

Washington, stay in session, because I think this is a matter of such urgency and such paramount importance to our country and to the world that we should be continuing to focus on that matter.

The ominous forewarnings of this last couple of days affirm to me what Robert Kennedy said after the Cuban missile crisis. He said:

No action is taken against an adversary in a vacuum. The escalation on one side brings a counterresponse. A government of people will fail to understand this only at their great peril.

For the last 55 years the leaders of this country have understood that principle. They, too, faced dangerous dictators who possessed weapons of mass destruction, who headed countries that were hostile to the United States, the former Soviet Union, China, North Korea. But they didn't attack another country to eliminate those threats, even though they persisted, even though we disagreed with those countries, what their leaders did to their own people, the threats they were around the world. The principal reason was we understood the doctrine of mutual assured destruction. We understood their destruction against the United States would be an intolerable cost for our destruction of them and for the objectives we might accomplish militarily.

I believe these forewarnings we have received the last few days should cause us to ask this administration why would they expect Iraq to be any different. If the United States intervenes and begins to destroy that country and its cities, cause civilian casualties, why would we not expect Iraq to retaliate with every destructive force it has available to it within our own borders, against our own cities and our own citizens?

Why wouldn't we expect Osama bin Laden to do his worst to exploit this situation, to twist facts to be seen by the rest of the world other than as they are, but in ways that would be destructive to United States standing around the world and to our own national security now and in the days and months ahead?

Why does this administration believe it should disregard the lessons that other Presidents, Republican and Democrat, have recognized and observed and proven to be as valid then as they are today? What is different about this situation?

At the Senate Armed Services Committee hearing this morning I asked the Secretary of Defense his assessment of our ability to protect our citizens from retaliatory attacks against them if we were to invade Iraq. I asked that question twice. How do you assess, Mr. Secretary, our ability to protect our citizens in their homes and their schools and our cities from an enemy attack? Neither time did I receive a direct answer to that question. Neither time. I have the highest regard for the Secretary of Defense. He has an enor-

mous responsibility. He brings tremendous experience and ability and a heroic dedication to our country to this task. But if all this administration can offer the American people, when our national security alert is raised to the second highest level, is duct tape, sheets of plastic and water, there is something very seriously wrong, if this administration intends to start a war, not against the most urgent threat to this country, not the threat that endangered us before, attacked us before and endangers us now, according to many of their own officials, al-Qaida, Osama bin Laden, the tape that was released this week that issues that threat against us and our citizens once again, not an attack against al-Qaida but against Iraq, against a country that, no question, is ruled by an evil man, a dangerous dictator, a man who almost certainly, as the Secretary of State has demonstrated, the President in the State of the Union, possesses biological and chemical weapons and has for the last 12 years, ever since the first President Bush made a strategic decision at the conclusion of the gulf war to leave him in power, which may have been the right decision given the other options that were available.

Yes, an evil dictator, but one who has been constrained in key respects by active, ongoing efforts of diplomacy with our allies and containment by international forces by both former President Bush and by President Clinton. Contained, constrained, not perfectly, not easily, certainly not voluntarily on his part, but effectively, more effectively than has been acknowledged in recent months. He is weaker, according to reports I have seen, militarily in most respects than he was before the gulf war. He does, by all accounts that we can obtain, not possess nuclear warhead capabilities at this time, which I agree with the President would be intolerable for this country to permit. He has not attacked his neighbors—not because he wouldn't like to, probably, but because he has not had the capability to do so under these containment policies for the last 12 years. And as far as I have been informed in various briefings, he was not actively threatening our country or his neighbors or anyone else when he was dusted off the shelf by this administration right after Labor Day.

The President has properly refocused the world spotlight on this man and his intent. The President has drawn a line very clearly, which I support, that it would be intolerable for this Nation to permit that dictator to possess nuclear weapons or the missile capabilities to deliver those warheads or any warheads against this country or against neighbors in the region surrounding him.

Certainly after September 11 and Operation Enduring Freedom, no one in this world could question the steely resolve of our President and his willingness, if necessary, to use military force. After Operation Enduring Free-

dom, no one could raise a doubt about the might of the United States Armed Forces and the strength we can bring to bear anywhere in the world as a last resort, as truly a last resort.

But there is another lesson from September 11, which is that no matter how great our military might, we are not invulnerable. We are too big a country. We have too wide an expanse. We have too many possible targets for terrorists. And we saw on September 11 tragically, horribly, the damage and the destruction and the cost of human life and the untold human suffering and misery of families that a very small number of fanatical men could cause.

