

The chairman of the committee has asked me as the chairman of the subcommittee that funds Health and Human Services medical research and also the agriculture subcommittee that is chaired by the distinguished Senator from Wisconsin, Mr. KOHL—and I serve on that—to focus on the bioterrorism threat to America. We have had hearings on it. We have looked at this. The National Animal Disease Laboratory is, if not the key, one of the key elements we will need to ensure the safety and security not only of animals but the people of this country.

Again, I suppose some people say, sure, HARKIN, you are defending it be-

cause it is in Iowa. I said some time ago that I was not responsible for the National Animal Disease Lab being located in Iowa. That predates not my birth but it predates my coming to Congress. I can honestly say that I don't care where this facility would be and I don't care in which State it would be. I would be a strong supporter of this amendment and for, as rapidly as possible, refurbishing and rebuilding this National Animal Disease Laboratory, even if it were not in the State of Iowa. Keep in mind, this is a national laboratory. It is not an Iowa lab. It is a national laboratory. It is the premier veterinary, biologic, and diagnostics lab anywhere in the world. But it is about 60 years old. It is run down.

We found last year after the anthrax scare that permeated our country in our mail system that we had some very dangerous pathogens located in a strip mall in Ames, IA, because the National Animal Disease Lab did not have the facilities for it. That has since been taken care of but gives Members an idea for the need for this.

The National Animal Disease Lab should have been rebuilt and modernized 10 or 15 years ago, probably more than that, but it was not. We got a little complacent. But then when we saw what happened in Europe and Great Britain with hoof and mouth and BSE, it became more and more imperative that we not only rebuild the lab but do it very rapidly.

We started on that last year, but the events of September 11 have compelled us to move even more rapidly.

The modernization of the national animal disease facilities is critical for both homeland defense and America's defense against animal diseases such as anthrax, brucellosis, salmonella, E. coli, many of which—in fact, all of which in these cases—can be transmitted to humans and cause a lot of illness and death in our population.

So the importance of the facility is not in dispute. There are those who say let's wait and do it later. We cannot wait and do it later. We do not have that luxury right now because, as I said earlier, the most vulnerable part of our society right now, in terms of a terrorist threat, is the food supply and the animal systems in our country.

Let me read from a USDA 2001 report to the Appropriations Committee to buttress that.

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

Mr. HARKIN. Yes, I am glad to yield for a question.

Mr. REID. It is my understanding that this \$50 million in this bill is not designated as an emergency, it is fully paid for; is that right?

Mr. HARKIN. This is not an emergency; it is fully offset in the bill.

Mr. REID. So people talk about this not being an emergency. It is not deemed to be an emergency in this bill, it is fully paid for; is that right?

Mr. HARKIN. It is fully paid for. The Senator is right. I am glad he made the distinction.

There are those who say we don't have to do it now, we can put it off until later. The USDA said last year in its report to the Appropriations Committee:

USDA recognizes the swiftly increasing threats from known and emerging diseases because of increased travel, trade, production concentration, and pathogen resistance. A new disease emerges, on average, once a year, requiring constant vigilance and preparedness.

The report went on to quote the Animal Agriculture Coalition which noted:

The modernization plan proposed by ARS and APHIS is crucial to fulfilling the mission of USDA, specifically in ensuring a safe food supply and expanding global markets for agricultural products and services . . . if facilities in Ames are not modernized, both agencies could lose their ability to respond to animal disease emergencies. Because of the safety concerns and levels of safeguards necessary to work with animal pathogens, the work done in Ames is not easily transferred elsewhere within USDA.

Before September 11, both the House and the Senate Appropriations Committees had moved to provide an additional \$40 million for the design of the facility.

With the tragedy of September 11, the need for modernization sharply increased. The Senator from Texas mentioned before that it would be 8 years before it would be done. The information we have now is if we move rapidly we will have the facility done in 2006, that is 4 years from now.

The Senate Appropriations Committee wisely placed an additional \$50 million for construction of the facility in this measure. That is because in these dangerous times we realize that America's food supply could be the target of terrorism.

I would like to share with my colleagues some of the facts about the NADL and the important work it does. I think it would shed some light on this debate.

The USDA Animal Health Facilities in Ames have the highest level of research capacity, expertise, and track record available in this area. It also provides diagnostic expertise, technology transfer, and training in the event of an outbreak.

The National Veterinary Services Laboratories, in Ames, is the principal Federal diagnostic laboratory for animal diseases in the U.S. As such, it is a reference point for the State and other diagnostic laboratories, and provides training and testing. NVSL has recently been involved in West Nile virus diagnosis, mad cow disease diagnosis, and anthrax diagnosis. It has provided critical support to CDC in its investigations of human anthrax cases.

The Center for Veterinary Biologics in Ames has the national responsibility for regulating and licensing all biologics for use in animals. Their knowledge, expertise, and capacity to expedite vaccine availability in the event of a bioterrorist outbreak will be centrally important to provide tools for disease control. As an example, they

were recently involved in anthrax vaccine issues during the recent terrorism scare.

Secretary Veneman recently said we do not need this money right now. But, in a report she provided to Appropriations Committee in May, just last month. She noted that under the lab's master plan, construction would be delayed if less than \$331 million is spent on the lab in fiscal year 2004, the start of which is less than 16 months away.

So the real question is, do we want to delay this in the hope that maybe, somehow, terrorists will not attack our food supply chain, which is the most vulnerable part of our system right now?

I suppose if you wanted to just hope on that, maybe you could vote to support the McCain amendment. But I would not want to hope on that. When we know what to do, we know this is a national animal disease lab that will respond and provide the necessary resources, first to help prevent any widespread terrorist attack on our food supply, especially our animal system of agriculture, and second to respond immediately if, God forbid, anything like that should happen.

Providing these funds now would provide important flexibility to the design team and USDA to move forward with components of the facility at a faster pace than in the original plan. Given the threat, sooner will be much better than later.

And let's talk a little about the threat because those who are not familiar with agriculture might not understand its seriousness.

A new organism of nonnative or native origin, once introduced into the United States animal populations, can initiate an uncontrollable epidemic due to the absence of vaccines or effective drugs, concentration of animal feeding operations in the United States, and a lack of resistance in host animals.

This was evident with the introduction of West Nile virus in New York City in 1999. The current situation in Great Britain with foot-and-mouth disease and bovine spongiform encephalopathy also underscores the need to take every possible action to strengthen our animal health infrastructure. That, by the way, is able to be transmitted to humans.

So this is a threat that we face. It is no less a threat than a terrorist taking a bomb on an airplane. It is no less a threat than terrorist activity that might involve any kind of explosives or what they might try to do in that regard in the future. This threat is real. Frankly, our defenses are inadequate and we need to be about rebuilding this laboratory and providing the kinds of resources that are needed, as I said, to prevent such an outbreak; second, to control it immediately if something does happen; and, third, to develop the vaccines and responses necessary to keep it under control.

So again I say to my friend from Nevada, I thank him for pointing out that

this is fully offset. This is not an emergency. For the life of me, I don't understand why the President would not want to move ahead more rapidly with the modernization and rebuilding of this National Animal Disease Laboratory.

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

It is my understanding when the Senator from Arizona completes his statement, the Senator from Iowa is going to move to table the amendment of the Senator from Arizona; is that true?

Mr. HARKIN. That is true, yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I agree with 99 percent of what the Senator from Iowa just said.

Let us come back to what the amendment is all about. The amendment is about \$90 million that has already been provided for fiscal year 2002. It is part of the regular appropriations. According to the President of the United States—and I assume the Secretary of Agriculture who works for him—if an additional money is needed for fiscal year 2002 or fiscal year 2003, there is additional money for research, inspection, and monitoring activities relating to bioterrorism. This is all the money that anybody believes is necessary for research, inspection, and monitoring activities.

Again, I share the view of the Senator from Iowa about the dangers of bioterrorism. The Senator from Kansas, Mr. ROBERTS, who has been involved in this issue for many years, just approached me. I explained to him that this amendment in no way affects the moneys which are in the bill for research, inspection, and monitoring activities. What it simply does is take away money that is not needed for an 8-year construction project. That is what this money is for—construction which the administration and the President of the United States in his message to Congress say is redundant and because the money is already part of the regular appropriations process.

Again, perhaps this will accelerate construction of 8 years down to 7 years. But it has no place on an emergency supplemental appropriations bill.

I would like to add that I filed 21 amendments which largely reflected the views put forth in the statement from the administration. I will not take the time of the Senate to read all of those amendments and objections that I have. I still feel very strongly that those amendments filed, along with those of the Senator from Texas, are important amendments and would save tens or hundreds of millions of dollars of the taxpayers' money that were taken directly out of the Social Security trust fund. It is now increasing the debt by leaps and bounds, but there is no point in taking up the time of the Senate by having votes that—as the last two did and I imagine this one would—get 30 or 31 Senators in support.

But I do think it is important that we are on record on this issue. I will not waste the time of the Senate, but the American people deserve to know when the time comes—we are \$100 billion in debt this year, and the previous estimates were that we would have a surplus—that all of this money is not being spent in the name of the war on terrorism.

There is no more need to add to unneeded moneys for the construction of these facilities anymore than there is an emergency in needing to chart the coral reefs off the State of Hawaii—nor is there needed a waiver of the cost-sharing requirement for the biomass project; nor is there needed \$2 million to begin construction of an alcohol storage; nor is there a need for additional money for the National Oceanic and Atmospheric Administration.

We are going to give millions of dollars to Amtrak to repair cars that were damaged more than 10 years ago in the name of an emergency supplemental.

We are going to dig wells in the State of New Mexico—just in a certain place in the State of New Mexico—when wells are running dry all over the Southwest, including my State. But we picked out a couple in the State of New Mexico that we are going to spend \$3 million on in the name of combating terrorism and the results of the attacks of 9-11.

The list goes on.

Professional training of Middle East journalists may be important, but I would argue that it is probably not necessary on this bill.

We are going to have acceleration of advanced technology program awards; economic assistance for fishermen in the Northeast; the National Water Level Observation Network. The list goes on and on. It is very unfortunate.

As I say, sooner or later, the American people, when they see this burgeoning deficit that looms ahead of us now in monumental proportions, which was not in any way contemplated 6 months ago, are going to want to know where the money went. They are going to want to know where the money went. When they find out where the money went, whether it be for Amtrak, or construction of apartments in Baltimore—whatever they are—then I don't think they are going to be very happy with our performance.

I have only been in Congress now for about 20 years. That is a short time compared to a number of others in this body. But I have to tell you, I have never seen spending like this going on, nor have other observers observed this kind of incredible spending. The President of the United States mentioned in his statement that Congress has already provided \$40 billion since September 11. Half of that money has been spent. The President requested an additional \$27.1 billion. But that wasn't enough. We had to exceed that by some \$4 billion—not to mention, as the Senator from Texas pointed out, that much of the moneys requested were not

granted and some \$10 billion to \$15 billion was used for purposes other than that requested by the President.

I also hope this bill will be repaired in conference. I don't have very much confidence in conferences. I think if you reviewed the record of what conferences do, they usually come out in the appropriations with higher numbers of spending. I hope that this will be an exception to that general rule. I think, because of our inability to enact even the smallest cuts and the smallest reductions, the President of the United States said he will veto the bill. That will hold up the whole process of these much needed funds to fight the war on terrorism.

I understand that the Senator from Iowa will move to table the amendment. I will be glad to get that done so we can move on to other issues.

I yield the floor.

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

Mr. HARKIN. Madam President, first, I wanted to say that I have a great deal of respect for the Senator from Arizona and for his keeping an eye on spending. I think he is to be commended for that. Sometimes it is a lonely job. I commend him for that.

I appreciate what he said. He said he agrees with 99 percent of what I had to say earlier. I guess the 1 percent just happens to be the time limits.

But I will respond to my friend from Arizona by saying, first, that I want to make it very clear. If there is not an emergency, we will fully offset it.

Second, it is not a project that just happened; it was considered to be a project some time ago. But with September 11, and with the recognition now that our food supply is extremely vulnerable, especially animal agriculture more than anything else, because of the concentration, because of the travel in and out of the country, and the ability to transmit some of these very deadly kinds of pathogens that can infect our animals in this country—and some of those can be transmitted to humans—after September 11, it is vitally important that we move ahead as aggressively as possible to rebuild this national lab.

Intellectually and honestly, even if it weren't in my State of Iowa, I would be saying the same thing the chairman of the Agriculture Committee and the chairman of the Appropriations Subcommittee on health said. I don't care where it is. This needs to be done sooner rather than later.

That is what the debate is all about: Do we want to make our food supply safer sooner or take a chance and make it later? Do we want to increase our ability to respond quickly to a terrorist attack to our food supply sooner or do we want to do it later? That is what this is about. By doing this, we can get this thing finished by 2006. I have a timeline right here in front of me—by 2006; not 8 years, 4 years. Quite frankly, we ought to do everything we can to collapse the timeframe as much as possible.

So, Madam President, I just close and ask unanimous consent that a letter dated today, June 6, by the Animal Agriculture Coalition, strongly supporting the \$50 million included in the Senate version of the bill for the national animal disease facility, signed by a number of animal agricultural associations in the United States, be printed in the RECORD.

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

ANIMAL AGRICULTURE COALITION,  
June 6, 2002.  
Hon. TOM HARKIN,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR HARKIN: The undersigned members of the Animal Agriculture Coalition (AAC) urge your support for the \$50 million in the Fiscal Year 2002 Department of Defense Supplemental Appropriations bill for the U.S. Department of Agriculture (USDA) Animal Health Facility Modernization Plan in Ames, Iowa. The complete modernization of important U.S. Department of Agriculture facilities; the National Animal Disease Center, the National Veterinary Services Laboratories, and the Center for Veterinary Biologics, is urgently needed to protect the U.S. animal agriculture industries.

The Secretary of Agriculture issued a report on May 25 assessing the scope and need of the Modernization Plan. The report stated the "urgent need to renovate and modernize the existing facilities." The Secretary described four options for modernizing the facilities. The AAC supports the accelerated option of building the joint facilities in 6 years at a cost of only \$430 million, compared to 10-year plans costing from \$440 to \$548 million.

These current facilities are antiquated, inefficient and need to be replaced with a centralized modern facility, able to meet the national animal agricultural needs for research, diagnosis, and product testing for animal health. Only an up-to-date animal health and food safety research facility will ensure the safety of our national meat supply, allow the United States to compete globally and have the systems in place to respond quickly to disease outbreaks, such as those faced in Europe.

We urge your support for the \$50 million in the FY 2002 Department of Defense Supplemental Appropriations bill for the USDA Animal Health Facility Modernization Plan in Ames, Iowa.

Sincerely,  
American Feed Industry Association; American Horse Council; American Meat Institute; American Society of Animal Science; American Veterinary Medical Association; Federation of Animal Science Societies; Holstein Association USA, Inc.; National Association of Federal Veterinarians; National Cattlemen's Beef Association; National Chicken Council; National Institute for Animal Agriculture; National Milk Producers Federation; National Pork Producers Council; National Renderers Association; United Egg Association; United Egg Producers; U.S. Animal Health Association.

Mr. HARKIN. Madam President, I now move to table the McCain amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

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

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), and the Senator from South Dakota (Mr. DASCHLE), the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—72

Akaka	Dorgan	Lugar
Allard	Durbin	McCconnell
Baucus	Edwards	Mikulski
Bayh	Enzi	Miller
Biden	Feingold	Murkowski
Bond	Feinstein	Murray
Boxer	Frist	Nelson (FL)
Breaux	Graham	Nelson (NE)
Brownback	Grassley	Reed
Burns	Gregg	Reid
Byrd	Harkin	Roberts
Campbell	Hatch	Rockefeller
Carnahan	Hollings	Sarbanes
Carper	Inouye	Schumer
Cleland	Jeffords	Shelby
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Landrieu	Thomas
Craig	Leahy	Thurmond
DeWine	Levin	Torricelli
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden

NAYS—24

Allen	Gramm	Nickles
Bennett	Hagel	Santorum
Bunning	Hutchinson	Sessions
Cantwell	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Crapo	Kyl	Thompson
Ensign	Lott	Voinovich
Fitzgerald	McCain	Warner

NOT VOTING—4

Bingaman	Dayton
Daschle	Helms

The motion was agreed to.

Mr. HARKIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair. Madam President, I see in the Chamber the distinguished majority whip who has been, in a most courteous manner, allocating time slots to those desiring to offer amendments. I wish to send an amendment to the desk, and my colleague from Connecticut has an amendment in the second degree.

I am joined by the distinguished Senator from Georgia as a cosponsor of the amendment. I would like to accommodate the distinguished majority whip if he wishes to address the order of proceeding because our good friend, the Senator from Illinois, is seeking recognition.

Mr. REID. I appreciate the Senator from Virginia yielding. I am pleased the Senator from Virginia and the Senator from Connecticut have worked out a procedure to dispose of this amendment one way or the other. It is my understanding that the amendment of the

Senator from Georgia will be called up, and the Senator from Connecticut will offer a second-degree amendment to that amendment. We should move through this pretty quickly.

I would say, even though he is not on the floor, I do appreciate Senator MCCAIN not offering his 15 amendments he had ready to offer, and he did not take a lot of time offering amendments. He stopped at three, and I appreciate that. We are moving down the road.

Following the amendment of the Senator from Virginia, the Senator from Illinois has an amendment he will offer. That, to my knowledge, is the only one we have on our side. I know Senator GRAHAM of Florida is talking about offering an amendment. We are about through on our side as far as amendments to offer. I am told the Senator from Texas, Mr. GRAMM, wants to make a point of order. We will be ready for that when that is done.

My point is, we are moving through these matters quite quickly. If everyone continues to cooperate, there is no reason we should not be able to finish this bill tonight.

Mr. DURBIN. Will the Senator yield?

Mr. REID. Yes, I yield.

Mr. DURBIN. I ask the majority whip, would it be appropriate, since the Senator is directing traffic, to put me in the queue before Senator WARNER and Senator DODD so I can offer my amendment?

Mr. REID. We, of course, yesterday indicated that on the bill itself, we would go back and forth, and the Senator from Virginia is offering this amendment. It would be appropriate we go to this side and the Senator from Illinois would be next recognized. I will put that in the form of a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM addressed the Chair.

Mr. WARNER. The Senator from Virginia has the floor. I have been yielding for the purpose of letting our distinguished leader and others get their points made. I think we are progressing. If I understand, the UC has been granted; am I correct in that, Madam President?

The PRESIDING OFFICER. The unanimous consent request has not been granted.

Mr. WARNER. Is the Chair prepared to receive the vote of the Senate on that? I have no objection.

The PRESIDING OFFICER. The Senator from Nevada did not have the floor and thus cannot propound the unanimous consent request. The Senator from Virginia has the floor.

Mr. REID. I say to the Presiding Officer, the Senator from Virginia yielded to me for the purposes of trying to move things through the Senate. Of course, he has no objection to my offering this unanimous consent request. He has not lost the floor.

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

The Senator from Virginia.

Mr. WARNER. Madam President, before the leader leaves the floor, if I might regain the attention of our distinguished leader, I would be prepared to enter, not at this moment, but look at a time agreement so we can move this process along. I hope we could explore that and advise the Senator from Connecticut in due course because I have a series of cosponsors, which I am about to read. If those cosponsors desire some time, I hope they will inform me very quickly. In that way, we can get a time agreement on the principal amendment and then we can have a time agreement on the second-degree amendment.

Mr. DODD. Madam President, why don't we submit the amendments and see how the debate goes. We are under a time limit anyway, under cloture for 2 hours, an hour for either side. There is a time limit, but possibly we can truncate that. Of course, the willingness of my friend from Virginia to accept the amendment would be very appealing to the Senator from Connecticut.

#### AMENDMENT NO. 3597

(Purpose: To add the American

Servicemembers' Protection Act of 2002)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST, proposes an amendment numbered 3597.

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

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

(The text of the amendment is printed in the RECORD of June 5, 2002, under "Text of Amendments.")

#### AMENDMENT NO. 3787 TO AMENDMENT NO. 3597

Mr. DODD. Madam President, I call up amendment No. 3787.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. LEAHY, proposes an amendment numbered 3787 to amendment No. 3597.

The amendment follows:

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

SEC. 2015. Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic and other foreign nationals accused of genocide, war crimes or crimes against humanity.

SEC. 2016. This title shall cease to be effective at the end of September 30, 2002.

#### AMENDMENT NO. 3787, AS MODIFIED

Mr. DODD. Madam President, I send to the desk a modification of that amendment which my colleague from Virginia is looking at. It is a slight

modification of the amendment. Hopefully this modification will be accepted.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end, add the following:

SEC. 2015. Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

SEC. 2016. This title shall cease to be effective at the end of September 30, 2002.

Mr. DODD. I thank the Chair. Madam President, why don't I allow my friend from Virginia to make his case on his amendment, and then I will respond to that by talking about what my second-degree amendment does. That way we can have some order to the debate.

I know the Senator from Georgia wants to be heard on this as well. There may be others who want to be heard. In fact, I invite my colleague to look at the second-degree amendment. He might be willing to accept it. We can have a short debate on the amendment—it is a long amendment, 29 pages. Nonetheless, we can focus on that amendment if the second-degree amendment is acceptable. I will let him look at the amendment and make his case for the first-degree amendment.

Mr. WARNER. Madam President, I think the normal way to proceed is for the principal amendment to be addressed by the sponsor, myself, and the cosponsors, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST and Senator SESSIONS likewise.

This is a matter with which the Senate has considerable familiarity so I shall be brief in my remarks.

This amendment, the American Servicemembers' Protection Act, is necessary to protect—I repeat, protect—our servicemembers and certain Government officials from prosecution—or that is potential prosecution—by the International Criminal Court, hereinafter referred to as the ICC, an institution which comes into effect on July 1, 2002, over the objections of the United States of America.

This amendment would protect U.S. military personnel and other elected and appointed officials of the U.S. Government against potential criminal prosecution by an international tribunal court to which the United States is not a party.

In light of our ongoing global war on terrorism, it is vital that the Senate adopt this important amendment to protect our brave servicepersons and others who are now being dispatched daily to the farflung points of this globe in the battle against terrorism.

At the outset I would like to recognize the leadership of our distinguished

colleague, Senator HELMS, who by necessity is absent today; otherwise, he would be handling this. This is his legislation which I am privileged and, indeed, honored to bring forth on behalf of my distinguished longtime friend and colleague from North Carolina.

He has worked tirelessly on this issue for a number of years, and we all, every Member of this Senate, owe to him a debt of gratitude for keeping this matter before the Senate and to be the ever watchful eye on the steps this Senate must take to protect our servicepersons and others.

President Bush has consistently—I repeat, consistently—opposed this treaty. In May of 2002, a short time ago, President Bush notified the United Nations that the United States does not intend to become a party to the ICC.

However, since over 60 nations have ratified the treaty, the ICC will be established and become effective on July 1 of this year. The International Criminal Court will have the power at that moment to proceed to indict, prosecute, and imprison persons anywhere in the world accused by the Court of “war crimes,” “crimes against humanity,” and “genocide.”

In 2000 and again last year, Senator HELMS introduced, and I cosponsored, freestanding legislation similar to this amendment. Last December, the Senate approved by a vote of 78 to 21—and I encourage my colleagues to do their basic research on that vote to see how they cast their vote—a version of this legislation on the Defense appropriations bill. However, the provision was dropped in the conference. It is important to note that the administration supports this amendment. I repeat, the President supports the amendment brought by myself and other colleagues, and the Departments of State, Defense, and Justice have all been closely consulted and their views incorporated into this amendment.

Also, an identical provision is contained in the House-passed supplemental appropriations bill adopted by the House on May 24 of this year.

I received a call from the distinguished chairman of the Foreign Relations Committee, Congressman HYDE, early this morning, expressing his strong support of the Senate adopting favorably the amendment of the Senator from Virginia.

This amendment seeks to protect American servicemembers, embassy officials, and Government employees from the ICC, and preclude cooperation with the ICC so long as the Senate does not ratify the treaty. This body, I repeat, will again have the opportunity, if for some reason it is brought up, to ratify this treaty. However, the amendment does allow, on a case-by-case basis, cooperation with ad hoc courts provided—that is, ad hoc courts elsewhere in the world—they are created through the United Nations Security Council, examples being those courts created by Yugoslavia and Rwanda.

I shall now outline key provisions of this amendment. First, no Federal or

State entity, including courts, may cooperate with the ICC in law enforcement matters such as arrest and extradition, searches and seizures, discovery, asset seizure, financial support, transfer of property, personnel details, intelligence sharing, or otherwise render services to the ICC.

No classified national security information can be transferred directly or indirectly to the ICC.

The United States must secure permanent immunity from ICC jurisdiction for American personnel before they can participate in any United Nations peacekeeping operation or other arrangements must be in effect to protect U.S. peacekeepers from the jurisdiction of this Court. The President may submit a national interest certification, however, effectively waiving this restriction if that is his judgment.

Another provision: No ICC treaty party can receive U.S. military assistance except for NATO countries and major non-NATO allies. The President again may waive this restriction for other countries that ratify the treaty but then conclude agreements with the United States to protect our personnel from the Court. The President may also waive this restriction if he determines that such waiver is important to the national interest.

The President is authorized to use all means necessary and appropriate to bring about the release from captivity of U.S. or allied personnel detained or imprisoned against their will by or on behalf of this Court.

The President is urged to analyze existing alliance command arrangements and develop plans to achieve enhanced protection from the ICC for U.S. military personnel subject to such arrangements.

Let me quote from testimony given before Congress in 1998 by the lead U.S. negotiator on the ICC, Ambassador David Scheffer, a he explained the danger posed by the Court:

Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the court’s jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives.

In closing, let me also quote from a floor statement on this legislation given by Representative HENRY HYDE, chairman of the House International Relations Committee, on May 10, 2001:

The ICC threatens the sovereignty of our Nation. This legislation has been endorsed by a who’s who of the American foreign policy establishment—a bipartisan group of some of our wisest and most experienced experts on national security matters, men and women who held high office in every Admin-

istration since that of Richard Nixon. From Henry Kissinger, George Shultz and Brent Scowcroft to Donald Rumsfeld, Jeane Kirkpatrick, and Zbigniew Brzezinski, they all agree, and I quote from their letter, that This legislation is an appropriate response to the threat to America’s sovereignty and international freedom of action posed by the International Criminal Court.

This is an important amendment that deserves the support of all our colleagues. We have a responsibility to protect our servicemembers and the adoption of this amendment is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Madam President, I rise to support the American Servicemembers’ Protection Act amendment. I am very pleased to join with my distinguished colleague from Virginia in support of this legislation, just as I was pleased to join with Senator HELMS in working with him and his staff on its behalf.

It might be worth noting that Senator HELMS made a determined effort and has been making a determined effort to pass this legislation. I think that is very admirable, and I would like to commend him again for his leadership and wish him well.

I will not restate the details of this amendment since Senator WARNER has already articulated them so well, but I would like to make a few brief points.

As Senator WARNER mentioned, the Senate passed legislation similar to this amendment as part of the 2002 Defense appropriations bill. The final vote was 78 to 21, which constituted a clear majority of this Senate. Unfortunately, the conference committee missed an opportunity to have this protective legislation in place before the International Criminal Court was ratified earlier this year. Now the International Criminal Court becomes effective on July 1, and American servicemembers, officials, and citizens will then potentially be subject to a court to which we are not a party.

That is why, in a nutshell, this legislation is so important. We need some degree of protection for our men and women in uniform and for other officials who sacrifice so much for our Nation.

This amendment is appropriately entitled the American Servicemembers’ Protection Act because our war on terrorism could put our military at risk of politicized prosecutions by the International Criminal Court. Other brave Americans who serve this country are also at risk, and this legislation will protect them as well. I believe that as elected lawmakers we are obligated to safeguard them from this potential threat just as we would from threats on the battlefield. I also believe it is important for our military to know that Congress will not stand idly by while this questionable Court comes into existence.

Make no mistake about it, our servicemembers are very aware of the

importance of this pending legislation. We must send them the clear message that they have our full support.

I can guarantee that if we do not get this done, and done soon, we will look back and regret our inaction. I, for one, do not want to look a parent in the eye and explain why their son or daughter is being subjected to an international court on a trumped up charge of war crimes.

The administration supports this amendment, as Senator WARNER said, and so should we. Let us do the right thing again, as we did in December, and pass this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Connecticut.

Mr. DODD. Mr. President, first let me explain my second-degree amendment. In fact, I will read it because it is easier to read it than go through an explanation.

At the end of the amendment being offered by my friend from Virginia, we would add a new section that says:

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

This title shall cease to be effective at the end of September 30, 2002.

The reason for that last section is because presently, pending in conference, is this very issue, in the Department of State-Justice authorization bill.

I do not understand why we are proceeding with this matter today. Currently, we have in conference a debate going on over this very matter, why should we now add it to an appropriations bill? If we pass the Warner amendment, those who sit on the committees of jurisdiction of this matter will be excluded from the debate. This is not the place for this amendment.

But first let me turn to my second-degree amendment. I hope my colleagues might accept this second-degree amendment because I cannot believe, I do not want to believe, that if we apprehend, through the international community, people I have just mentioned on my list, that under this bill we would be prohibited from assisting in the prosecution of Osama bin Laden, the Islamic Jihad, Saddam Hussein, and other members of the terrorist community in the world.

My amendment merely says that despite whatever else we have said, when it comes to prosecuting these people, we would participate and help, even though we are not a signatory or a participant in the International Criminal Court.

I hope my amendment is adopted and accepted. It seems to me, if not, we will have to have a vote on this amendment as the second-degree amendment to this bill.

And, now let me make a case against the underlying proposal. I remind my colleagues this amendment is 29 pages

long. This is a bill. This is not an amendment. It deserves to be looked at.

Let me state what the bill does, and remember that our NATO allies have signed this treaty, I read from the bill: It bars intelligence of law enforcement sharing, bars the transfer of intelligence of law enforcement information which specifically relates to matters under investigation by the ICC, to the ICC, or any government which is a party to the Court.

That is stunning. We are going to bar intelligence sharing with the European Community and our NATO allies because they have signed this?

Two, it restricts U.S. participation in U.S. peacekeeping. It bars U.S. participation and U.S. peacekeeping or peace enforcement operations unless the President certifies the action.

Third, it prohibits military assistance to any country that is a party to the ICC. I have already mentioned NATO; and major non-NATO allies are exempted, as well as Taiwan, unless they have concluded an agreement to prevent proceeding against U.S. personnel.

Lastly, and this is one to pay attention to, this amendment authorizes the President to use "all means necessary and appropriate" to free any U.S. personnel of NATO and major non-NATO allies, including persons working on behalf of nonallied nations detained by the ICC.

We now send troops to free people from the ICC? The Philippines is an allied nation, but there are terrorists in the Philippines. Now, in the future the UN could bring Philippine terrorists to The Hague and try them, and the United States, under this, you can make a case, would have to go in and free them because they are an allied nation.

Do we really want to do that? Please read this bill. This goes far beyond what may be a reasonable proposal of trying to guarantee the U.S. military personnel not be unfairly, unnecessarily, or unjustly prosecuted. The idea we are going to bar intelligence sharing, bar financial assistance, not going to participate in peacekeeping, and that we are actually going to go in, not on behalf of just U.S. personnel, but under this amendment, if adopted and agreed upon under the supplemental appropriations bill, go in and free criminals when allied personnel are subjected to the ICC.

This is a 29-page amendment. This goes way beyond what I think my colleagues believe we are trying to do. Please read this amendment. We are doing things quickly around here. It is a supplemental appropriations bill, and we are trying to rush it through.

If we are in conference dealing with this very same proposal or one like it, which is the place to be doing it—and we wouldn't deal with defense matters here or other issues. That is the reason we have a Foreign Relations Committee. It is the reason we have a Com-

merce Committee. It is the reason we have a Judiciary Committee.

So we are going to turn this matter over to the Appropriations Committee and deny the other committees that have worked on this a chance to resolve it? That is not the way the Senate ought to be doing its business, in my view.

Let me give my colleagues a bit of history. It was the United States at the end of World War II, people like George Marshall and Harry Truman and Douglas MacArthur and Dwight Eisenhower and Arthur Vandenberg, who stood in this Chamber and outside of it and argued for rebuilding Japan, rebuilding Europe with the Marshall Plan, setting up the U.N. system, the World Bank, the IMF. And they did it in spite of huge opposition. Only about 18 percent of the American public believed we ought to have a Marshall Plan. But we had a leader with the guts of a George Marshall and an Arthur Vandenberg and a Harry Truman who said it is the right thing to do. It may not be popular, but it is the right thing to do.

When you have 133 nations, and 67 others who have ratified an international court which we argued for, we ought to be trying to do something to make it work right.

I quickly add, if that treaty as written were before the Senate today, I would have a hard time voting for it. And my colleague from Virginia is right. When President Clinton signed that treaty, he recommended it not be ratified as written. However, to say we should not ratify it does not mean we should not work at it. And it does not mean you go around and penalize every one of your allies because they have. We do protect service people. Each day we protect them. We have agreements, where our servicemen are located all over the world, on how they would be handled should a matter arise, such as it has in Japan with allegations of rape by servicemen. And we deal with those matters.

But the idea that we would walk away at the very hour we are trying to build support internationally for dealing with terrorists is absurd. I also note that we have been told flatly there will be no further ad hoc trials, the ICC is a U.N. system that has been set up so as not to go through it on an ad hoc basis. It means for all the future efforts our recourse only is military action.

There are many who believe if we had an international criminal court in the early part of the 20th century, we might have been able to avoid some of the tragedies that occurred. Listening to people such as Elie Wiesel, today's proceedings are an insult to the Holocaust victims. Elie Wiesel says this bill is an outrage, it is wrong. The people who went through what they did as a result of the Nazis ought to understand that we are trying to set up a system so that we might avoid that kind of atrocity being repeated.

This bill is poorly written. It is poorly crafted. It does great damage to the

United States at a critical time when we are trying to build support in dealing with the issues of terrorism.

It should be fresh in our minds the fact that at the end of the cold war, an explosion of ethnic brutality led to the necessity of creating ad hoc tribunals in Rwanda and in Yugoslavia, but there was no means available during those days to try the Idi Amins and Saddam Husseins of the world and others who evade their nation's justice and avoid the response of the international community. With very few exceptions, the world has stood helpless and silent in the face of such crimes against humanity.

Finally, the world stands up. We have been begging to do it for half a century, and they finally do it. They finally adopt the Rome treaty—133 countries, and 67 sign it. It goes into effect in a matter of days. They are finally doing what we asked them to do for years. What do we do? We walk away from it, and we threaten them. We tell them we will not share intelligence. We tell them they do not get foreign aid or military assistance, that we will deal with them in a harsh way. I don't think that is wise. These are our NATO allies, European allies.

We should be rejoicing that finally—finally—at our insistence, with the entry into force of this Court, any individual who commits genocide, war crimes and crimes against humanity, will be on notice that they will be prosecuted for those crimes.

So these thugs around the world who are doing what they are doing—we are finally getting the world to recognize we have to stand up to them. Now we are going to go after our allies and penalize them because they signed the Rome treaty and because they believed that finally this may be a way to proceed on some of these issues. We attack the Court and those who have chosen to join it? We have nothing to fear from this Court. We have nothing to fear about strengthening the rule of law.