I don't think we should back down or be deterred by any threat. I think we should do what we must to defend this country, and the principles we have established in the last half century of dealing with these threats have been ones that have prevented war, preserved our peace, and strengthened this country economically and socially in its position of leadership in the world.

It would be a very dangerous precedent if we were to do, except as a very last resort, what no President in this country has done before, which is to start a war, which is to launch a preemptive attack against another country based on what it might in the future do to us. And I think we should consider what that precedent would mean if other nations were to follow that example. If we set a precedent in this "new world order," as it has been called, that a preemptive attack against a possible future threat is the way to resolve crises or standoffs, what will happen when other countries adopt that path?

We have seen now—and we have been forewarned—that the nuclear proliferation that we are seeing other countries undertake is the worst nightmare that many predicted years ago, decades ago if we didn't—the superpowers—bring to a halt the nuclear arms race and remove them from the shelves of the nations of the world. Now we are told that half a dozen countries—and more to come soon—will have them. That should be and must be a warning to us. What happens if we lead down a path on which we don't want other nations to follow?

If we set a precedent of preemptive attack, that path is one that the world will follow at its peril. I urge the President to take that into the most careful consideration as he makes this fateful decision.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is to be recognized for up to 60 minutes.

#### OMNIBUS APPROPRIATIONS

Mr. MCCAIN. Mr. President, usually I begin my diatribes on the appropriations bill by lifting up the appropriations bill for all to see; one, it hasn't been delivered and, two, I note by the

size of the existing copy down by the desk of the manager that it would be quite a task to pick up this year's appropriations bill. At my advanced age, I might be in danger of sustaining a hernia. But I still think that this probably is—if I may borrow a phrase from one of our longtime adversaries—the mother of all appropriations bills. It is some 5,000 pages.

I can safely say that I have not read it. My staff has been feverishly going through certain parts of it, each being parceled out. Clearly, we have a mammoth conference report on this omnibus appropriations legislation, which nobody has been able to review, examine, and debate. I say that not without sympathy for the Senator from Alaska, who is faced with a situation where negotiations—in fact, they are going on almost as we speak, or are being completed as we speak. Certainly, the reasons for the delay—some 4 months of delay—was not under his control. But I want to discuss this very briefly in context.

The context that we are looking at with this legislation is a huge looming deficit that is in front of us and growing in size almost as far as the eye can see. The eye used to be able to see for 10 years. Now we have changed the procedures where the eye can only see for 5 years. But only a short time ago, we were awash in huge surpluses. I will never forget when Alan Greenspan testified before Congress in favor of the 2001 tax cuts because we wanted to make sure we didn't spend down the debt too fast. We didn't want to spend down that debt too quickly because that would have some bad effects on our economy.

Well, we don't have to worry about spending the debt down too quickly now. In 2001, we had a \$127 billion surplus. We are living in a different time now. The Congressional Budget Office recently forecast a larger than expected deficit of \$199 billion for this year; and last week, with the result of the President's budget for 2004, the OMB projected record deficits of \$304 billion this year and \$307 billion next year.

I have, as chairman of the Commerce Committee, seen enough of our needs for security and safety at our airports, railway stations, ports, all over America, to tell you that we have very large expenditures ahead of us. Those expenditures are justified when we are talking about the security of this Nation. The funding for the Transportation Security Administration was justified. I am proud that we not only passed the legislation, but we funded that enormous effort to ensure the security of our airports, which is still not complete. But the fact is, we will soon run out of borrowing authority and might have to look to other sources of funding, such as the Social Security trust fund, in the absence of a legislated increase in the debt ceiling.

There are a lot of words that are not used anymore around here, but the one

that has completely and totally disappeared is the good old "lockbox." I wonder what happened to the good old lockbox. That was the one we were going to put Americans' payments into Social Security into and we were never going to touch it again.

Not only is our economy in distress, we are also one step closer to war. There are threats to national security that must be disposed of. Yet this appropriations bill, in my view, has not changed since last year. In fact, it is predictably about 11 times worse. The amounts associated with each earmark may not seem extravagant, but taken together they represent an incredible diversion away from Federal programs that have undergone the appropriate merit-based process.

I have two problems with this process. One, of course, is the appropriating of moneys that are really unnecessary and unauthorized and wasteful, very wasteful, but also in this legislation are many fundamental policy changes and, of course, I object, as chairman of the Commerce Committee, that it didn't go through my committee. But I object to it even more when we have not had the open debate and votes taken on matters that have national implications that are fundamental policy decisions.

Let's go back to some of the necessary earmarks: First, \$280,000 for asparagus technology and production in Washington; \$220,000 to research future foods in Illinois—only in Illinois, of course.

My colleagues may note, as usual, the need for these earmarks are nearly always geographically based.

Next is \$700,000 for the Midwest poultry consortium in Iowa; \$250,000 for research on the interaction of grapefruit juice and drugs. I always wondered what kind of experiments these are. One of our all-time favorites, made famous a number of years ago, is money that was spent to study the effect on the ozone layer of flatulence in cows. One always wondered about the testing procedures used to determine those effects on the ozone layer. This is another one that intrigues the observer. Regarding the interaction of grapefruit juice and drugs, of course, one's imagination can be stimulated by the prospect of the interaction of grapefruit juice and drugs.

Then we have \$600,000 for tristate joint peanut research in Alabama; \$500,000 for Missouri, Iowa, and Illinois Corn Growers Association for a pilot program to develop "production protocols."

Again, I have to sometimes display my ignorance. I didn't know that in order to grow corn, there was a particular requirement for a protocol regarding production.

I see that the Senator from Iowa just came on the floor. He may be able to illuminate me on the production protocols associated with corn growing. But whether he can or not, there will be \$500,000 being split up between his

State, Missouri, and Illinois to their corn growers associations. But this won't be an overall production protocol; this is only a pilot program. So I am sure there will be a great deal of additional money coming once we develop the pilot program for production protocols of growing corn.

Next is \$50,000 to combat "feral hogs" in Missouri. You know, somewhere I had a little depiction of feral hogs. I did not know that they were a threat to civilization as we know it, or at least enough to require \$50,000 to combat feral hogs. Sometimes one would get the impression that perhaps the people in Illinois could fund their own combat scenario with feral hogs. Nonetheless, we will be coming in with \$50 grand to combat those feral hogs, which I am sure are a serious scourge.

There is \$500,000 to continue hybrid poplar research in Wisconsin. I am sure next year we will have a continued program to develop production protocols for growing corn; \$2 million for the biomass gasification research facility in Birmingham, AL. Again, I look forward to seeing what that is all about.

And then, staying right on this important mission of gasification, we have another \$500,000 for the gasification of switchgrass in Iowa. Perhaps switchgrass can be part of the production protocol of corn. But one doesn't know; \$1 million for the National Agricultural Based Industrial Lubricant Center; \$10 million to develop a high-speed data transmission between the Library of Congress and education facilities, libraries, and networks serving western North Carolina. I did not know there was a special need in the western part of North Carolina, as there might have been for other parts of the country. But we will spend \$10 million to do that; \$500,000 to be split between the Alexandria Museum of Art and the New Orleans Museum of Art for activities relating to the celebration of the Louisiana Purchase bicentennial celebration; \$200,000 for the replacement of Minton tile in the Capitol complex; \$1 million for a company called Culpepper Glass in Warrenton, VA, that produces glass display cases for the Library of Congress. I assume, of course, there is no other company that could produce glass display cases for the Library of Congress. That is why the Culpepper Glass Company in Warrenton, VA, had to be designated in this legislation; \$3 million for an award to the National Technology Transfer Center for a coal slurry impoundment pilot project in southern West Virginia; \$1 million for an automated nursery project in Mississippi; \$500,000 for Vermillion Community College in Ely, MN, for the development of a professional forest harvester program.

Mr. President, if my colleagues will indulge me, I have to go back to my favorite from last time for just a moment. I know the hour is late, but this is too much. We were able to keep, through very serious contemplation and discussion among conferees, \$1 million for a DNA bear sampling study in

Montana; \$1 million will be spent to sample the DNA of bears in Montana.

Because these appropriations are never discussed with nonmembers of the Appropriations Committee, one can only imagine and conjure up an idea as to how this might be used. Approach a bear: That bear cub over there claims you are his father, and we need to take your DNA.

Approach another bear: Two hikers had their food stolen by a bear, and we think it is you. We have to get the DNA. The DNA doesn't fit, you got to acquit, if I might.

I think it is important to appreciate that this \$1 million for a DNA bear sampling study could solve a lot of crime in Montana. It is a pretty high-crime area. It seems to me that is, indeed, a very worthwhile expenditure of the taxpayers' dollars.