That is what people such as Harry Truman, George Marshall, and Douglas MacArthur stood for. They believed it. We ought to be joining them historically by opposing this amendment and encouraging the improvement of this International Criminal Court, becoming a party to a great effort and not walking away from it.

I do not understand in many cases why our allies continue to support our efforts when we react to them as we are doing with these amendments.

Last month, in fact, the Bush administration took the unprecedented step of unsigning the International Criminal Court. Ironically, I offered an amendment at that time when we were debating the issue to say I will accept this but give the President the authority to waive all of this. He only got 48 votes in this Chamber. This President—not the past President, this President—got 48 votes in this Chamber, deferring to the President to de-

cide whether or not to invoke the provisions of this particular bill. Here we are now even walking away from that.

I point out that when the President decided to unsign this treaty it was an unprecedented act in the history of this Nation. I cannot find a single example in our more than 200 years of great history where an American President of either party ever unsigned something like this. What does that say to the countries around the world that we get to sign treaties with us when they decide to unsign them in the future? What kind of precedent is that? You didn't have to ratify that treaty. But for an American President to unsign it, while we encourage people to live up to their agreements when an American President signs them, is going to create real problems for us down the road, I predict.

On May 6, 2002, Under Secretary of State Grossman announced that the United States would make its objections to the ICC clear through nullification of its signature on the ICC's Rome statute and said the United States would seek agreements with other countries to remove American servicemen.

Mr. Grossman also said:

Notwithstanding our disagreements with the Rome treaty, [again, the Rome treaty was our idea] the United States respects the decisions of those nations who have chosen to join the ICC.

Is this respecting these other nations, when we go down that list of the provisions of this bill? Is this respecting those who have signed it? We bar intelligence or law enforcement sharing. We are not going to participate in U.N. peacekeeping in their countries. We are going to prohibit military assistance. And we threaten to use military force to go in. That is respecting the decision of those who signed on to this agreement?

Ambassador Pierre Prosper, who is head of the War Crimes Office, said:

The President has made clear that what he wanted to do today was make our intentions clear and to not take aggressive action or wage war, if you will, against the ICC or the supporters of the ICC.

Read that statement and then read this bill that you are going to vote on shortly and ask whether that is consistent with the administration's position. Read what we do here under this amendment if adopted.

I wonder if our colleagues know the amendment that is being offered is called The Hague Invasion Act by our allies because of its extreme provisions authorizing the use of armed force.

All but one other NATO nation completely and strongly backs the ICC, and the entire European Union has ratified the ICC and strongly demarched the United States, indicating disappointment with the U.S. signature nullification.

The amendment by the Senator from Virginia forces the United States into a dangerous and counterproductive game of diplomatic chicken with our

closest allies at a time when the alliance is already under great strain, and throws salt in the open wounds of our closest allies in the war on terror, and I think it is dangerous.

The amendment is a very complex amendment. It is 29 pages. There are waivers within waivers which turn out not to be waivers at all because the conditions of the waivers are unattainable in many instances. This is not an issue we should be considering as part of an emergency supplemental appropriations bill, but as I said earlier, it truly belongs in the conference where it is, with the members of the committees of jurisdiction debating it. This matter is in that conference. That is the place it ought to be considered.

The Warner amendment would prevent the United States from participating in peacekeeping or peacemaking activities pursuant to the United Nations in countries that happen to be members of the Court. There is a significant amount of assistance in this bill for Colombia on which we are voting here. I wonder if our colleagues know that Colombia ratified this treaty on June 5 and is now a party with the Court. President Pastrana said ratification with the ICC would send a message to the FARC, the revolutionary group in Colombia, that it would be held accountable for the murder of 119 civilians who took refuge in a church in that country. The Warner amendment would prevent the President from sharing national security information with a court or any country which is a party to the Court, absent assurance the information would not go directly or indirectly to the Court.

I don't think you could ever give that assurance. If faced with an effort to prosecute the FARC and Colombian request for assistance to go after the people who murdered those 119 innocent civilians, under the provisions of this amendment, if adopted, the United States would refuse cooperation.

I think that is outrageous, I think that is sad, if it is adopted.

Mr. WARNER. Will the Senator yield for a quick question? Is there not incorporated in the amendment in the Senator from Virginia sufficient Presidential waiver to take care of every point the Senator has made?

Mr. DODD. I say to my colleague, you have to give assurance that none of this information either indirectly or directly would go to the Court in allowing for the prosecution of those people. I don't think the President could get that assurance. If you are going to be prosecuted in the Court and you are going to share information with the country that wants them prosecuted, how can you give a waiver doing that? That is what I mean about this bill.

Mr. WARNER. Why would the Secretary of Defense have indicated—

Mr. DODD. It is my time. I will be finished in a minute, and then I will give my colleague all the time.

Mr. President, may I finish?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. This is outrageous, this amendment. I urge my colleagues to read this. Read this, please, what we are about to do, here.

This has waivers within waivers. It is 29 pages of complex contradictory provisions, in my view, that make it virtually impossible in many instances for any kind of waivers to be applied here. Further, the amendment would also prohibit the United States from providing military assistance to many countries that are parties to the Court, including such countries as Colombia, unless the President first takes the step of waiving the provisions of that particular provision.

I would say what is going to happen, if our allies respond to this prohibition by barring the sharing of information they may have, which we have a strong national security interest in having—we are sort of provoking this kind of tit for tat, back and forth.

I don't believe that is the way to go. There are ways of improving this treaty. This is not the way. This is about politics and votes in here. This is not about making this a stronger agreement and doing something that would make our Nation proud.

I can only imagine what would have happened if this Senate had been operating in the days after the end of World War II, when only a few of Americans supported the Marshall Plan, when it wasn't popular to do so, using taxpayer money to rebuild Japan and rebuild Europe. In a sense, that is what we are trying to do here; it is to rebuild an international community to deal with the issues of justice in the world. We are now going to walk away from it entirely.

It has been further said you can set up ad hoc courts. No, you can't. The U.N. system has established the ICC. That is it. Not ad hoc courts. The ad hoc courts worked when there was no ICC. Now in the establishment of an ICC, whether we like it or not, it is going to go into effect in July. That is a fact. So the ad hoc courts are not going to be set up.

So when we go after these other people, or try to anyway, the only place you can bring them is to the ICC. But by not being a part of that, we take ourselves out of the game and leave ourselves only the option of militarily going after these people.

That may be a viable option if nothing else works, but I don't think you want to exclude the option of taking these people to court under the rule of law.

The ICC is now the only game in town. The bottom line is that the Security Council is unlikely to approve any new ad hoc tribunals when once the ICC is established. When international efforts attempt to bring Saddam Hussein or Osama bin Laden or the Islamic Jihad to justice, what is the United States going to be doing? What about slave traders and war criminals around the globe?

We will exclude ourselves from assisting in those efforts. That is what

this amendment says. We will not be a party to it.

The Warner amendment gives the administration a war powers blank check. Section 3008 of the Warner amendment authorizes "use all means necessary and appropriate" just as the Gulf of Tonkin Resolution authorized all necessary means to release persons arrested by the ICC.

This is a huge giveaway of congressional war powers authority.

Do we really want to be giving open-ended authority to the executive branch to put American servicemen at odds with the forces of some of our closest allies? Are we prepared to send troops, in a sense, to The Hague? This extraordinary grant of authority in section 3008 just doesn't apply to U.S. servicemen. It extends "to any person working on behalf of" many foreign nations, including Egypt, Argentina, Jordan, South Korea, and the like. That goes way beyond what we are being told this amendment accomplishes.

This amendment breaks faith with the Holocaust victims. Elie Weisel has warned that this bill "would erase the legacy of U.S. leadership on international justice." Further, he said, for the memory of the victims of the genocide and the war crimes, this bill must be defeated. This comes from Elie Weisel. These are the people we ought to be listening to when it comes to establishing an international criminal justice court to deal with crimes against humanity and genocide.

This amendment is bad for Israel. Israel signed the Rome Treaty, which is supported by the American Jewish Committee and the Religious Action Center to Reform Judaism. Most of Israel's concerns have already been favorably resolved through negotiations. But Israel is going to need the United States as a fully engaged partner in future negotiations over the definition of aggression and other issues. No matter what one thinks of the ICC, it is clear that U.S. disengagement from the Court is bad for our ally in the Middle East at a critical time, the State of Israel.

For all those reasons, I hope the second-degree amendment I have offered will be agreed to. That would at least provide us an opportunity to go after the people I have mentioned should they be apprehended by the Court, and we could be a part of pursuing them.

It seems to me that in the absence of that we are going to look rather ridiculous in making a claim about seeking support for antiterrorism.

Mr. REID. Mr. President, if the Senator will yield for a question, if the amendment of the Senator from Connecticut is agreed to, the Warner amendment still stands. Will the Senator explain to the Senate the finality of that, if both amendments are agreed to by the Senate?

Mr. DODD. If the Warner amendment is agreed to, I still have a problem with it. However, I will read my amendment again.

It says:

Nothing in this title would prohibit the United States from rendering assistance to the international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, and other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

Mr. REID. I also ask my friend, if both amendments are agreed to, the matter of the Senator from Virginia would still be before the body, and he could still go forward in the manner he anticipated with the exception that the Senator from Connecticut added. Is that right?

Mr. DODD. That is correct.

Mr. WARNER. Mr. President, I wasn't able to hear the distinguished leader.

Mr. DODD. If I may reclaim the floor—and I will finish—the question of the Senator from Nevada was if my second-degree amendment is adopted as part of the Warner underlying amendment, does the Warner amendment go forward?

I want to be honest with my colleagues. I think it is a better amendment; that is, the Warner amendment is a better amendment if my adaptation is adopted as a second-degree amendment. Yet, I will still have a problem with his amendment for the reasons I have outlined beyond the adoption of it. It goes too far.

I will tell my colleagues that they could vote for the Warner amendment with at least some comfort here should my second-degree pass.

Can you imagine the irony of this bill if my amendment is not adopted? If someone catches bin Laden and brings him to the International Criminal Court, the adoption of this amendment would prohibit us from assisting in that prosecution. I can't believe that we would want on record that kind of a judgment.

Mr. WARNER. Mr. President, will the Senator yield for a question on that point? Is there any way we can have a colloquy so we can inform the Senate of what is taking place?

Mr. DODD. I want to make my point about this, and then I will be happy to engage my friend in a colloquy.

Mr. WARNER. I am exhausted from listening.

Mr. DODD. The Senator from Virginia has a 29-page amendment. I didn't read the whole thing. If I did, that could take more time than my remarks. This is a bill; this isn't an amendment. I have an amendment. This is a bill of 29 pages. It goes on and on. But read the bill. Don't come over with this nice title, the American Servicemen's Protection Act. How am I going to vote against that?

Read it, and then ask yourself whether or not you really want to be in a situation where ironically, in the same bill we are voting for aid to Colombia, who is a member of the ICC.

Under the provisions of this, barring some waiver, maybe as long as Colombia didn't share any information either

directly or indirectly with the ICC, we then would have to cut off the aid to them.

Remember that this proposal is presently in conference. What do you have a Foreign Relations Committee for? What do you have a Commerce Committee for? What do you have a Judiciary Committee for? If we are just going to adopt things on the appropriations bill, why not get rid of the authorizing committees?

What is the point? If I have to watch things being thrown on a supplemental appropriations bill, why do we spend the hours in committee trying to work these things out if we come in and just wipe it out and adopt it on a supplemental appropriations bill, when negotiators have no knowledge of the work that has gone into drafting the language that is sitting in a conference, trying to resolve it?

Unless you are on the Appropriations Committee, you have nothing to do with this stuff. Why bring up all of the authorizing controversies and throw them on here—to satisfy TOM DELAY and the House leadership who want to jam this thing through? That is what they want to do. There is no mistake about it.

This isn't a serious debate about where the United States ought to be on a critical issue facing our country at a time when we were attacked, only 9 months ago, by terrorists.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have listened very carefully in a very quiet and dispassionate way to my friend from Connecticut. I have studied his amendment. I have an observation, and then a question to put to my friend.

The first is, his amendment has two sections: Section 2015, and section 2015 relates to any prohibition of the United States rendering assistance to international efforts to bring to justice Hussein, Milosevic, bin Laden, and so forth.

I say to my good friend that if you will look at my amendment, we have a provision that begins actually on page 8, and I shall read it: Authority to waive sections, and so and so, with respect to an investigation or prosecution of a named individual, and the President is authorized to waive the prohibitions and requirements of section 3004 and 3006 to the agreed section prohibitions, and so forth.

This was carefully crafted in consultation with the Department of State to do precisely what the Senator from Connecticut desires to do in section 2015.

I think our amendment has taken care of section 2015.

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

Mr. WARNER. I yield only for the purpose of a response to my question.

Mr. DODD. You have to understand that, if you go on to page 9, line 14, a waiver pursuant to subsection (a) or (b)

of the prohibitions and requirements of section 3005 and 3007, and I refer back to page 6, 3005 and 3007.

There it says, "authority to initially" waive these sections. It says, "notifies the appropriate congressional committees"; and "determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement."

You have to get a waiver. You have to go back to the earlier waiver, and you have to get agreement by the ICC. That is what I mean by this.

Mr. WARNER. Mr. President, in order to save the Senate time, I think the amendment cares for the concerns that the Senator from Connecticut has about 2015. But I make an offer to the Senator from Connecticut that I amend my amendment to incorporate verbatim his section 2015. Would he have any objection if I put it in? I think that would alleviate his concerns. Then we have but one provision left in his amendment to consider.

Mr. DODD. The only thing, 2016—

Mr. WARNER. Mr. President, I am directing a question to 2015. Let us stay on that for a minute.

Mr. DODD. I want to respond as well. I appreciate that. The reason 2016 is there is to say at least give the authorizers a chance to complete our work.

Mr. WARNER. That is a separate argument. Could we address them one at a time? I put to my colleague the question: Would he have an objection if the Senator from Virginia sought to amend his amendment to include verbatim the provisions of the Senator designated as 2015?

Mr. DODD. My point is—I appreciate that—I want to also talk about 2016.

Mr. WARNER. Fine. Can we do them seriatim?

Mr. DODD. No. Let's do them together.

Mr. WARNER. Well, we are not, Mr. President. The question is not: May I amend it to include 2016?

Mr. DODD. Section 2015—

Mr. WARNER. To facilitate the Senate moving ahead on this matter and on the bill—you have raised this question—I am prepared to amend my amendment to include 2015.

Mr. DODD. Let me suggest the absence of a quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Now, Mr. President, I formally put to the Senate the unanimous consent request that the Senator from Virginia may modify his amendment to include verbatim section 2015 of the second-degree amendment offered by the Senator from Connecticut.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, the second part of my second-degree amendment is critically important because it gives us a chance to complete our work as authorizers. By not including this—and my friend from Virginia has been candid enough to say they would not accept that as part of this agreement—then I, reluctantly, have to object to this unanimous consent request.

I am prepared to vote on the second-degree amendment, that we just vote on it. Members can decide whether or not they think this provision ought to be a part of this amendment or not. But as an authorizer who has worked hard at this, along with others—we are in conference—we have a chance to come out of a committee with a product for which the Senate can be proud. I hope that is the case. To just sort of disregard that and throw this on the appropriations bill is something I reluctantly have to object to.

So I urge we just have a vote on this second-degree amendment and complete the debate here and allow us to go to the Durbin amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, the Senator from Virginia moves to table the second-degree amendment and asks for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

Mr. BYRD. Mr. President, I share the serious concerns of the sponsors of this amendment about the potential for the International Criminal Court to be used as a political weapon against our members of the Armed Forces. This court, a permanent, international institution, is unprecedented in history. The International Criminal Court holds the power to indict and try individuals for war crimes, even if the person is a citizen of a country that is not a signatory to the treaty that creates the Court. It is not difficult to see that rogue states may seek to indict Americans on frivolous charges simply as a means to grind a political axe.

On May 6, 2002, the Bush administration renounced the United States' signature on the Treaty of Rome, which creates the International Criminal Court. But because the treaty has been ratified by 60 other countries, the Court will come into existence on July 1. Proponents of this amendment are correct in saying that the United States should take some action to protect our military personnel who serve abroad from unjustified prosecution by the Court.

But the amendment proposed to the supplemental appropriations bill goes beyond protecting the members of our Armed Forces. It also authorizes the President to "use all means necessary

and appropriate" to bring about the release of a "covered person" that is being held for trial before the International Criminal Court.

Who is a "covered person"? The amendment defines him to be an American, or a foreign national of one of our allies. Is Congress really prepared to issue a blanket authorization to allow the President to use "all means necessary" to rescue from prosecution a person from counties like Argentina, Jordan, or Egypt?

There is no way that we could predict the circumstances under which a person from one of these countries could be accused of war crimes. But this amendment gives the President a congressional authorization to use our military to compel the release of a prisoner of the International Criminal Court before Congress even has a chance to examine if the use of force is justified. This is a dangerous and unwise delegation of the constitutional powers of the legislative branch.

I must also question why this amendment is being proposed to the supplemental appropriations bill. This very same amendment is included in the State Department authorization bill passed by the House of Representatives. This provision is now being deliberated in a conference committee. Further consideration of legislation relating to the International Criminal Court would best be left to the conferees from committees of jurisdiction, including the Foreign Relations Committee, rather than the members of the Appropriations Committee who will be appointed to the conference on the supplemental appropriations bill.