While we are at it, I want to jump out of line here a second: \$202,500 to the National Peanut Festival Fairgrounds for the construction of the National Peanut Festival Agriculture Arena in Dothan, AL. I was interested in the National Peanut Festival. I did not see it much on television or hear much about it. So I went to the Web site, and I think you will be comforted to know we are spending this \$202,500 for the 9-day celebration of the peanut harvest, which includes a variety of competitions, including recipe contests, beauty pageants, and tennis tournaments. Included for your viewing pleasure on this Web site is a very interesting picture. I am sorry my colleagues cannot see it, but I would be willing to provide them with copies, but there are three individuals standing by a contraption that I have not seen before, and it says farmers demonstrate antique peanut harvesting equipment at Pioneer Peanut Days. Again, it seems to me that is a worthwhile investment of \$202,500.

I have also one more that is kind of interesting: \$900,000 for the Show-me Aquatic Center for Development; \$900,000 for the Show-me Aquatic Center in Missouri. We found a picture of it. It says: "Please Touch Me Museum, 210 North 21st Street, Philadelphia"—this is the 270,000 Please Touch Me Museum, I apologize. That is for kids and grownups. Of course, I had that confused with the very important facility that is in Missouri. I certainly would not want to confuse the different States.

One of the more remarkable aspects of this bill is in the HUD section, under EDI. There are 885 individual earmarks. Some of them are very interesting. Of course, there is \$202,500 to continue the rehabilitation of the former Alaska Pulp Company mill site in Sitka, AK. I am reluctant to ask the Senator from Alaska how much that continuing rehabilitation is going to cost us overall.

We have a lot of important construction: \$45,000 for the city of Tusculumbia, AL, for construction of facilities associated with the Helen Keller Festival; \$90,000 for the city of Prattville, AL,

for the Boys and Girls Club of Prattville.

I mentioned the peanut festival. Here are a couple new ones: \$810,000 for the city of St. Louis, MO, for lighting sidewalks, curb, and street furniture along Kings Highway Boulevard and Chippewa Street. It must be a fairly serious situation there that we need to spend \$810,000 down there on Kings Highway Boulevard and Chippewa Street in St. Louis.

I mentioned the Show-Me Aquatic Center in Missouri; \$105,000 for the Food and Agriculture Policy Research Institute in Columbia, MO, to analyze commercial shipping alternatives; \$90,000 to the city of Natchez, MS, for a feasibility study to develop a slack water port. That is just for a feasibility study; \$135,000 to the Culinary and Hospitality Academy Center of Las Vegas, NV, for construction related to the expansion of an education training center. For those of you who have not visited Las Vegas lately, I can tell you it is a very depressed and deprived area, and I can certainly understand why the Culinary and Hospitality Academy Center would need \$135,000. I thought they could use some of mine.

For the arts, we have \$162,000 for facilities renovations and improvements for the Woolworth Theater in Glens Falls, NY; \$162,000 for the Catskill Mountain Foundation in Hunter, NY, for reconstruction of the Tannersville Theater; \$180,000 to the Bethel Performing Arts Center in Bethel, NY, for construction of a performing arts facility; \$225,000 to the village of East Syracuse, NY for the renovation of the Hanlan pool; \$270,000 to Garth Fagan Dance Studio in Rochester, NY, for construction of a new theater for the Garth Fagan Dance Studio; \$121,500 to the Bedford County Agricultural Society in Pennsylvania for facilities improvements at the Bedford County Fairground; \$202,000 to the New York Agricultural Society for facilities improvements to the New York Expo Center Arena and Livestock Expedition Hall, and I mentioned the Please Touch Museum in Philadelphia, PA.; \$810,000 to the City of Fort Worth, TX—another impoverished area—for waterfront facilities construction for the Trinity River Basin Project; \$180,000 to the Shenandoah Valley Discovery Museum for facilities expansion; \$216,000 to the Virginia Living Museum in Newport News, and the list goes on.

There is a certain common thread one will find throughout these 885 projects. I am sorry I did not have time to total it up, but it would have to be in the tens of millions of dollars. There is one common thread. About 95 percent of these projects that are earmarked belong to the States that are represented by members of the Appropriations Committee.

I joke a lot about this, and I will continue to do so, but that is not right. That is not the right thing to do.

I regret the conferees choose to adopt a special interest provision for one for-

eign cruise ship company at the expense of all other companies. The last time Congress meddled in this area with hollow promises of spurring the American shipbuilding industry, it ended up costing the American taxpayers \$185 million in loan guarantees. It was one of the most egregious I have seen of egregious things to take the money from a billionaire that—excuse me. We took no money from the billionaire who runs river boat casinos and who tried to build two ships in Pascagoula, MS, which every expert knows is not possible. The project failed and the American taxpayer was on the hook for \$185 million.

Not satisfied with costing the American taxpayer \$185 million, a Senator from Hawaii put into this bill a requirement that grants a subsidiary of the Malaysian-owned Norwegian Cruise Lines the exclusive right to operate three large foreign-built cruise vessels in the domestic cruise trade. This will be permitted notwithstanding the Passenger Vessel Services Act, which requires vessels transporting passengers between ports in the U.S. to be U.S.-owned, U.S.-built, U.S.-flagged and U.S.-crewed.

I am not a fan of those requirements. But why in the world do we make exception for a law in an appropriations bill when you know what the result is going to be? By granting exclusive rights to one cruise line, there will be no competition and the people who want to cruise Hawaii will pay much higher prices than for a commensurate cruise that people would take out of the East Coast.

I do not know if the Presiding Officer has ever been to Miami, but there are all kinds of ships cruising out of Miami, going all different places, for all different purposes, at very low cost. That is because they are all competing against each other.

The Senator from Hawaii puts in a violation of law, and an exclusivity which is going to cost people who want to cruise the Hawaiian Islands an enormously greater amount of money. Why? That is crazy. I would have thought the Senator from Hawaii, after costing the taxpayers \$185 million because of a provision he put in an appropriations bill—it never went through my committee which has oversight of it. It was never mentioned in my committee—after costing the taxpayers \$185 million, the Senator from Hawaii then pulls this one. I am angry about it, and I will continue to be angry about it because the citizens of my State of Arizona would like to cruise the Hawaiian Islands and they would like to do it at the cheapest possible cost. When there is no competition, there is not low cost.

There has been no analysis of granting this exclusive exemption from the Passenger Vessel Services Act to the "Norwegian Cruise Lines" owned by a Malaysian company. Nor have the committees of jurisdiction had an opportunity to consider the proposal.

I tell the Senator from Alaska and the Senator from Hawaii, we are going to have a hearing on this issue, we are going to have a GAO investigation, and we are going to find out why they lost \$185 million because of a provision put into this bill. We are also going to get an estimate of how much this exclusivity is going to cost my citizens who want to go on a cruise at the least possible cost. I will not quit on this issue. It is wrong, and it is the wrong way to treat this process. We will have hearings in the Commerce Committee, and we will expose this for what it is—disgraceful.

There are numerous other provisions in this conference report that circumvent the clear jurisdiction of the Commerce Committee. It incorporates almost wholesale a bill passed last year by the House of Representatives regarding air traffic control towers. The provision expands on the class of air traffic control towers that is eligible for Federal money. I am all for aviation safety and it may be a good provision. I am troubled by several aspects of it.

First, the provision does not make new towers eligible for reimbursement. It makes eligible towers that were built beginning in 1996, over 7 years ago. At least the provision passed last year by the House provided that an airport tower would be eligible for a grant under this program only if the Secretary certified that the selection of the tower for eligibility was based on objective criteria giving no weight to any congressional committee report, joint explanatory statement of a conference report, or statutory designation.

I wish to congratulate my House colleagues because they were concerned about the pork barrel projects practice and tried to insulate this particular program from such behavior. Guess what. That provision that eliminated no objective criteria giving no weight to any congressional committee report, joint explanatory statement of a conference committee, or statutory designation was eliminated. Why would that be eliminated, I wonder?

The conference report also includes a provision and implements a whole new funding scheme for airport security projects. I am very concerned about funding for airport security. This is a reauthorization year for aviation programs and the Senate Commerce Committee, the committee of jurisdiction, has already begun hearings of FAA issues. Yet the appropriators have taken it upon themselves to establish a brand new funding scheme that has never been vetted, discussed, or voted on by the authorizing committee. Some might start to wonder just what the Commerce Committee's role is in policy decisions regarding the programs under its jurisdiction.

This provision authorizes a new \$2.5 billion program over 5 years for airport security projects without any discussion that I am aware of. The TSA was

not consulted about this provision. It seems the special interest groups who were shopping this provision were the only ones that mattered. If this had gone through the regular legislative process, at least all parties could have been heard.

There are many different ways to fund security projects. This provision may be a good one. It mirrors a similar program set up at the FAA. However, the Department of Transportation Inspector General proposed several other ideas to our committee.

Another provision would allow airports to give airport improvement program money back to the FAA so the agency can hire staff to speed up environmental reviews of airport projects. This is an area in which the Commerce Committee took action last year and will continue to pursue this year. It should not be addressed in an appropriations bill.