To that end, I support the Dodd-Leahy amendment, which will limit the duration of the American Servicemembers' Protection Act to fiscal year 2002 only. If the proponents of the American Servicemembers' Protection Act believe that there is an urgent need to pass this legislation, then there should be no problem in accepting the Senators' amendment. The Dodd-Leahy amendment would provide for a stop-gap protection against the International Criminal Court until such time as the conferees to the State Department authorization bill complete their work. This is a reasonable limit to an intrusion into an issue that is being debated in a conference committee.

While we must seek to preserve the sovereignty of the United States by protecting our citizens against prosecution in front of the International Criminal Court, a body which will operate without any checks or balances from any branch of our government, this amendment goes too far in delegating the constitutional responsibilities of Congress over authorizing the use of force. Furthermore, the supplemental appropriations bill is not an appropriate legislative vehicle for addressing this issue. I urge my colleagues to support the Dodd-Leahy amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. It is my understanding the Senator from Virginia has moved to table the Dodd amendment, and the yeas and nays have been ordered.

The PRESIDING OFFICER. That is correct.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE) and the Senator from Minnesota (Mr. DAYTON), are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Colorado (Mr. CAMPBELL), are necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—55

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (FL)
Bennett	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Brownback	Gregg	Roberts
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Cleland	Hollings	Shelby
Clinton	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Conrad	Kyl	Stevens
Craig	Landrieu	Thomas
Crapo	Lincoln	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Dorgan	McCain	Warner
Ensign	McConnell	
Enzi	Miller	

NAYS—40

Akaka	Edwards	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Reed
Biden	Graham	Reid
Boxer	Harkin	Rockefeller
Breaux	Inouye	Sarbanes
Byrd	Jeffords	Schumer
Cantwell	Johnson	Specter
Carnahan	Kennedy	Stabenow
Carper	Kerry	Torricelli
Chafee	Kohl	Wellstone
Corzine	Leahy	Wyden
Dodd	Levin	
Durbin	Lieberman	

NOT VOTING—5

Bingaman	Daschle	Helms
Campbell	Dayton	

The motion was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

MODIFICATION TO AMENDMENT NO. 3597

Mr. WARNER. Mr. President, at this time, the Senator from Virginia renews his unanimous consent request to incorporate verbatim—and I do so on behalf of my distinguished colleague and cosponsor from Georgia, Mr. MILLER—to offer verbatim section 2015 of the second-degree amendment offered by the Senator from Connecticut.

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

The modification is as follows:

At the end, add the following:

SEC. 3015. Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I appreciate my colleague's offer, and I did not object. I want to make clear to people why we ended up voting on the second-degree amendment.

There is in Congress, on the State-Justice authorization bill, a conference on this very matter. Many of us have spent weeks trying to get the House to join us to resolve this matter. They have refused to meet. We included language that would force the House to meet with us or, under the supplemental, this language would die.

There is still a Defense appropriations bill and there is still a foreign operations appropriations bill to which this language can be added. It is sad in a way that authorizers cannot meet on the authorizing track to resolve policy matters; that policy matters have to be included on a supplemental appropriations bill. It is regrettable that efforts are not made to force the authorizers to meet and work.

Maybe this Senate is so collapsed that there is no longer any need to authorize. Every member of any authorizing committee: Henceforth know that when similar provisions come up, I will join with my friend from Virginia and let it be done on appropriations bills, not authorizing bills.

I do not know why I serve on authorizing committees. I am half tempted to get off them. I do not know why I spend all these hours working on these matters and staff working on these matters to have it included in a supplemental appropriations bill. Why does anyone serve on these committees at all?

We are about to adopt a very delicate and important matter—29 pages—which I promise no one here has read. There are not two people who have read it. They are going to vote on it because it has a nice title.

It looks good in a 30-second spot. It is dangerous, and it is wrong. It is terrible the Senate has come to this.

Mr. BIDEN. Mr. President, I will vote against the Warner amendment. Let

me state at the outset my view on several issues that this amendment raises.

First, I want to make clear that I do not support the International Criminal Court as it is constituted. The Rome Statute which creates the Court is flawed, and it would be a mistake for the United States to become a party to the Court under the Statute. The President made clear last month that the United States will not do so.

I do support protecting American servicemen and women. The Court statute purports to provide jurisdiction over individuals from nations which have not become party to it. That is wrong as a matter of treaty law and of basic fairness. We can and must protect our servicemen from the jurisdiction of this tribunal. I believe the President and Secretary Rumsfeld will do what is necessary to do so. We do not need this amendment to allow a President to use "a necessary force" to force any American servicemen from the custody of any international court.

I do not want to harm U.S. interest overseas. Many of our closest allies in Europe are strong supporters of this Court. This legislation will further complicate our relationship with those friends. Moreover, it takes aim at allies outside of Europe with punitive measures.

Finally, I do not, as a constitutional matter, want to give carte blanche to any President to rescue even American individuals detained by the Court who are not citizens.

The amendment contains a sweeping authorization to the President to use force to rescue not only Americans detained by the International Criminal Court, but also nationals of several allied countries.

The authority to rescue U.S. nationals, I submit, is probably unnecessary: most scholars would agree that the President has the authority to rescue Americans abroad who are in serious danger from a foreign power or circumstance. If an American is detained by the Court, the President will surely have the support of the Congress to take whatever action necessary to rescue that servicemember.

The authority to rescue foreign nationals, such as an accused war criminal from Australia or Egypt, is unwise. As a constitutional matter, I am unwilling to give the President such a blank check to invade the Netherlands—where this Court will be located. Only the Congress has the power to authorize such use of force, and we should not do so in advance, without knowing all the circumstances.

I am also concerned about a provision which bars military assistance to countries which join the Court. This would apply, as the Senator from Connecticut noted, to our assistance to Colombia, a country we have been strongly supporting with substantial military assistance. This restriction may be waived on two alternative grounds, but I ask my colleagues: why would we even consider cutting off aid to our

ally in Colombia because it made the sovereign choice to join the International Criminal Court?

This provision does not apply to our NATO partners, and certain non-NATO allies like Egypt, Israel and Japan. How can we tell our NATO allies or others that they are free to join the Court without fearing an aid restriction, but then turn around and tell other countries that they could face penalties if they join the Court?

This provision is directly contrary to the position of the Bush Administration. When the Administration announced its position on the International Criminal Court last month, Under Secretary of State Marc Grossman made it clear that the United States was going to "respect the decision of those nations who have chosen to join the ICC." This provision to cut off military aid would violate that principle.

My bottom line is this: we should not join the Court as it is currently constituted. Its provisions purporting to extend jurisdiction to non-parties and the inclusion in the Statute of the crime of aggression and sufficient reason to do so.

But this legislation is not necessary to protect our interests. President Bush has adequate powers to do that. It adds very little to the powers he now possesses. But it could complicate our foreign policy with friends in Europe and elsewhere. And it gives future Presidents a blank check to rescue foreign nationals detained by the Court. I think that is a mistake, and therefore will vote no.

Mr. BROWNBACK. Mr. President, as you know, on December 31, 2000, former President Clinton signed the UN's Rome Statute that would obligate the United States to comply with the International Criminal Court. I was disappointed in this action, and until President Bush formally notified the United Nations on May 6 that the U.S. would not become a party to the Rome Statute, I was prepared to fight the ratification of this treaty if it was brought before the United States Senate.

The ICC contains fundamental flaws that we cannot ignore and jeopardizes our service and diplomatic personnel. Whether conducting engagement activities, support operations, stability operations or combat operations, we must ensure the protection of our servicemembers and officials of the United States involved in such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. Many of these issues and the official actions taken by servicemembers and others involve protection of the national interests of the United States. We should have every right to pursue those interests as a sovereign Nation.

In order to accomplish this, we must pass the American Servicemembers' Protection Act, ASPA, which has been offered as an amendment to the pend-

ing bill by the ranking member of the Senate Armed Services Committee, Senator JOHN WARNER. I would like to commend my colleague for his initiative and leadership on this issue. As he and others would agree, failure to pass this Act will have a chilling effect on our ongoing commitments to peace, democracy and prosperity throughout the world.

This amendment is necessary because U.S. withdrawal from the treaty, which we have already done, is not enough. Other countries may still attempt to force the United States to comply with the treaty's provisions. As you may know, the treaty will go into effect on July 1 because the requisite number of countries have ratified the Rome Statute, notwithstanding our withdrawal from the treaty. What this means is that the International Criminal Court could exercise jurisdiction over action crimes committed in the territory of a state party, including those by citizens and servicemen of non-parties.

Thus, under Article 12 of the Rome Statute, the court would have jurisdiction for enumerated crimes alleged to have been committed by U.S. citizens, including the U.S. servicemembers, in a country like Afghanistan. Clearly this is an important protection for our soldiers currently engaged in missions in that country.

Additionally, Article 5 allows parties to the treaty to define vague crimes like "aggression," but Article 121 also allows parties to the treaty to opt-out of certain crimes. Article 121 does not afford that same "opt-out" right to non-parties, including the United States. As a result, U.S. servicemen and diplomats as well as other U.S. citizens could be charged, tried, and jailed for crimes the U.S. had no part in defining and crimes that parties to the treaties themselves are not bound by.

The American Servicemembers' Protection Act, ASPA seeks to protect the United States from these coercive elements of the treaty, and precludes cooperation with the International Criminal Court so long as the United States is not a Rome Statute party. ASPA still permits cooperation with ad hoc courts created through the UN Security Council, such as the Yugoslav and Rwanda tribunals, and prosecution of future war criminals. Such a tribunal created by the Security Council at least provides the U.S. with a veto option where we have a say in its mandate and are therefore about to ensure that war criminals will not escape justice.

From Sudan to China, Eastern Europe to South Asia, many of my colleagues and I have devoted considerable time in the Senate to protecting human right, democracy, and religious freedom. This treaty would undermine the U.S. ability to promote and protect the ideals that we have fought for: the values of democracy, freedom and open societies for the people of the world.

While this treaty may be well-intentioned, its vague language gives UN officials unchecked authority, and it imposes an unbearable burden upon the U.S.

This country's commitment to pursuing accountability for war crimes, genocide and crimes against humanity is an important part of our foreign policy objectives and one that serves as a model for others. It was through U.S. leadership that Nazi war crimes were prosecuted. It was through U.S. leadership that Balkan war criminals in Bosnia-Herzegovina and Kosovo were brought to justice. If my fellow members want to maintain America's ability to keep its international commitments abroad, then we must protect our soldiers and our civilian leaders by passing the American Servicemembers' Protection Act.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the Warner amendment, but before the vote is taken, I understand there is at least one colleague, my colleague from Virginia, who would like to have 5 minutes. Are there others who wish to indicate to the managers a desire to speak before that vote?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If the Senator will yield.

Mr. WARNER. Yes.

Mr. REID. For the information of Senators, Senator ALLEN from Virginia wishes to speak on this underlying amendment for 5 minutes. I do not know of anyone else who wants to speak on this amendment. We will have a vote in the next few minutes on the underlying amendment.

Following that, next in order, by virtue of a unanimous consent agreement, is Senator DURBIN. He has indicated he will speak for perhaps half an hour. There may be others who wish to speak. We will have a vote sometime after that. We are going to have a series of votes in the near future. Members should remain close to the Chamber because we are moving pretty well. It is yet to be seen whether we can complete our work tonight.

I will say to my friend from Connecticut, this was not in the Senate bill that is before this body. I just want to make sure the Appropriations Committee in the Senate is not blamed. This was put in on an amendment from the floor. The Appropriations Committee did not do it.

I say to my friend, this was not put in by any member of the Appropriations Committee. It was put in by an authorizer. I say to all Senators, the Senator from Connecticut is an exemplary Senator who does a great job on every authorizing committee he is on, but I want to say do not blame the Appropriations Committee, because it did not put this matter in the bill. It was offered separate and apart.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

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

Mr. WARNER. Were the yeas and nays ordered?

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield to the Senator?

Mr. BIDEN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BIDEN. Has the Dodd amendment, which reads, "Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, and other leaders of al-Qaida, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity," been made a part of what we are about to vote on?

The PRESIDING OFFICER. It has been modified.

Mr. WARNER. Mr. President, I assure the Senator it is. The Senator from Virginia made two attempts, failed on the first attempt for the vote, but succeeded on the second attempt just a minute or two ago.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I understand the Senator from Virginia put forth a unanimous consent agreement that there would be a vote following 5 minutes from the other Senator from Virginia. Is that right?

Mr. WARNER. That is correct.

The PRESIDING OFFICER. No, the request was not made as a unanimous consent.

Mr. REID. Then I would propound that as a unanimous consent request.

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

The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise in support of the amendment that my good friend, Senator WARNER of Virginia, has offered. I am a cosponsor of this act and a cosponsor of this amendment, along with my friend, Senator MILLER of Georgia. I continue to believe that the International Criminal Court poses a threat to the sovereignty of the United States and the individual freedoms of America.

Americans do care about the rest of the world. The rest of the world, though, can make their own decisions. The Europeans, if they want to merge their currencies, can do so. It does not mean we have to put our dollar in with their currency. We have a right to control our own destiny and the sovereignty and fair justice administered in our country.

This International Criminal Court would have the jurisdiction to punish individual American officials for foreign policy and military actions of the

U.S. Government. The laws and the rules of this treaty do not offer fair and equal justice, nor do they offer the due process rights guaranteed and protected under our Bill of Rights.

The mechanism used to introduce and try cases in this Court is an independent prosecutor, who would be one who is not really accountable but would be given the autonomy to enforce justice as that prosecutor sees fit. Placing such power in the hands of one individual is not only ill advised, it runs contrary to the very foundation of justice upon which our country was built upon.

For example, if the international prosecutor believes a U.S. court's decision was inadequate or incorrect, then this prosecutor is authorized to indict the alleged human rights abuser and demand a new trial in the International Criminal Court. This is all contrary to the laws of the constitutions of our States and the Constitution of our country for the last 225 years. Elected officials ought to protect and uphold our rights. In reality, this ICC, or Rome Treaty, would erect an institution superior to our courts in this country and in our States.

In considering whether to enact an amendment that would protect Americans from this international treaty, we need to consider the values and goals of the international prosecutors and the international judges. It is unlikely persons given such authority will hold the same values as the United States. Consider the fact that the Rome Treaty was signed by Iran, Iraq, Sudan, and Syria, among others. All of these nations have extremely questionable records when it comes to justice, due process, and equality. I believe we should consider the parties involved when considering any international treaty.

Senator DODD mentioned Elie Wiesel and Israel. Israel mostly has its troops focused in its homeland. The United States has its spread across the world.

The amendment of Senator WARNER, the American Servicemembers' Protection Act, is supported by the following organizations: The National Guard Association of the United States, the Air Force Sergeants Association, the Army Aviation Association of America, the Association of the U.S. Army, the National Military Family Association, Enlisted Association of the National Guard of the United States, Fleet Reserve Association, the Gold Star Wives of America, Jewish War Veterans of the USA, the Marine Corps League, the Marine Corps Reserve Officers Association, the Military Order of the Purple Heart, the Navy League of the United States, the Retired Officers Association, the United Armed Forces Association, the Veterans of Foreign Wars of the United States, and others.

I believe the former President, Mr. Clinton, made a serious mistake when he signed the Rome Treaty in the last days of his administration. President Bush wisely rejected the Rome Treaty

and notified the United Nations that the United States would not be ratifying or participating in the accord. Unfortunately, the number of ratifying nations is rising and the ICC will come into existence on July 1 of this year. It is why we must pass this amendment.

We are all working in unity to fight corruption, hatred, and dictatorships around the world. With the amendment that has been added, our position is clear and we will fight war criminals.

In closing, I will quote Mr. Jefferson when he stated:

It is the right of every nation to prohibit acts of sovereignty from being exercised by any other within its limits . . .

I urge my colleagues to exercise that right, protect our sovereignty and our men and women in the military in supporting this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3597, as modified.

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

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

I further announce that if present and voting the Senator from Ohio (Mr. VOINOVICH) would vote "yea."

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

The result was announced—yeas 75, nays 19, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—75

Allard	Enzi	McConnell
Allen	Feinstein	Mikulski
Baucus	Fitzgerald	Miller
Bayh	Frist	Murkowski
Bennett	Graham	Nelson (FL)
Bond	Gamm	Nelson (NE)
Breaux	Grassley	Nickles
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Carnahan	Hatch	Santorum
Chafee	Hollings	Schumer
Cleland	Hutchinson	Sessions
Clinton	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Collins	Inouye	Smith (OR)
Conrad	Johnson	Snowe
Corzine	Kerry	Stabenow
Craig	Kyl	Stevens
Crapo	Landrieu	Thomas
DeWine	Levin	Thompson
Domenici	Lincoln	Thurmond
Dorgan	Lott	Torricelli
Edwards	Lugar	Warner
Ensign	McCain	Wyden

NAYS—19

Akaka	Carper	Kennedy
Biden	Dodd	Kohl
Boxer	Durbin	Leahy
Byrd	Feingold	
Cantwell	Jeffords	

Lieberman	Reed	Specter
Murray	Sarbanes	Wellstone

NOT VOTING—6

Bingaman	Daschle	Helms
Campbell	Dayton	Voinovich

The amendment (No. 3597), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

AMENDMENT NO. 3729

Mr. DURBIN. Mr. President, I call up amendment No. 3729, which was previously filed.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3729.

Mr. DURBIN. 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 55, beginning on line 13, strike "\$100,000,000" and all that follows through "Provided," on line 17 and insert the following: "500,000,000, to remain available until March 31, 2003, which may be made available as a United States contribution to the Global Fund to combat AIDS, Tuberculosis, and Malaria: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*,".

Mr. DURBIN. Mr. President, I ask unanimous consent that Senators SPECTER and BOXER be added as cosponsors of this amendment.

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

Mr. DURBIN. Thank you, Mr. President.