I commend the conferees for their attempts to help protect the investment the American taxpayers continue to provide to Amtrak. The conference report, which provides Amtrak \$1.05 billion for fiscal year 2003, includes conditions that require the funding to be appropriated on a quarterly basis through formal grant agreements with DOT. The conferees worked to ensure that Amtrak reserved sufficient funds to meet its contractual obligations with State and local subdivisions for commuter and intercity corridor services. Amtrak should not be in a position to shut down commuter operations as it threatened last summer because it does not have sufficient funds to operate its entire network.

The conference committee has slightly reduced Amtrak's appropriation from that provided in the Senate-passed measure, but it has also postponed repayment of Amtrak's \$100 million loan from DOT.

The conferees authorized the Secretary of Commerce to award grants and make direct lump sum payments of up to \$50 million to support travel to the United States. To carry out this new authority, the appropriators established the United States Travel and Tourism Promotion Advisory Board and provided \$50 million. This tourism board has never been considered by the authorizing committee of jurisdiction. Nor did the Department of Commerce have any input on the creation of this new board. Who came up with \$50 million—and establish a new bureaucracy? The U.S. Travel and Tourism Promotion Advisory Board, and gives them \$50 million.

I am pleased to see the conferees appropriated money for election reform. The conference report on NOAA provides more than \$490 million in earmarks, and just for aquatic, not atmospheric programs of the National Oceanic and Atmospheric Administration, to go toward 150 earmarks. The administration did not request funding for these programs in the budget, and many programs they did request funding for are underfunded or zero funded.

The conference report appropriated an astounding \$100 million for fisheries disasters assistance. Of this amount, \$35 million is for direct assistance to the State of Alaska for any person, business, or town that has experienced an economic hardship even remotely related to fishing. This is in addition to the \$20 million they are also getting for developing an Alaskan seafood marketing program. Of the remainder, \$35 million is for the shrimp industries in the Gulf of Mexico and South Atlantic to provide far-reaching assistance for many aspects of these fisheries; \$20 million is provided for voluntary capacity reduction programs in the Northeast and west coast fisheries; \$5 million is for Hawaiian fishermen affected by fishing area closures and other management rules; and \$5 million is for blue crab fisheries affected by low harvests.

The conference report requires the Department of Commerce and Coast Guard to provide coordinated, routine support for fisheries monitoring and enforcement through use of remote-sensing aircraft and communications assets, with particular emphasis on Federal waters seaward to South Carolina and Georgia. Without review by the authorizing committee, we have no basis for knowing why this is a good use of Federal dollars and resources.

The conference report earmarks \$10 million to promote and develop fishery products and research pertaining to American fisheries funds to develop an Alaskan seafood marketing program. Ten million is a lot of money to be spending on a marketing program.

As far as the Coast Guard is concerned, managers earmark a total of \$83 million of the Coast Guard budget. That earmark is an increase of \$10 million over last year, and many of them have obviously never been proposed.

In HUD, as I mentioned, 885 targeted grants.

I also will talk for a minute about the lowly catfish, one of my favorite subjects. We know the lowly catfish has been the subject of a great deal of debate and discussion on the floor of the Senate due to the fact that in another appropriations bill, we changed the name of the catfish that comes from Vietnam to basa. But now the lowly catfish, those that are still named catfish because they are raised in the United States, we are now qualifying catfish for livestock compensation programs. Catfish are cows.

As my colleagues know, the livestock compensation program is a Federal farm program that compensates eligible livestock producers, such as owners of beef and dairy cattle, sheep, goats, or certain breeds of buffalo that have suffered losses or damages as a result of a severe drought. Now it is the catfish.

I often take issue with various farm policies that disproportionately benefit large agribusinesses or farms at the expense of farmers and taxpayers, and

those that compromise American agricultural trade commitments. This effort to compensate catfish farmers from a farm program that is intended for livestock stands out. I am certain that catfish proponents will offer a dozen different explanations to justify this provision. In fact, the last time we discussed this, one of my colleagues from Tennessee talked about in his State there are catfish that leave the water and travel in herds, so perhaps that is why we are now calling a catfish a cow. But not even hog, poultry, or horse producers are eligible under the livestock compensation program. Why should catfish then get livestock payments?

We know labeling continues to be a nationally significant agricultural issue. Again, the issue was addressed in the appropriations bill.

The Army Corps of Engineers is, of course, one of the favorite places. Not only are there a lot of earmarks, but there are significant changes in policy or law under the rubric of this appropriations bill. In this legislation, the administration is prevented from proposing or even studying changes to the Army Corps of Engineers civil works program, such as reorganizing aspects of the agency's management structure, without specific direction in an act of Congress. It seems to me that is remarkable micromanaging.