I want to clarify this amendment because some have followed this issue. I have made a decision this evening to change the amount that I am asking for in this amendment. I want to clarify it for the record so there is no question in the minds of my colleagues as to what this amendment will do.

Currently, in the supplemental appropriations bill there is \$100 million for the global AIDS epidemic. It was my original intention to increase that amount to \$700 million. But after consulting with Senator FRIST and others, I decided that we should come together to try to work together on a bipartisan basis at a lower number to make certain we do everything in our power to have the resources to fight this global AIDS epidemic.

I hoped we could come together and offer a bipartisan amendment with Senator FRIST relative to a funding level of \$100 million. Unfortunately, we were not able to reach that agreement today. However, in the interest of drawing as many together—Republicans and Democrats—to support this measure, I have reduced the amount which I have requested to \$500 million. I believe more is needed, but I am asking for \$500 million as part of this sup-

plemental appropriation to deal with the global AIDS epidemic.

I will tell my colleagues that this vote is not only important, but it is not going to be an easy vote. I anticipate procedural motions to be made on the floor which will ultimately require 60 votes to pass this amendment. I hope my colleagues will join and agree with me that it is an emergency amendment; that it deserves emergency status; that it deserves the vote of at least 60 Members of the Senate tonight.

Is there anyone in this Chamber and is there anyone following this debate who can seriously question whether the global AIDS epidemic is an emergency? Clearly, it is.

At the end of 2001, more than 40 million people in the world were living with HIV. Some estimates range from 42 million to 45 million.

But there is another statistic worth reflecting on. It is estimated that 95 percent of the people currently infected in the world today don't know they are infected. Think of that for a moment. Think of the consequences of that in terms of the spread of this deadly disease.

There is a chart which shows a summary of the estimated 40 million infected with HIV/AIDS at end of the year 2001. In North America, 940,000; in the Caribbean, one of the fastest growing areas in the world for the AIDS epidemic, 420,000; 1.4 million in Latin America; 1 million in eastern Europe and central Asia; 1 million in east Asia and the Pacific; 6.1 million in South and Southeast Asia; 470,000 in western Europe; 440,000 in north Africa; then comes sub-Saharan Africa with over 28 million people currently infected with HIV/AIDS.

It is our estimated that there are some 15 million AIDS orphans in sub-Saharan Africa alone. Think of that. Children who have lost one or two parents to the AIDS epidemic—15 million.

In 2001 alone, 5 million people were newly infected with HIV, more than 95 percent of whom live in Third World countries, in the developing world. The majority of these new infections occur in young adults—especially women. Most of them are young people. Many don't know they have it. More than 13 million children are orphaned, and 3 million died. Each day in the world, 8,000 people die from AIDS, and 6,000 from tuberculosis and malaria.

The purpose of this amendment is to start bringing together a clear national sentiment—perhaps global sentiment—to do something significant when it comes to dealing with this AIDS epidemic.

Consider for a moment the Global Fund. There was the suggestion by Kofi Annan and world leaders that we make a special effort to fund programs around the world to deal with AIDS, tuberculosis, and malaria.

Two years ago, the United States contributed \$300 million to this Global Fund. This year we reduced the amount that we contributed to a figure of \$200 million.

You have to ask yourself: Why would you reduce the amount you are spending fighting the global AIDS epidemic through the Global Fund? There is no good explanation.

I had before the Appropriations Committee on Foreign Operations, on April 24, a man I respect very much, Secretary of State Colin Powell.

I stated the following:

. . . Mr. Secretary, Senator SPECTER and I are going to offer an amendment to the supplemental for \$700 million more—

That was our original amendment—

committed to multilateral and bilateral efforts on AIDS as an emergency appropriation. I just can't think of money that we could spend more wisely than to try to stop the pace of this [global] epidemic.

I think the American people understand this, too. This isn't a problem in some other part of the world. This is a problem of our world; a problem that is sadly an airline flight away from being delivered to the United States every hour of every day. I hope that we can have the support of the administration for \$700 million.

This was in April of this year, a question I asked of Secretary of State Colin Powell.

Let me read you his reply:

I will pass that on to my colleagues downtown and see what we can do as it comes through, but I couldn't agree with you more, sir.

Secretary of State Colin Powell has been a real leader. Sometimes he has not been the most popular person in this administration with some, but he certainly understands the gravity and scope of this crisis. And, as he said, he couldn't agree with me more in terms of funding to fight this epidemic.

We need to show real leadership in this Chamber. We need to step forward and say—not only to America, but to the world—that this is our chance and this is our opportunity.

The global summary of the HIV/AIDS epidemic I have shown you. Let me also show you this chart: About 14,000 new HIV infections every day in the year 2001. As I said, more than 95 percent in developing countries; 2,000 are in children under 15 years of age; about 12,000 are in persons aged 15 to 49 years, of whom almost 50 percent are women, 50 percent are between the ages of 15 and 24.

Two years ago, I made a trip to Africa. I went there to look at other issues. I really was not focused on the global AIDS epidemic. I went there to look at feeding programs and microcredit programs that I am involved with in my committees.

I went to South Africa, Kenya, and Uganda. And I can tell you, in a very brief period of time I realized there is no other issue in Africa than the AIDS epidemic. I saw things and witnessed experiences there I will never forget.

In Kampala, Uganda, there is a clinic known as the TASO clinic. Each day, hundreds of Ugandans come into this clinic who are already infected with HIV, and some are dying from AIDS. These are men and women who under-

stand their time on Earth is limited. They come in for a little help, some basic drugs and medicine, and they go about their lives. We met with them, sat down with them.

One of my colleagues here on the floor a few minutes ago said, it must have been very depressing. It was depressing, yes, to think that so many people's lives would be shortened because of this deadly disease. But at another level, it was inspirational. Here are people who have absolutely nothing on Earth—nothing.

If one of us should hear that we have been diagnosed with a serious disease, there are things we can do, doctors to see, hospitals to visit, research to inquire about, medicines that might give us a chance. None of that is true for most of the victims of HIV and AIDS in Africa and around the world.

I can recall standing there as a choir of infected people in the clinic came together to sing to us a chorus. That is not unusual in Africa. They sing when they greet you; they sing when you leave; they sing all the time. And as they sang the songs that they had written, a young woman stepped forward, who was clearly thin, who did not have much time left, and, in the most angelic voice, sang a song she had written entitled "Why me?" I will never forget that—why him? Why her? Why me?

You say to yourself, isn't this a hopeless situation? If they don't have the medicine, if they don't have the medical care, if they don't have the hospitals, what can we do? We cannot provide the Magic Johnson therapy to every infected person in Africa. It would be too expensive. We could not monitor it. But, trust me, there are things we can do and things that help.

Ten years ago, when Uganda realized their problem, 30 percent of the new mothers were found to be infected with HIV—30 percent. They decided, as a government, to do something about it: A public education campaign, condoms, talking to people about the dangers of unprotected sex.

In a matter of 10 years, with this basic effort, they reduced the HIV infection rate among new mothers to 15 percent. That meant that the number of children infected with AIDS and HIV was cut in half by the simplest methods, the most direct methods.

The message I am trying to deliver to my colleagues is this: The money we spend on the global AIDS epidemic will save lives. We know it will. We have made a commitment to this. But the commitment does not meet the scope of the problem. The commitment does not reach to try to catch an epidemic that is galloping away from us. We are taking small steps forward saying, well, we are doing something in the United States, and this epidemic is galloping away from us across the world. (Ms. CANTWELL assumed the chair.)

Mr. STEVENS. Madam President, will the Senator yield for a question?

Mr. DURBIN. I am happy to.

Mr. STEVENS. Did I hear correctly that the Senator from Illinois indi-

cated we had reduced spending on AIDS for this fiscal year? There is an increase across the board in several different components. Does the Senator realize that?

Mr. DURBIN. Yes. I say to the Senator, what I said was, we reduced our contribution to the Global Fund from \$300 million a year ago to \$200 million in this year. Our total expenditures for HIV and AIDS worldwide are in the range of \$850 million.

Mr. STEVENS. We have \$300 million right now, Madam President, in this fund. The House bill has \$100 million in addition, and we have \$100 million in this. Does the Senator realize we are willing to go up to another \$100 million?

Mr. DURBIN. I might say to the Senator from Alaska, any additional dollars are appreciated. But the point I am trying to make is, even increasing our contribution to the level of \$200 million is totally inadequate in response to this global epidemic. I am going to quote—

Mr. STEVENS. Just one last question.

Mr. DURBIN. I yield for a question.

Mr. STEVENS. Does the Senator realize how much we are contributing to the research base for AIDS in the world, how much we are spending from defense, NIH, from a series of accounts, in terms of basic research for AIDS?

Mr. DURBIN. To the Senator from Alaska, I would say, yes, we are making a contribution as a nation. What I am asking the Senate to consider is whether it is adequate, whether it is adequate in terms of this global AIDS epidemic.

Let me say to my colleague from Alaska, and others, that just a few months ago two of my colleagues in the Senate—Senator FRIST and Senator HELMS, who cannot be with us this evening because he is recovering from a recent medical problem—came to the same conclusion that I have come to this evening. Both Senator FRIST and Senator HELMS sought a \$500 million increase for AIDS.

That is the amount I am asking. It isn't as if I have come up with an outlandish and outrageous figure. Dr. FRIST, who is a Member of the Senate, supported the same level of funding. Senator HELMS said it as well. In fact, he offered an editorial to the Washington Post which was nothing short of inspirational. He was widely quoted across the United States, saying that—and I am going to read this because I think, in fairness to Senator HELMS, this is a very important quote.

Senator HELMS, our colleague, in his Washington Post editorial, said:

In February I said publicly that I was ashamed that I had not done more considering the world's AIDS pandemic. I told this to a conference organized by Samaritan's Purse, the finest humanitarian organization I know of.

Senator HELMS, I would like to say, if you are following this debate, this amendment, the level of funding which

you suggested, is the right thing to do. It is still the right thing to do.

For a variety of reasons, there has been a change of heart by some in terms of asking for \$500 million. I might say to my colleagues, the problem is not diminishing. The problem is growing geometrically, and we are responding arithmetically. We are providing a little bit more and a little bit more, and this epidemic is raging across the world.

We talk a lot about the security of the United States. I spent a whole day in the Judiciary Committee. The Intelligence Committee I serve on also met. Can we be more secure in the United States if countries around the world are being destabilized by the AIDS epidemic? How are they destabilized? Frankly, if you lose one out of five adults to AIDS, if you have millions of AIDS orphans, children who grow up on the streets, little girls who end up turning to thievery and prostitution to survive, little boys with no parental supervision because their parents have died from AIDS, who become part of these warring gangs in Africa and the Third World, ripe targets for terrorism, how does that make America safer? I don't think it does.

In fact, just the opposite is true. We are, in fact, less secure as a nation. Let me also quote two other members of the administration who have addressed this issue. The Secretary of Health and Human Services, Secretary Thompson, March 29 of this year:

The scourge of AIDS threatens to destroy economies, social systems, and the very fabric of local communities. There is no question that as a country, the United States must engage with other nations and across all sectors to fight the most devastating public health pandemics of the modern age.

That was Secretary of Health and Human Services Tommy Thompson.

Treasury Secretary Paul O'Neil has been in the news for the last several weeks touring Africa with Bono, a member of the Irish rock band U2, who has been one of the world's leaders on this issue, who came to visit me and so many other Senators to talk about this issue. He invited Treasury Secretary Paul O'Neill to come with him to Africa, see the AIDS epidemic firsthand. Let me quote Treasury Secretary Paul O'Neill:

Nowhere is this more urgent, and more heartbreaking, than the struggle against AIDS. In South Africa I saw mothers with AIDS caring for babies with AIDS, even when proven, inexpensive drugs are available to stop transmission between mother and child. I saw the dedication of nurses and doctors treating people with AIDS, and their patients' struggle to survive.

That was Treasury Secretary Paul O'Neill.

Why is it that the leaders in this administration can travel around the world and speak forthrightly about this terrible epidemic, yet this Senate is hesitant to put funding into fighting the global AIDS epidemic at a level that gives us a chance to make a real difference?

When I spoke earlier about what we can do and used Uganda as an example, I also went to Mulago Hospital in Kampala. I saw research projects underway there that are nothing short of miraculous. If a mother is pregnant and diagnosed with HIV, there is a high likelihood that her infant will also be HIV positive. But they have found a very simple drug called nevirapine. If the mother goes into labor, she takes the drug and the baby, as soon as it is born, is administered the drug. They are finding remarkable results in terms of saving the baby's life.

Whether you are pro-life or pro-choice, whatever your position may be, isn't that the right thing to do, for the United States to be investing with other countries to try to stop this transmission of AIDS from mother to child?

A proposal came to the Global Fund from Nigeria to support the activities of six centers focusing just on this, to stop the transmission from mother to baby. These centers will have the capacity to test an estimated 14,000 women for HIV and provide this antiretroviral therapy to 912 HIV positive mothers to protect their babies from infection. Finally, the centers will link families with comprehensive care and counseling services.

This is what the Global Fund does: Identifies projects all around the Third World where we have victims of HIV and tuberculosis and malaria to come up with proven, effective therapies to save their lives.

Why is it important that we provide more money to this Global Fund? I will tell you why. Because as of last night or the night before, the Global Fund ran out of money. It had allocated all the money for this year. It is gone. It is down to zero. The \$500 million which we are proposing in this amendment can be used by the administration to replenish the money in the Global Fund.

We currently know that there are at least \$370 million of outstanding projects that weren't funded, and we know a new round of applications will be coming in in just a few months. We know that down the line even more money will be needed.

As much as we have done as a nation, we should and can do more. We absolutely must do more in terms of the impact this funding is going to have on the world in which we live.

The Global Fund fights, of course, not only AIDS but TB and malaria. I know my colleague from California, Senator BOXER, has been a leader from the start on HIV/AIDS in the United States and around the world and has focused, as well, on tuberculosis as a scourge in many Third World countries—and malaria. I will credit her, as we served on the House Budget Committee together many years ago, with being the first person who made me consciously aware of the HIV/AIDS epidemic.

Little did I know I would be standing on the Senate floor next to her in this

situation, but here we are—a nation which has fought its own battle against the HIV/AIDS epidemic and looks out at a world where this epidemic is virtually out of control.

The Global Fund, suggested by Kofi Annan at the United Nations, is a fund that encourages countries around the world to put in their contribution. Do you know the first country that every other nation in the world looks to to see whether this is a good idea, worthy of investment? The United States. If the United States will put up taxpayers' dollars, hard-earned money from our taxpayers to fight the global AIDS epidemic, nations around the world follow suit.

The opposite is also true. If we don't put the money in, the Global Fund lags, falls behind, in allocations. This Global Fund has rules that were set down by USAID, Department of State. It has been approved by our Government. There is no question that it is a good agency that does a lot of great work. Frankly, they are running out of money. They have none currently available.

When they gave countries around the world 7 weeks to prepare proposals for the Global Fund to fight HIV, tuberculosis, and malaria, they received \$5 billion in funding requests. We are asking ourselves whether \$200 million from the United States is enough? It is not. It clearly isn't. We need to do more.

I think we can do more. This fund has a stupendous resource gap. It is being forced to triage important proposals that have been subjected to vigorous review. The Global Fund may be forced to reject plans that would save lives immediately around the world.

Over 100 country proposals have been submitted. The fund just can't finance it. Over a 5-year window, the Global Fund received \$5 billion in applications. Billions more are coming.

I want to commend my colleagues, Senators FRIST, HELMS, SPECTER, BOXER, WELLSTONE, and others, who have shown a real consciousness and sensitivity to this problem. I beg you, think for a moment before we go home this evening, having passed this supplemental emergency appropriations bill, should we not consider the greatest health emergency in the world today?

Shouldn't the United States say: We will continue to lead by example? It isn't as if this is an unpopular idea. They took polls across the United States and asked the people of America what they thought we should be doing in terms of our international commitments. The people came back in polling and said: Second to stopping the illegal flow of drugs in the United States, there is nothing that we should spend more money on when it comes to fighting HIV and AIDS around the world.

The American people understand this. They get it. It isn't a problem in some faraway land. It is a problem that may have started in Africa, but it quickly spread around the world and is now growing at a proportionate rate

that many of us never imagined would be possible.

International health experts at the UNAIDS, World Bank, and the World Health Organization have supplied us data on what would be needed to make a serious intervention in this crisis. This amendment we are offering tonight tries to meet that.

A few weeks ago, Bono, who I mentioned earlier, came to Capitol Hill and visited a lot of our offices and created quite a stir. This man, who is internationally known for his musical ability, has developed an international reputation for fighting this AIDS epidemic. He is a very likable man. I said: You have become a constant pest on Capitol Hill. Every time we turn around, there is Bono opening up another door to another office—whether the Senator is a Republican or a Democrat—convincing them we have to do something. He is doing the Lord's work, God's work. But all of those trips and all of the work he has done is worth little if we don't follow through this evening by voting for this additional \$500 million.

This debate is about more than posing for photographs with Bono. This amendment is about making a real commitment, a tangible commitment, an effective commitment to a global epidemic. Can we make a difference? In large and small ways, we can.

I went to a clinic in South Africa outside the city of Durban, up in the mountainside. It was one of the most basic health clinics I had ever been to. They didn't have much—very little technology and few drugs. I saw people there suffering from burns and a young woman who was clearly dying from HIV.

Then I met with a group of about 25 or 30 who lived in the villages around the clinic. They sat lined up in neat rows and watched this visitor, a Senator from the United States, come before them. They wanted to make a presentation to me. They made a presentation of a young woman who was brought forward.

She was very thin and obviously very sick. She was clearly nervous to be addressing this crowd and standing before these people from the U.S. She stood there and buttoned her shirt up to the top of her neck and she was shaking.