I guess I have taken enough of my colleagues' time at this late hour, and I know we should be voting on this bill and leaving. I point out again, this bill which the distinguished chairman of the Appropriations Committee described as the largest appropriations bill in the history—and I certainly take his word for it—in my now 17 years of monitoring these things, has the largest number of earmarks by far. I find that wrong for a variety of reasons, but one of them being that we are supposed to be in a war. We are about to ask young men and women to make sacrifices. In fact, some of them in the next few weeks may make the ultimate sacrifice. And here we are, business as usual, business as usual, larding on porkbarrel projects, running up the deficits to historic proportions in some respects. I imagine it is historic as far as the turnaround is concerned, from a \$127 billion surplus to a \$300 billion deficit. I mind that very much. I think it is wrong. I think it is the wrong signal to send to the American people about our seriousness of addressing the challenges of the war on terror.

But I am also disturbed about the policy changes that are made in appropriations bills which render authorizing committees nearly irrelevant. It is not the right thing to do. There are provisions in this bill—and I will be providing them for the record—of many policy changes that should have required hearings, debate, votes on specific issues. Instead, they are decided by a small group of Senators and House Members rather than all of us being able to exercise not only our privileges

but our responsibilities as we determine the policies that affect the future of our citizens in our respective States.

I ask unanimous consent that a document entitled "Commerce Committee Provisions" be printed in the RECORD.

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

COMMERCE COMMITTEE PROVISIONS

NCL PROVISION

Mr. President, I regret that the conferees chose to adopt a special interest provision for one foreign cruise ship company at the expense of all other competitors. The last time Congress meddled in this area with hollow promises of spurring the American ship building industry, it ended up costing the American taxpayers a whopping \$185 million. I shudder to think that we are meddling again.

The conference report grants a subsidiary of the Malaysian-owned "Norwegian Cruise Lines" (NCL) the exclusive right to operate three large foreign-built cruise vessels in the domestic cruise trade. This will be permitted notwithstanding the Passenger Vessel Services Act, which requires vessels transporting passengers between ports in the U.S. to be U.S.-owned, U.S.-built, U.S.-flagged, and U.S.-crewed. While I am not a fan of those requirements, I cannot support granting a waiver for one company.

This provision provides an unfair competitive advantage to NCL at the expense of all other cruise ship operators. No other company will be allowed to operate foreign-built U.S.-flag cruise vessels in the domestic market other than NCL. It effectively creates a de facto monopoly for this one foreign company to operate in the Hawaiian Islands, and West and East Coast cruise trades.

Again, I remind my colleagues, the last time we provided special treatment for one shipping company, it came at a price tag of \$185 million. American Classic Voyages' failed "Project America" venture was aided by special exemption language included in the 1998 Department of Defense Appropriation Bill. When American Classic Voyages filed for bankruptcy in October 2001, the American taxpayers paid the price. At what point are we going to say enough is enough, and put a halt to gambling away the hard-working Americans' tax dollars?

Mr. President, there has been no analysis of the value of granting this exclusive exemption from the Passenger Vessel Services Act to NCL, nor, more importantly, have the Committees of jurisdiction had an opportunity to consider the proposal and analyze its overall impact on the maritime industry.

The special interest provision represents yet another piecemeal approach to U.S. maritime policy. But instead of promoting a sound and reasoned U.S.-flag cruise vessel promotion proposal, the conference report rewrites maritime policy and grants one foreign-owned company a waiver from U.S. laws.

We should be working to promote competition in the domestic cruise market, and for that to take place, there needs to be a level playing field for all operators. But the special NCL provision may well severely hamper any effort to jump-start the U.S.-flag cruise market, leaving most coastal states with no regular U.S.-flag cruise ship service.

We learned the hard way from the failed "Project America" venture that domestic-built ships require far more capital investment than vessels built abroad. By giving NCL, and NCL alone, a free pass on U.S. laws, as provided under this conference report, will only keep all other competitors at bay because they have no incentive to even

attempt to secure the significant financing required to comply with the U.S.-build requirement for U.S.-owned cruise vessels.

This special provision for NCL will very likely lead to further economic difficulties for the domestic cruise industry, and places its future growth at risk.

AVIATION

Mr. President, there are numerous other provisions in this conference report that circumvent the clear jurisdiction of the Commerce Committee. For example, it incorporates almost wholesale a bill passed last year by the House of Representatives regarding air traffic control towers. The provision expands on the class of air traffic control towers that is eligible for federal money. While I'm all for aviation safety and this may be a good provision, I'm troubled by several aspects of it.

First, the provision doesn't just make new towers eligible for reimbursement, it also makes eligible towers that were built beginning in 1996—over seven years ago.