She said: I have Tuberculosis. I have been very sick for several years, and I have come to this clinic. Then she paused and she said: I have AIDS. I don't know what is going to happen to my children. When she said those words, "I have AIDS," there was a gasp in the audience because in South Africa, sadly—a country that is overwhelmed with the AIDS epidemic—a few years before, a woman was stoned to death when she admitted she had AIDS. She was beaten to death by the villagers. It took real courage for that woman to tell this crowd she had AIDS. They just don't speak of it.

As she was sobbing, they sat her down next to me on a bench, and I

reached my arm over and put it around her shoulder, and the audience gasped again. A doctor stood up and said: Look at this now. I am telling you, if you touch her, you will not be infected. He said: This man from the United States has put his arm around her. I am telling you, it is safe to touch people who have AIDS.

That is what the level of ignorance is when it comes to this epidemic in some parts of the world.

My friends, those scenes I will never forget. My colleague in the Senate, Senator FRIST, has been there himself and has worked in these clinics and has performed surgeries in Africa understands this. That is why the amendment he offered for \$500 million is a good amendment. It is one that he and Senator HELMS believe in very much, very passionately. I believe in it, too.

I bring this to the floor tonight in the hopes that the 25 colleagues in the Senate who signed a letter with me to Chairman BYRD and Senator STEVENS urging them to commit more money to the global AIDS crisis in this emergency supplemental, and many others, will think about the impact this vote will have not just on the Senate, but on the world. We have a chance tonight—a small chance, perhaps, with one vote—to have an impact on literally millions of people around the world, to save lives of people we will never meet.

We can break the cycle of hopelessness and despair generated by the death spiral of AIDS in so many nations. I invite my colleagues to join me.

Mr. REID. Madam President, we have a number of people who wish to speak on this issue: The Senator from Tennessee, the Senator from Ohio, the Senator from Minnesota, the Senator from California. I am wondering—because Members have been calling both cloak-rooms—if we can get an idea as to how long the Senators wish to speak so we can have some idea when the vote will take place. If I may, I ask the Senator from Ohio, does he wish to speak?

Mr. VOINOVICH. I was just here listening to this interesting debate.

Mr. REID. How about the Senator from Tennessee?

Mr. FRIST. I will be offering an amendment later tonight related to this amendment. I would like about 15 minutes, in which case I could handle both of them.

Mr. REID. Could the Senator speak now for 15 minutes?

Mr. FRIST. Yes, 15 minutes.

Mr. REID. How much time does the Senator from Minnesota want?

Mr. WELLSTONE. About 5 minutes.

Mr. REID. Madam President, I ask unanimous consent that the Senator from Illinois be recognized for 10 minutes, the Senator from Minnesota for 5 minutes, the Senator from California wants 15 minutes, the Senator from Tennessee for 15 minutes, the Senator from Pennsylvania for 10 minutes, and the Senator from Alaska for 5 minutes, and

the Senator from New Mexico for 5 minutes.

Mr. BYRD. Mr. President, I would like 10 minutes at the conclusion of which I expect to offer the motion.

Mr. REID. We will have the Senator from West Virginia be the last speaker. I ask the Parliamentarian to advise the Chair how much time remains.

The PRESIDING OFFICER. One hour ten minutes.

Mr. REID. So we will vote on this at approximately 7:45?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that we have a vote on Senator BYRD's motion to waive at 7:45 tonight.

Mr. STEVENS. Reserving the right to object, I request that my time precede Senator BYRD's.

Mr. REID. That would be appropriate as comanager of the bill.

Mr. BYRD. Madam President, we have several amendments yet. Is there any hope of completing action on this bill tonight?

Mr. REID. We are going to complete action on the bill tonight.

Mr. BYRD. I wonder if Members will be agreeable to cutting their time on this amendment to some extent. I am willing to cut mine in half.

Mr. REID. Senator DURBIN can cut his in half, also. He agrees to do five. Do I hear 12?

Mr. DOMENICI. I will save my own remarks for another time.

Mr. REID. How about the Senator from California, is 12 minutes OK?

Mrs. BOXER. Absolutely.

Mr. FRIST. I can handle both of mine later tonight in a 15-minute period.

Mr. REID. That is fair. We need a little time to determine what time the vote is. So we have Senator DURBIN for 5 minutes, Senator BYRD for 7½ minutes, and Senator DOMENICI with nothing.

Mr. DOMENICI. I am cut out.

The PRESIDING OFFICER. That is 57 minutes.

Mr. REID. So we can vote at about 7:25. I ask unanimous consent that the vote on or in relation to the Durbin amendment occur at 7:25, or whenever the time is yielded back.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, I rise to accomplish two objectives: To speak in response to the pending amendment and to briefly introduce what I plan to do later tonight. In the interest of time, I will try to achieve both of those objectives in the next 15 minutes. If the Chair will notify me when I have 3 minutes remaining.

The PRESIDING OFFICER. The Chair will do so.

Mr. FRIST. Madam President, first, the Senator from Illinois has eloquently outlined the challenge, what I consider to be the greatest public health challenge clearly of this generation. I say public health challenge to

us as Americans, but equally importantly to us as citizens of the world.

The statistics he mentioned are right on target, and they tell the best picture globally of this scourge against which we are fighting a losing battle. Every 10 seconds someone dies of HIV/AIDS, but every 10 seconds there is a new infection in two individuals—two new infections. We have no cure. There is no cure for HIV/AIDS.

Second, I agree with the Senator from Illinois, we need to do more. There is absolutely no question in my mind that we have to invest, and we have to invest as the United States, as the global leader. Our leadership is critically important for other nations to see, for private companies to see, and for individuals to see so they will be participants.

I agree with the Senator from Illinois that the dollars we spend on HIV/AIDS can do something that really no amendment I have seen on the floor today can with absolute certainty do, and that is to save lives. If resources are handled appropriately when we fight global HIV/AIDS, malaria, and tuberculosis, then each dollar invested, I am absolutely convinced, will save the lives of innocent children who are infected with this virus. This little virus is so adaptable; it moves 100,000 times faster than our own defense systems and tens of thousands of times faster than the best medicines we apply to it. So it is a major challenge for us all.

The Senator from Illinois mentioned Senator HELMS, and I want to come back to that because I will be offering later tonight a Helms-Frist amendment. Our amendment was initially spelled out, at least its framework, in the editorial in March from which the Senator from Illinois quoted. Our amendment focuses on mother-to-child transmission, and our amendment would, I believe, give greater flexibility to the President than the amendment that is now before the Senate.

The Senator from Illinois mentioned Secretary Powell, Secretary Thompson, and Secretary O'Neill, and I will add to that list the President of the United States. We have an opportunity which I think is unheralded, unprecedented, in that we are bringing all elements of modern society together; all political elements, both conservative and liberal; the private sector; the public sector; leaders around the world; the very best of our pharmaceutical companies; the entertainers of the world, all coming together with a spotlight, a focus on a battle we are losing today in a global sense.

If there is a point of order later tonight on this underlying amendment, I will support it, but not because of the amount of money in the amendment. The \$500 million is too little for where we need to go. The magnitude of the problem is big, and the money we are talking about is tiny. Yet we do need to recognize where the money is coming from, and at what rate it is going to be spent. That \$500 million is some-

thing that Senator HELMS and I both believe in, but, again, we have to recognize what we do tonight is not the answer; it is just another step in a very long journey.

I am going to support the point of order against this amendment, but not because of lack of support for the Global Fund. I think it is the best, most innovative, most creative way to pull together the international community. It is not a U.S. fund. It is not a United Nations fund. It is not a World Bank fund. It is a Global Fund independently administered. It was started a year ago. We need to raise a lot of money for it and have it distributed with good peer review. A lot of that money is going out today.

I will be asking my colleagues to support the point of order on this amendment, and then I will ask for their support of an amendment by Senator HELMS and myself which will be offered after we dispense with this amendment.

Why? Because I believe our amendment is more focused. It centers, though it does not commit all the money to, mother-to-child transmission.

Secondly, our amendment gives greater flexibility over the use of these funds. The funds will be under the direct control of the President of the United States.

And thirdly, these funds will have a more direct impact on saving lives. I am convinced of that. By focusing on mother-to-child transmission, which the Helms-Frist amendment does, we can calculate this impact.

The story goes like this: There are 800,000 innocent children born every year into a world of HIV/AIDS, and they become infected. Of every 1,000 pregnant, HIV-infected women who go through delivery, about 200 HIV/AIDS babies will be delivered infected with HIV. If you use nevirapine, a single dose for the mother and one for the child, that number is cut in half. That is why I know a program focused on mother-to-child transmission will ultimately save lives. For every one thousand births to 1,000 HIV positive women, 100 children can be saved from HIV infection. That is why I can say this and be so definite.

I mentioned the team that is in place in this administration, and I will reinforce what the Senator from Illinois said when he mentioned Secretaries Powell, Thompson, and O'Neill. The President's commitment is there to provide more resources, not just to the Global Fund, which is important, but resources for our much more comprehensive approach for fighting HIV/AIDS, multilateral and unilateral efforts that include prevention, response, care, and treatment. I do believe we have to link all of those approaches for an effective response; no longer can we say just prevention.

The President has increased financing dramatically in the year and a half he has been President. He has promised

to do more. He has shown a real empathy for the victims of HIV/AIDS, and he has shown a detailed understanding, to me in our conversations, of the treatments available. He is surrounded, as the Senator said, with people who share that commitment and that desire to do everything possible given the technology, given our understanding, given what we have learned over the last 20 years.

Twenty years ago, we did not even know the virus existed. Now we are saying it is the No. 1 problem. Amazing. Twenty years ago, in 1981, nobody had ever heard of HIV/AIDS. But with the President of the United States, under his leadership and with this team, with our support and through such cooperative efforts as the Helms-Frist amendment to increase funding on mother-to-child transmission, we can make a difference.

Why are we here today? We agree—Senator DURBIN, Senator SPECTER, and the cosponsors of the bill—we all agree and the reason is simple. The global requirements to combat HIV/AIDS are far greater than the international level of commitment. But it cannot be solved with just a U.S. commitment. It has to be an international commitment. Part of the Helms-Frist amendment will require a matching from other countries and entities to leverage the money we invest. We need to lead, and we will lead, but we will lead the global community together.

The amendment which I am offering tonight is the work of Senator HELMS. He could not be with us tonight. He recently underwent open heart surgery. And I am please to report that he is recovering well. I know he wanted to be here tonight to offer this amendment.

He first announced our intention to take this initiative on March 24 in a Washington Post article. Part of it has been quoted tonight.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Mar. 24, 2002]

JESSE HELMS—WE CANNOT TURN AWAY

(By John Overmyer)

This year more than half a million babies in the developing world will contract from their mothers the virus that causes AIDS despite the fact that drugs and therapies exist that could virtually eliminate mother-to-child transmission of the killer disease.

It is my intent to offer an amendment with Sen. Bill Frist (R-Tenn.) to the emergency supplemental appropriations bill to add \$500 million—contingent on dollar-for-dollar contributions from the private sector—to the U.S. Agency for International Development's programs to fight the HIV-AIDS pandemic. The goal of this new money will be to make treatment available for every HIV-positive pregnant woman. As President Bush would say, we will leave no child behind.

There is not reason why we cannot eliminate, or nearly eliminate mother-to-child transmission of HIV-AIDS—just as polio was virtually eliminated 40 years ago. Drugs and therapies are already provided to many in

Africa and other afflicted areas. Only more resources are needed to expand this most humanitarian of projects.

The stakes could not be higher. Already in many African nations an entire generation has been lost to AIDS. Mother-to-child transmission of HIV could eliminate another. Although reliable numbers are hard to come by, experts believe that more than 2 million pregnant women in sub-Saharan Africa have HIV. Of these, nearly one-third will pass the virus on to their babies through labor, child-birth or breast feeding, making mother-to-child transmission of AIDS the No. 1 killer of children under 10 in the world.

There will be obstacles to achieving universal availability of drugs and therapies. Many African nations lack the infrastructure and trained personnel to deliver health care on this scale. Some governments may not be cooperative. My amendment will provide the administration with the flexibility to deliver the necessary assistance while addressing these obstacles. For instance, if the new Global Fund to Fight AIDS, Tuberculosis and Malaria is deemed the most efficient way to deliver assistance, then the president can transfer money there.

The United Nations has already set an ambitious goal of reducing the portion of infants infected with HIV by 20 percent by 2005 and by 50 percent by 2010. We can accelerate these efforts, saving hundreds of thousands of lives, with a larger investment of public and private funds now. Private contributions, either financial or in kind—such as the donations of the drug nevirapine by the German pharmaceutical company Boehringer Ingelheim—are an essential part of a successful anti-AIDS strategy.

In addition, national commitment is absolutely essential. The government of Uganda can serve as an example. Through the leadership of Uganda's first lady, Janet Museveni, that country has cut in half its HIV infection rate.

In February I said publicly that I was ashamed that I had not done more concerning the world's AIDS pandemic. I told this to a conference organized by Samaritan's Purse, the finest humanitarian organization I know of. Indeed, it is their example of hope and caring for the world's most unfortunate that has inspired action by so many. Samaritan's Purse is led by Franklin Graham, son of Billy Graham—both of whom I count as dearest friends—but the organization was founded by the late Bob Pierce. Dr. Pierce's mission was to "Let my heart be broken with the things that break the heart of God." I know of no more heartbreaking tragedy in the world today than the loss of so many young people to a virus that could be stopped if we simply provided more resources.

Some may say that, despite the urgent humanitarian nature of the AIDS pandemic, this initiative is not consistent with some of my earlier positions. Indeed, I have always been an advocate of a very limited government, particularly as it concerns overseas commitments. Thomas Jefferson once wrote eloquently of a belief to which I still subscribe today: that "our wisdom will grow with our power, and teach us, that the less we use our power the greater it will be."

The United States has become, economically and militarily, the world's greatest power. I hope that we have also become the world's wisest power, and that our wisdom will show us how to use that power in the most judicious manner possible, as we have a responsibility to those on this earth to exercise great restraint.

But not all laws are of this earth. We also have a higher calling, and in the end our conscience is answerable to God. Perhaps, in my 81st year, I am too mindful of soon meeting

Him, but I know that, like the Samaritan traveling from Jerusalem to Jericho, we cannot turn away when we see our fellow man in need.

Mr. FRIST. Madam President, I will quote from the article. This is Senator HELMS:

In February I said publicly that I was ashamed that I had not done more concerning the world's AIDS pandemic. I told this to a conference organized by Samaritan's Purse, the finest humanitarian organization I know of. Indeed, it is their example of hope and caring for the world's most unfortunate that has inspired action by so many. Samaritan's Purse is led by Franklin Graham, son of Billy Graham—both of whom I count as dearest friends—but the organization was founded by the late Bob Pierce. Dr. Pierce's mission was to "Let my heart be broken with the things that break the heart of God." I know of no more heartbreaking tragedy in the world today than the loss of so many young people to a virus that could be stopped if we simply provided more resources.

Those are Senator HELMS' words from the Washington Post article. The Helms-Frist amendment provides those resources, focusing on mother-to-child transmission where we know we will have a measurable impact in saving lives.

The American public shares the desire to help our fellow men and women across the world. It is a moral imperative of saving innocent lives. We live in a world where drug resistant strains of AIDS, of malaria, and of tuberculosis, all of which are addressed in this Global Fund, are really one economy airline seat away from our shores. There are many reasons for us to fight this fight. It will take more resources.

The Helms-Frist amendment, which will be introduced later tonight, is focused on three things: No. 1, a requirement that the new funds be focused on reducing mother to child transmission of AIDS, a problem which lends itself to immediate action with what we know will be an immediate response of saving lives, and that is the emergency component of this legislation.

No. 2, a grant of authority to the President to spend the money to optimize the impact of all the AIDS-fighting efforts in our Government. In other words, unlike the Durbin amendment, it does not say that this money goes into just the Global Fund, but it does give the President authority to assess at that point in time how best to spend that money to get the greatest impact.

No. 3, the Helms-Frist amendment, which will be coming later tonight, has a requirement that funds not given to the Global Fund—and indeed the President can put these funds into the Global Fund but moneys not put into the Global Fund, indeed have to be matched by sources other than the U.S. Government. The reason being to leverage and maximize our support.

I have a letter I would also ask unanimous consent to be printed in the RECORD. It is to me from Senator HELMS, dated June 5.

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

UNITED STATES SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
Washington, DC, June 5, 2002.

Hon. BILL FRIST, M.D.,

U.S. Senate, Washington, DC.

DEAR BILL: Dot and I—indeed all the Helmses—are grateful to you for your support and counsel. I can truthfully report that I am feeling better each day.

Obviously, I cannot be in the Senate to introduce our amendment to add \$500 million to the fight against HIV. On matters relating to global disease your demonstrable leadership in the Senate and in Africa has made us more aware of the great needs around the world.

The Samaritan, on his way from Jerusalem to Jericho, could not turn away from his fellow man in need. My friend, neither can we. You and I know the stunning facts: Nearly one million children are infected by HIV each year from their mothers during labor, delivery or breast feeding. Our amendment will prevent hundreds of thousands of innocent young people from being infected in this manner.

I wish you and the rest of our colleagues all the best as you deliberate on this important matter. Thank you, dear friend.

Sincerely,

JESSE.

Mr. FRIST. Basically he says:

Obviously, I cannot be in the Senate to introduce our amendment to add \$500 million to the fight against HIV. On matters relating to global disease, your demonstrable leadership in the Senate and in Africa has made us more aware of the great needs around the world.

The rest of the letter I will refer my colleagues to.

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

Mr. FRIST. Because of limited time, let me get through and then I will come back to answer the question.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. FRIST. In summary, we have worked together on how to increase funding above the level in the underlying bill in a way that we know in part will be a first step of what has to be done with leadership by the United States in this global endeavor.

I have been working over the last several days with the staff of the President of the United States, and I am delighted that sometime over the next several weeks—or next several days—a major initiative will be introduced by this administration addressing many of the issues that are the underlying reason for proceeding with this amendment.

Again, I will leave it to the administration to talk about this new commitment that they will unveil shortly, a multiyear plan to bring substantial new resources to this effort. This is not the final word.

The amendment offered tonight, whether it is the Helms-Frist amendment or the Durbin amendment, is not the final word on AIDS. We are going to be coming back to this again and again. This is not an easy problem. This is not an easy challenge. I am absolutely convinced, working in this body, working with the House in a bicameral, bipartisan way, which is represented tonight, with this administration, that we can pull the very best out

of the United States of America and the global community in order to defeat this little tiny virus, a challenge and a fight that currently we have not quite been able to do.

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

Mr. FRIST. Absolutely.

Mr. DURBIN. I would like to ask the Senator when he offers his amendment, how much money will be in the amendment?

Mr. FRIST. We initially filed, as the Senator knows, \$500 million, which is a sum that I think is appropriate in terms of addressing the issues, having them in the field very shortly.

Mr. DURBIN. Which is the amount—

Mr. FRIST. The amendment in the underlying bill, not your amendment or mine, as the Senator pointed out earlier, is \$100 million. As I understand it, the amendment of the Senator would take that up to a total of \$500 million.

Our amendment will take \$100 million on top of that with an understanding, as I said earlier, that funds comparable to that \$500 million will be laid out by the administration over the next 2 weeks.

Mr. DURBIN. I am sorry. I do not understand. The total amount that the Senator from Tennessee is going to offer for this is \$500 million?

Mr. FRIST. It is \$100 million in addition to \$100 million that is in the underlying bill.

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

Mr. DURBIN. So \$200 million?

Mr. FRIST. That is correct, \$200 million totally. We will be striking \$100 million in the bill, replacing \$200 million. The Senator will strike \$100 million and will have \$500 million.

Mr. DURBIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank Senator DURBIN for his amendment, and Senator BOXER and other supporters. I am a little confused by the remarks of my colleague from Tennessee. As I understand the Durbin amendment, this is \$500 million that goes to the administration, which can then decide whether it wants to put it into this Global Fund or it wants to put it into other programs. That is up to the administration. We hope they will put it into the Global Fund because right now this Global Fund has a deficit of \$3.5 billion.

This is what I think is the issue for all Senators who are going to vote: I think the question is whether or not when we have a situation where today HIV/AIDS claims the lives of 8,000 people, today 13,000 people become newly infected with HIV, and my colleague is talking about an amendment that I am still not clear is \$100 million or \$200 million.

The Durbin amendment, which I am proud to support, calls for \$500 million. My God, given the magnitude of this crisis, given the magnitude of what all

this means in personal terms—I keep hearing my colleague talk about mother to child transmission and the need to have prevention, yes, but there are also many people who need treatment.

The Durbin amendment says tonight the Senate does something, that we live up to being our own best selves, that Democrats and Republicans no longer just give the speeches and no longer say we care so much, but we back up our rhetoric with the resources.

In all due respect, the vote is simple. Do we believe, given this huge gap and how little we have contributed, that we ought to give this administration \$500 million to work with so that our Government can play a much stronger and more positive role, or would we vote against this amendment, which means we are not providing anywhere near the resources?

There will be another amendment later calling for much less, \$100 million or \$200 million, and then there is some discussion about how in the future there will be more. But we do not vote on the basis of the future. This is not an abstraction. There are a lot of people throughout the world who are suffering, a lot of people who are dying, and the Durbin amendment puts us on record that we, the Senate, tonight are going to make a significant commitment. I cannot believe that we would not get the vote for this amendment. It is time for all of us to sort of live the words we speak. That is what this amendment calls for us to do.

One more time, this goes to the administration, giving it the flexibility. We certainly can talk about mother to child transmission, we also can talk about treatment, but the most of all is that finally the Senate goes on record with a real commitment of resources. That is the least we can do. So I speak for the Durbin amendment and hope it will get a strong vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have sought recognition to support the amendment to add \$500 million to fight global AIDS. When we take a look at the statistics, what has happened in the world, there are 40 million people who are living with HIV/AIDS, including 2,700,000 children. AIDS claimed the lives of an estimated 2,300,000 Africans last year alone.

Africa is not alone in this struggle. Almost 1 million new infections were reported in south and Southeast Asia last year. These alarming statistics are reminiscent of the early stages of the epidemic in sub-Saharan Africa, and we cannot wait any longer.

What is required is a global effort. It has to be worldwide. We know that it is a matter of leadership for the United States as the most powerful country in the world and as the world's leader to provide substantial funding. The estimates are that some \$5.6 billion will be necessary over the next 5 years. There

are commitments of only \$2.1 billion, leaving a deficit of \$3.5 billion. This deficit has to be fixed.

The AIDS epidemic is decimating entire countries, leaving a power vacuum, leaving countries in turmoil. The human factor is overwhelming.

As the lead sponsor, Senator DURBIN, pointed out in the opening of his speech, what happens if you are diagnosed with AIDS, a killer. If you are in Africa or in other Third World countries, it is hopeless, unless someone comes to the rescue. On humanitarian principles, something which the industrial countries ought to assume the responsibility for, when it comes to political considerations, and AIDS is decimating an entire country, it is a matter of a vacuum, where dictatorships breed, where there are terrorist bodies, where there is anarchy. That is very much contrary to the national interests of the United States.

Beyond the humanitarian aspects, there is a definite national self-interest on the part of the United States. You might not necessarily call it national security, but if there is turmoil and you find al-Qaida taking hold of a country which has a power vacuum, it could be categorized broadly as a matter of national security.

I believe this is an important debate, and I believe one way or the other the United States Government is going to come to a \$500 million figure. When the figure was talked about as to \$700 million, it seems to me, having spent 22 years in the conferences, in the negotiations with the House, with the \$200 million we would have ended up with \$500 million or perhaps less. The rule has been if the House comes in at \$200 million, whatever the Senate comes in at, there is a tendency consistently to split the difference. That will leave the figure low.

One most impressive statement was made by Senator HELMS, who has not exactly been a proponent of funding for HIV/AIDS, for many reasons which we need not go into now. Senator HELMS came out with a proposal to have \$500 million. It seems to me that is a benchmark. One might say it is a minimum benchmark or one might say it is a maximum benchmark. When Senator HELMS made the public statement with such feeling at a time, as he put it, when he was near the point of meeting his Maker, he wanted to take a stand on something that was very important for humanitarian purposes, and as a matter of basic fairness and basic decency that a country which can afford it should undertake.

We are a very wealthy country with \$10 trillion gross national product and a national budget of \$2.1 trillion. With leadership on \$500 million, that could be an inspiration for other industrial countries to come forward and do the right thing. That is why when Senator DURBIN approached me weeks ago on this amendment, I told him to count me in.

I urge my colleagues to support this figure.

In closing, I thank my colleague from California, Senator BOXER, for generously yielding to me, although she has been here all afternoon. I have been occupied, as has the Presiding Officer, with the FBI Mueller-Rowley hearings.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, before my colleague from Pennsylvania leaves, I wanted him to hear my comments. What he has done is shown that this is a national security issue. We know when people are sick and desperate there can be a void in a country and people can do desperate things. I associate myself with the remarks of the Senator.

Madam President, we talk about many issues in the Senate. There are moments when we know there is a particularly important issue, sometimes more parochial to our State. I say tonight that I am very proud to stand with Senator DURBIN and Senator SPECTER. This is a Durbin-Specter-Boxer amendment to provide \$500 million for the fight against AIDS, tuberculosis, and malaria.

I was very stunned when I heard what happened to this debate. For weeks, I was elated that Senators HELMS and FRIST were going to support a \$500 million number. And then when I heard that Senators DURBIN and SPECTER were going to say we have to do even more, I felt so good because I thought at the minimum we will get the \$500 million that we so desperately need for these diseases.

Then I find out the whole playing field has changed. We are in a situation now that is quite troubling.

I will tell a story about a woman named Elizabeth Glaser whom I met more than a decade ago, a beautiful woman, a young woman, a new mother. She had a child, and in the hospital needed to have a blood transfusion. Those were the years when no one knew that you could pick up HIV through a blood transfusion. Lovingly nursing her daughter, Ariel, she was at a high point in her life. She then had another child, a son, still not knowing anything was wrong. Elizabeth, therefore, faced a situation with her husband, Paul. They had three family members HIV positive: The mother, the son, and the daughter.

Elizabeth Glaser was a fighter. A lot of us knew her around here. She came here and begged us to do something. She focused on the whole issue of AIDS and, of course, on the transmission of the virus from mother to child. The Pediatric AIDS Foundation was formed and they became the leaders in finding a way to stop the transmission.

My colleague, Senator DURBIN has talked about it; Senator FRIST has talked about it.

Let me state how far we have come. We can really stop this epidemic in its tracks in most of these mother-to-child transmissions. The cost of this drug is

a few dollars a dose. When Senator FRIST says his alternative will make more money available to stop transmission, he is incorrect. I hope that the record has been corrected. Senator DURBIN's amendment allows the funding to go in whatever way the administration wishes. If they want to take the entire \$500 million, if that is their choice, they could spend it in that fashion. So do not stand up here and say: If you want to stop the mother-to-child transmission, support the Frist amendment.

No, support the Durbin amendment. It is very important to do this. A lot of people did not know, and Senator DURBIN talked about it, that AIDS and tuberculosis go hand in hand. If you look at the statistics, they are stunning. Tuberculosis is the leading cause of death among people who are HIV positive. Up to 50 percent of people with AIDS develop TB because HIV infection severely weakens the immune system.

This is a very small world we live in. We are reminded of it every single day. We knew it when planes came over and smashed into the World Trade Center. As soon as we could respond, we were in Afghanistan.

The fact is, it is a small world, and if anyone in this body thinks that having so many people impacted with tuberculosis doesn't impact the health of America, they are wrong. Therefore, what we are doing here by addressing these three diseases, is, yes, to help the people all over the world who have HIV and AIDS, and who have tuberculosis, but also to help those who get malaria, which kills around a million people every single year.

TB is a disease we thought we had eliminated. In fact, in the Western World we largely did, with the development of antibiotics in the 1950s. But the disease made a comeback, and I saw it in my State of California, where local public health officials never thought they would ever have to worry about TB again. But they are worried.

I say to my friends on the Appropriations Committee who have turned their back on this \$500 million, think about these numbers. In the year 2000, there were 16,000 TB cases in the United States of America that were reported to the Centers for Disease Control.

In my own State of California, 20 percent of those cases exist there. TB is an airborne disease. You can get it when someone coughs or sneezes. It is a small world. So don't think, if you vote against the Durbin amendment, it doesn't have an impact here at home, because it has an impact here at home. We are talking about tuberculosis, we are talking about AIDS/HIV, and we are talking about malaria.

The good news is that TB can be cured. There is a treatment called DOTS, D-O-T-S. It has been shown it can produce cure rates of 95 percent, even in the poorest countries. That means if we can stop TB in these countries—and people who get on the planes sit next to our people on the planes

who do not have TB—we will be a far healthier nation.

I think there are times here when it makes sense to act incrementally. I have seen that. Sometimes there are problems, and you say there are 10 things we should do to solve a problem, let's do 2 of these every year and we will get there.

Sometimes you have to act boldly. Certainly we have seen our country unite and do that in the face of what happened on 9-11. We did it militarily. We liberated a country. We made sure that, to the greatest extent possible, we got to the root cause of what happened to us. And we continue, every day, to act boldly, or we certainly should, whether it is taking a look at how we can make our intelligence agencies better or making sure airport security is as tight as it could be, making sure, as my friend in the chair wants to do, that we protect people from a chemical plant being attacked or a nuclear powerplant being attacked. We are acting boldly. At least I believe most of us are.

Why would we shirk from acting boldly in the face of these epidemics?

We spend a lot of time around here on things that make a difference around the edges. But when historians write about today, I think it will be written, if we do the right thing, that we made a decision that wound up saving millions of lives; that we made a decision as the leader of the free world to alleviate suffering, to alleviate disease, to stop children from having to be orphans.

I will talk about my friend Elizabeth Glaser. She passed away from AIDS. Her daughter passed away. And we are all fighting to see that that is not going to be the fate of her son because he is getting the advantage of the wonderful treatments we have.

How can we not act to make sure that every child and every woman and man gets that same chance? How can we do that when we have the ability to do it? It is either you pay now or you pay later. I thought Senator SPECTER was right when he said: What you do when you turn your back on a crisis such as this is you open the door for people to wreak havoc with countries to fill a void, where people are desperate. They cannot get involved. They are just trying to find out how to live, to survive, to make sure a child is not deprived of family.

My daughter went to Uganda and got back about a week ago. She fell in love with the place and told me she did not meet one person in her travels who had not experienced a deep, tragic loss of a family member—not one person, and she spoke to many people.

This is a test of our leadership. I did not expect to be here on the floor.

I ask for 20 additional seconds.

Mr. REID. Mr. President, Senator BYRD has told me—

Mr. DURBIN. I yield 20 seconds.

Mrs. BOXER. I just believed we were going to have that \$500 million. Senator HELMS wrote from his heart and

talked about it. Senator FRIST talked about it. Suddenly, what has happened? What has happened is we are losing our boldness. I do not want to see it happen.

I urge support for this very important amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding under the unanimous consent that I have 4 minutes 40 seconds.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. Senator BYRD and Senator STEVENS have 5 minutes each before we come to the vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I ask unanimous consent to add as cosponsors to this amendment: Senators SPECTER, DASCHLE, LEAHY, DEWINE, KERRY, KENNEDY, BOXER, SARBANES, FEINSTEIN, MIKULSKI, CLINTON, DODD, LIEBERMAN, TORRICELLI, LEVIN, SCHUMER, LANDRIEU, BIDEN, and CORZINE.

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

Mr. DURBIN. What is the difference between \$500 million and \$200 million in the global AIDS fight? I do not believe for a second \$500 million is going to turn back the global AIDS epidemic; no, I do not. But I will say to my friend Senator FRIST, you know as well as I do what a \$300 million difference means. It means money going into the Global Fund from the United States that can be leveraged to induce even greater contributions from countries around the world. It means \$300 million more that will be spent for mother-child transmission, for treatment to deal with HIV, tuberculosis, and malaria.

I came to this debate asking, in my mind, for \$700 million, and I did not think it was an outrageous request, even though it was emergency spending. I concluded, watching the amendments on the floor of the last several days, I could lose; I could lose \$700 million. So I went to Senator FRIST and I said: Listen. My name on this proposal is secondary. What is important is to get the \$500 million. I'll join you. I'll walk away from my amendment. I will be a cosponsor of your amendment. I will give up whatever publicity might come from it. Who cares? Let's get the job done.

We talked about it until just a few hours ago when, to my surprise, the \$500 million Helms-Frist amendment became \$200 million.

What happened? In all these months, has the need decreased? Of course not. The need has increased. So I come to the floor today to offer this amendment for \$500 million.

I say to my colleagues to please think twice. There will be a parliamentary point of order made in a few moments by Senator BYRD. I understand it. He is chairman of the committee. He is protecting the committee. Even though I serve on it, I understand it.

But think for a minute. Are you going to let a procedural vote stop the investment of \$300 million—more than Senator FRIST is going to offer—\$300 million in the Global Aids Fund that can be used across the world to save lives? Of all the items we vote for day in and day out, we have to walk down there many times and vote for things for our colleagues from other States, and ask, Is it really worth it? We are loyal. We do it. You know in your heart of hearts that this is the kind of money that should be spent by America to make a difference. That is why the United States leads the world, not just in military power and with its economy but in our values. We define our values by our pocketbook and how we spend it. Tonight, \$500 million can make a big difference. It can make a difference in places around the world that you will never see.

But I will tell you this. Take a moment in your life and go to these Third World countries. Look right into the eyes of these mothers and their children and you will never have any question about a \$500 million vote.

I went to a place in Kampala where they were putting together a memory book. I sat on a porch with mothers as they showed me the scrapbooks of their lives which they were putting together to leave for their children playing in the yard. The mothers were dying of AIDS. They wanted that little child playing in the yard to remember who they were in the years to come.

That is the tragedy of AIDS. That is the reality of AIDS. That is why we need \$500 million.

I implore my colleagues. I have come to this floor so many times but never with so much depth of feeling about the importance of what we are going to do.

Let us not negotiate the difference and bid this down. Let us do what we know is right in our hearts and minds and leave tonight with the passage of this appropriations bill feeling that the United States once again continues to lead the world in fighting the global AIDS epidemic so our children and our grandchildren will not see that great scourge that travels around the world.

I close by saying to you: I salute all of my colleagues—Democrats and Republicans—who joined me. I thank them for their support. But please, for the sake of the millions of people around the world who are now feeling that they are so alone, give them a helping hand with a \$500 million investment in hope.

I ask unanimous consent that Senator DASCHLE be added as a cosponsor of this bill.

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

Mr. REID. Mr. President, for the information of the Senate, Senator DASCHLE has been absent from today's session because he was attending the graduation of his son Nathan from Harvard Law School.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, am I next in line?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, after listening to a lecture in 1983 about a new problem called AIDS, I came back to the Senate and asked that \$50 million be dedicated to basic research on this subject. Today, I can tell the Senate that right now we have in this year's budget alone \$12.5 billion committed to AIDS.

I have heard people talk about research for women, infants, and children; about the need for remembering the children; and, the fact that this bill, as Senator BOXER said, has an impact here at home. It certainly does. No one can criticize what we have done about AIDS, no one.

I visited with Bono and said: Yes. We will help with AIDS internationally. We started that fund with a contribution in the year 2001. We then increased it for 2002, and we are going to increase it even more for 2003.

The House has responded also with more money to help with AIDS. We are going to respond, I hope, and increase this amount even more than we did. We put in \$100 million more. This will increase it again by \$200 million more. That will make it a \$300 million effort for this year in addition to what is already proposed and already in the system.

But let me summarize for the Senate what we are doing.

FDA has \$77,700. The Health Resources and Services Administration has \$1.918 billion. Look at what they are doing. They are doing a Care Grant Program, an Early Intervention program, Research for Women, Infants, and Children, AIDS Education and Training Centers, Dental Services, Counseling, Testing & Partnership Notification, Ricky Ray Hemophilia Relief Fund. We have the Indian Health Service, another \$3 million; Centers for Disease Control and Prevention, \$938 million, and, in total, NIH, \$2.5 billion. That covers a whole series of institutes of health. But the main thing is there is a limit to what we can do in the world to deal with the world's problem.

I believe we should do more, and we are going to do more. But it has to be staged. It has to be increased in a way and be spent in a way that encourages other countries to come forward, too.

When we went to visit the World Food Program in Rome this year, we found that the United States is now paying 60 percent of all the costs of the World Food Program. We used to pay 12.5 percent. Why are we paying 60 percent? Because we kept increasing, and as we increased, the other nations of the world decreased their effort.

That is exactly what is going to be happening here. If we don't stage it, if we don't ask the world to come forward and join us to deal with the problems of AIDS in the world, more and more they will say: Let Uncle Sam do it.

I am all for our doing our part, but our part is to match others in a world effort to deal with AIDS. We are doing it. We are doing more than that.

Our budget today of \$12.5 billion for the year 2002 alone—not counting this money—is half of what the world is spending. There is space here for some comments about what we should do and how we should do it. But to just genuflect and come in and say, we need \$200 million, \$500 million, or we need \$700 million—we can't handle that in terms of the partnership we have in the world in dealing with AIDS; if we do, they will do the same thing they did in

the World Food Program. They will pull back and say, you wanted to do more; go ahead and do more.

It is not only 60 percent that we are spending on the World Food Program. It doesn't include the money we spend on food under the military accounts which our military people provide throughout the world, such as in Afghanistan.

There is a limit. The limit is: What shall we do under an emergency appropriations bill dealing with money that should be spent before September 30?

No matter what anyone else has said, this money probably cannot be spent

before September 30. We will deal with more money within a month. When the bill is before the Senate, I am certain there will be an request to increase at by at least another \$½ billion.

Let no one say this Senator has not done everything possible to deal with AIDS. The answer is the cure and the answer is research. The answer is not putting money out in the world before the world is ready to join us in a partnership to deal with AIDS worldwide.

Mr. President, I ask unanimous consent that this chart be printed in the RECORD.

## ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS) PROGRAM LEVEL

[Dollars in thousands]

	FY 2001	FY 2002	FY 2003
<b>Food and Drug Administration:</b>			
Biologics .....	\$35,000	\$35,868	\$36,943
Human Drugs .....	19,618	20,104	20,710
Medical Devices .....	2,300	2,357	2,427
Other Activities .....	5,400	5,535	5,700
Field .....	13,500	13,836	14,250
<b>Total, FDA .....</b>	<b>75,818</b>	<b>77,700</b>	<b>80,030</b>
<b>Health Resources and Services Administration:</b>			
Emergency Assistance—Part A—Title I .....	604,169	619,514	619,514
Care Grant Program—Part B—Title II .....	910,969	977,373	977,373
Early Intervention—Part C—Title III .....	186,274	194,334	194,507
Grants for Coordinated Services & Access to Research for Women, Infants, Children—Part D—Title IV .....	64,995	70,990	70,990
AIDS Education and Training Centers—Part F .....	31,598	35,295	35,295
Dental Services—Part F .....	9,999	13,498	13,498
Counseling, Testing & Partner Notification .....	2,000	2,000	2,000
Ricky Ray Hemophilia Relief Fund .....	580,000	0	0
Program Management .....	4,996	4,996	4,996
<b>Total, HRSA .....</b>	<b>2,395,000</b>	<b>1,918,000</b>	<b>1,918,173</b>
<b>Indian Health Service:</b>			
HIV Surveillance .....	994	1,012	1,027
Information & Education/Prevention Services .....	2,816	2,874	2,911
<b>Total, IHS .....</b>	<b>3,810</b>	<b>3,886</b>	<b>3,938</b>
<b>Centers for Disease Control and Prevention: HIV/AIDS Activity</b> .....	<b>859,045</b>	<b>938,646</b>	<b>938,910</b>
<b>Total, CDC .....</b>	<b>859,045</b>	<b>938,646</b>	<b>938,910</b>
<b>National Institutes of Health:</b>			
NCI .....	239,066	256,319	266,539
NHLBI .....	67,437	72,146	75,380
NIDCR .....	21,942	23,473	25,338
NIDDK .....	24,685	27,642	29,847
NINDS .....	37,774	42,366	45,682
NIAID .....	1,063,074	1,191,919	1,350,452
NIGMS .....	43,298	48,391	52,385
NICHD .....	101,851	116,101	126,249
NEI .....	11,555	12,730	12,777
NIEHS .....	7,855	8,336	8,682
NIA .....	4,386	4,985	5,379
NIAAMS .....	5,692	6,467	6,687
NIDCD .....	1,592	1,737	1,738
NIMH .....	145,112	163,938	176,207
NIDA .....	245,397	279,676	304,187
NIAAA .....	21,222	23,979	25,913
NINR .....	9,678	10,990	11,891
NHGRI .....	5,809	6,310	6,812
NIBIB .....	843	843	843
NCCR .....	117,485	135,195	147,198
NCCAM .....	1,030	2,555	2,718
FIC .....	16,149	18,328	21,523
NLM .....	5,589	6,742	7,248
OD .....	48,494	53,786	58,322
<b>Total, NIH .....</b>	<b>2,247,015</b>	<b>2,514,954</b>	<b>2,769,997</b>
<b>Substance Abuse and Mental Health Services Administration:</b>			
Programs of Regional & National Significance			
Mental Health .....	11,681	13,035	10,560
Substance Abuse Treatment .....	56,378	59,163	59,187
Substance Abuse Prevention .....	32,100	38,100	38,100
Substance Abuse Block Grant (Set-aside) .....	55,918	57,987	60,088
Program Management .....	600	600	600
<b>Total, SAMHSA .....</b>	<b>156,677</b>	<b>168,885</b>	<b>168,535</b>
<b>Agency for Healthcare Research and Quality<sup>1</sup>: Research on Health Costs, Quality, &amp; Outcomes</b> .....	<b>3,381</b>	<b>3,300</b>	<b>2,591</b>
<b>Total, AHRQ .....</b>	<b>3,381</b>	<b>3,300</b>	<b>2,591</b>
<b>Centers for Medicare and Medicaid Services:</b>			
Medicaid (Federal Share) <sup>2</sup> .....	3,700,000	4,200,000	4,700,000
Medicare .....	1,900,000	2,050,000	2,200,000
<b>Total, CMS .....</b>	<b>5,600,000</b>	<b>6,250,000</b>	<b>6,900,000</b>
<b>Office of the Secretary:</b>			
Office of Public Health and Science:			
Office of Minority Health, GDM .....	13,404	12,421	10,771
Office on Women's Health .....	140	865	1,040
Office of HIV/AIDS Policy, GDM .....	906	961	1,304

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS) PROGRAM LEVEL—Continued

(Dollars in thousands)

	FY 2001	FY 2002	FY 2003
AIDS in Minority Communities, GDM .....	50,000	49,991	50,000
Office for Civil Rights .....	449	471	477
Total, OS .....	64,899	64,709	63,592
Global AIDS Trust Fund <sup>3</sup> .....	0	100,000	100,000
Total, AIDS .....	11,405,645	12,040,080	12,945,766
Foreign OPS .....		435,000	
Defense .....		20,000	
Total .....		12,495,080	

<sup>1</sup> FY 2003 crosscutting estimates for AHRQ represent proportionate allocations based on FY 2002 estimated actual amounts. Estimates will be updated when final decisions are made.

<sup>2</sup> All Medicaid figures represent actuarial estimates.

<sup>3</sup> While budgeted in NIH, HHS contributions to the Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis in FY 2002/2003 are not accounted for in the NIH HIV/AIDS figures, but are accounted for separately.

Mrs. FEINSTEIN. Mr. President, I rise today in strong support of increasing funding for HIV/AIDS prevention, care and treatment programs in the developing world.

The funding put forward in this amendment is essential to assisting resource poor countries in confronting the HIV/AIDS pandemic.

The HIV virus has infected over 40 million people worldwide, with over 95 percent of those infected living outside of the United States.

HIV/AIDS is now the leading cause of death in sub-Saharan Africa. In sub-Saharan Africa alone, an estimated 25.3 million people are living with HIV/AIDS and 2.3 million died of HIV last year alone.

Unless we take a leading role in the international community in the fight against HIV/AIDS, it is possible that sub-Saharan Africa will be wiped-out, with profound political, economic, social, and security consequences for the United States.

AIDS is a major problem not only in Africa, which has received so much attention in the press, but also in India, Southeast Asia, China, to name but a few countries impacted.

The AIDS pandemic is devastating, and quite literally wiping out, many countries.

According to some analysis, AIDS will reduce economic growth by up to 1 percent of GDP per year and consume more than 50 percent of health budgets in the hardest-hit countries.

The world has not seen an epidemic of this severity since the bubonic plague, and it is going to take everyone in the global community, working together, to halt the spread of the HIV virus.

There can be little doubt that HIV/AIDS is a health emergency of monumental proportions.

I believe that the United States has a responsibility to assist resource poor countries in gaining the funding necessary to provide people infected and affected by HIV/AIDS with access to the services, such as drug therapy, necessary to save lives.

It is clearly in the interest of the United States to prevent the further spread of HIV/AIDS.

This is not just a humanitarian issue, but also one of global security. In 2000, the National Intelligence Council reported that new and reemerging infec-

tious diseases will pose a rising global health threat and will complicate U.S. and international security interests over the next 20 years.

A CIA commissioned study by the State Failure Task Force found that a high infant death rate is one of the best indicators of impending instability and state collapse.

The global HIV/AIDS crisis is certainly an emergency and worthy of funding as an emergency designation as part of the Fiscal Year 2002 Appropriations Supplemental. It is an emergency for the people of sub-Saharan Africa. It is an emergency for the people of West Africa. It is an emergency for the people of India.

Let's invest more funding in these countries now before we have to add more countries to the growing list of countries experiencing an emergency due to the HIV/AIDS crisis.

Mr. KENNEDY. Mr. President, I join in support of the amendment by the Senator from Illinois, Senator DURBIN, to provide urgently needed help in the international battle against the AIDS pandemic. AIDS is the fourth leading cause of death in the world. This terrible disease ends lives, destroys families, undermines economies, and threatens the stability and progress of entire nations.

We must carry the fight against AIDS to every corner of the globe. And the Durbin amendment would help the United States and the world to meet this extraordinary challenge.

We in America know of the pain and loss that this disease cruelly inflicts. Millions of our fellow citizens, men, women, and children, are infected with HIV/AIDS. And far too many have lost their lives.

While we still seek a cure to AIDS, we have learned to help those infected by the virus to lead long and productive lives through the miracle of prescription drugs.

But this disease knows no boundaries. It travels across borders to infect innocent people in every continent across the globe.

We have an obligation to continue the fight against this disease at home. But we should also share what we have learned to help those in other countries in this life-and-death battle. And we must do all we can to provide new resources to help those who cannot afford today's therapies.

As we sought to enforce child labor laws at home, we also worked to protect children abroad. As we developed new ways of promoting children's health and public health, we have shared these life-saving discoveries with other countries in need.

And once again, we are called upon to open the doors between nations to do all we can to halt the spread of AIDS, and to treat those infected by it.

Twelve years ago, this country demonstrated its commitment to the care and treatment of Americans living with AIDS by passing the Ryan White Care Act. Since that time, community-based care has become more available, drug treatments have been developed that nearly double the life expectancy of HIV positive individuals, and public campaigns have increased awareness of the disease. Yet, advances such as these remain largely the privilege of wealthy nations.

AIDS inflicts a particular toll on developing countries. Globally, 40 million people have HIV/AIDS, and the overwhelming majority live in poor countries. Sub-Saharan Africa is the most affected region, where nearly all of the world's AIDS orphans live. AIDS robs poor countries of the workers they need to develop their economies. They lose teachers needed to combat illiteracy and train their workers for modern challenges. Africa has lost seven million farmers needed to meet the food needs of entire nations. AIDS plunges poor nations into even deeper, more desperate poverty.

Governments can make the difference in battling this epidemic. Where governments in poor countries have been provided resources to fight the spread of AIDS, infection rates have dropped 80 percent. But these countries cannot turn the corner on AIDS on their own. Their governments must be provided the technical assistance and resources to carry out anti-AIDS campaigns. They need financial help to afford expensive anti-retroviral drugs. And drug companies must do their part to make these drugs more affordable to the poor.

In addition, more public education is needed. A UNICEF survey found that most young people still have not heard of AIDS or do not understand how the disease is transmitted. By speaking out, our government can help to lift

the stigma and taboo surrounding the disease and save lives.

The challenges are great, but not insurmountable. The epidemic is in its early stages. In most regions of the world, the prevalence rate is still less than one percent of the population. But we cannot delay. It only took 10 years for the HIV/AIDS population to double in the Russian Federation. And in South Africa, the rate increased from 1 in 100 people to 1 in 4 in one decade.

Senator DURBIN's amendment gives much needed support to fund the programs that fight international HIV and AIDS.

By supporting this amendment to increase the funding for bi-lateral AIDS prevention, care and treatment, as well as the United States commitment to the global fund, we will be helping to address the global public health crisis and maintain international stability.

I thank Senator DURBIN for offering the amendment, and I urge my colleagues to support it.

Mr. WELLSTONE. Mr. President, I would like at this time to engage in a colloquy with the chairman of the Agriculture Subcommittee on Appropriations, Senator KOHL, regarding the use of non-fat dry milk as a source of nutritional assistance to countries ravaged by the AIDS epidemic.

It is widely understood that the AIDS pandemic is having a devastating impact on people the world over. Since the onset of the epidemic, 22 million people worldwide have died. An estimated three million people die from AIDS-related causes every year. Another 40 million people presently are living with HIV/AIDS, and although there are some signs that the incidence of HIV may be stabilizing in sub-Africa and elsewhere, the rate of infection remains alarmingly high. In fact, 95 percent of HIV/AIDS victims reside in developing nations—86 percent of the total live in sub-Saharan Africa.

Children are at risk on an unparalleled scale, with HIV/AIDS dramatically increasing the number of infant and child deaths. Nearly 2.7 million children under the age of 15, and 11.8 million young people aged 15–24 are living with HIV/AIDS. More than 540,000 children were infected in mother-to-child transmission in 2000, and a baby born and nursed by an HIV-positive mother has a 25 to 35 percent chance of becoming infected.

Further, most experts agree that nutrition is a co-factor in HIV progression: poor nutritional status and infection affect the immune system and interact with each other; and it helps protect against opportunistic infection and malignancies. Since the immune system requires protein to function properly, and protein needs increase during times of stress and infection, HIV-positive individuals should have two or more servings of low or non-fat milk or yogurt with active cultures. In addition, many believe that dairy products should accompany anti-retroviral drugs to boost the nutrition of HIV-positive mothers, increase the effectiveness of the drugs, and help mothers give birth to healthy children. I believe there is an opportunity to address this need within the Department of Agriculture in the form of non-fat dry milk currently in great surplus within USDA, the value of which is deteriorating as the cost of storage is increasing.

Mr. KOHL. I appreciate the Senator raising this issue. It is my understanding that the United States has more than one billion pounds of surplus non-fat dry milk in storage that has been acquired at an average cost of over 90 cents per pound, for a total cost approaching \$1 billion, and storage costs of \$1.5 million per month and growing. This surplus milk deteriorates rapidly, going out of condition in about three years, when it must be sold

for a cost of only a few cents per pound.

Mr. WELLSTONE. I believe that the Secretary of Agriculture, at this time, has the authority to dispose of dairy surpluses, such as the ones mentioned by my colleague, for direct feeding programs to mothers and children living with HIV/AIDS and communities heavily impacted by the HIV/AIDS pandemic. Therefore, I strongly believe that the Secretary of Agriculture should make available funds for the provision of 100,000 metric tons of surplus non-fat dry milk to combat HIV/AIDS, focusing especially on HIV-positive mothers and children. Careful consideration should be given to local market conditions, so as not to undermine the security and stability of the indigenous dairy production and processing sectors of these communities, and no funds or commodities should be used in any programs that would substitute dairy products for breast feeding.

We know that there is a dire need for nutritional assistance for families affected by HIV/AIDS. In addition, without action, this milk will remain in storage. It seems clear that we have been presented with a unique opportunity to do something positive in the world. I believe that to do nothing is not an option. We have the food and the technology. Now is the time for action.

Mr. KOHL. I thank my colleague for his passionate statements on this subject. I agree that the Secretary of Agriculture has the responsibility to use here authority to help those in need when the opportunity arises, as it clearly has in this case, and support the comments of the Senator from Minnesota. I look forward to working with my colleague on this issue.

#### NOTICE

*Incomplete record of Senate proceedings.*

*Today's Senate proceedings will be continued in the next issue of the Record.*