Things were very different seven years ago. Bill Clinton was President and I had more hair. I know President Clinton's theme song was "Don't Stop Thinking About Tomorrow," by Fleetwood Mac, but I find it very difficult to believe that airports that built towers in 1996 had any expectation they should get reimbursed by the federal government seven years later. It's awfully nice that we're willing to do that. I didn't know this omnibus bill was also the first economic stimulus package of the year. Had I known, I might have sought inclusion of a payroll tax holiday!

Secondly, at least the provision passed last year by the House provided that an airport tower would be eligible for a grant under this program only if the Secretary certified that the selection of the tower for eligibility was based on objective criteria, giving "no weight to any congressional committee report, joint explanatory statement of a conference report, or statutory designation." I wish to congratulate my House colleagues. Clearly, they were concerned about the pork barrel politics practiced by the appropriators and tried to insulate this particular program from such antics. However, the appropriations committee decided that this took away too much of their power and deleted the provision. I don't mean they rewrote the provision. They literally crossed it out in the conference report.

Mr. President, the conference report also includes a provision that implements a whole new funding scheme for airport security projects. I am very concerned about funding for airport security. This is a reauthorization year for aviation programs, and the Senate Commerce Committee, the committee of jurisdiction, has already begun hearings on FAA issues.

Yet the appropriators have taken it upon themselves to establish a brand new funding scheme that has never been vetted, discussed, or voted on by the authorizers. Some might start to wonder just what the Commerce Committee's role is in policy decisions regarding the programs under its jurisdiction.

This provision authorizes a new \$2.5 billion program over 5 years for airport security projects without any discussion that I am aware of. The TSA was not consulted about this provision. It seems that the special interest groups who were shopping this provision were the only ones that mattered. If this had gone through the regular legislative process, at least all parties could have been heard. There are many different ways to fund security projects. This provision may be a good one, it mirrors a similar program set up at the FAA. However, the DOT Inspector

General proposed several other ideas to our committee.

Another provision would allow airports to give Airport Improvement Program (AIP) money back to the FAA so the agency can hire staff to speed up environmental reviews airports projects. This is an area in which the Commerce Committee took action on last year and will continue to pursue this year. It should not be addressed in an appropriations bill.

While the earmarking in this legislation is as egregious as ever, the raiding of existing accounts for unrelated purposes is equally appalling. The AIP program is supposed to be devoted to the infrastructure needs of our nation's airports. Yet the conference report takes tens of millions of dollars out of AIP to pay for the FAA's costs of administering the EAS program, and the Small Community Air Service Development Pilot Program. These are worthy activities and programs, but it violates the long-established purpose of AIP to use monies for these things. This continual raiding of AIP which is also being encroached upon by the appropriation of security costs from it will slow the necessary development of the nation's infrastructure. We may be in an aviation funding crisis this year if this wholesale taking of money from accounts that are for capacity, infrastructure and modernization does not stop.

#### AMTRAK

I want to commend the conferees for their attempts to help protect the investment that the American taxpayers continue to provide to Amtrak, which since 1971, has received federal subsidies totaling \$26 billion—an enormous sum for a system that serves less than one percent of the traveling public.

The conference report, which provides Amtrak \$1.05 billion for FY 2003, includes conditions that require the funding to be appropriated on a quarterly basis through formal grant agreements with the Department of Treasury (DOT). Amtrak also will be required to spend its appropriated funds only on items identified in its business plan and approved by DOT. And, such funds may only be spent on existing plant and services, not on grandiose or far-fetched expansion plans. These controls are a step in the right direction.

The conferees also worked to ensure that Amtrak reserves sufficient funds to meet its contractual obligations with state and local subdivisions for commuter and intercity corridor services. Amtrak should not be in a position to shut down commuter operations, as it threatened last summer, because it does not have sufficient funds to operate its entire network. Commuter operations, such as those on the Northeast Corridor, are funded by state and local governments and clearly should continue to operate even if other Amtrak operations should cease. Further, Corridor trains that the states are helping subsidize also should also receive priority. Continuing to operate Northeast Corridor services, off-Corridor commuter service, and those trains financed in part by the states would preserve service for 93 percent of Amtrak's combined intercity and commuter ridership.

While the conference committee has slightly reduced Amtrak's appropriation from that provided in the Senate-passed measure, from \$1.2 billion to \$1.05 billion, it also has postponed repayment of Amtrak's \$100 million dollar loan from DOT, effectively providing Amtrak's \$1.15 billion, or only \$50 million less than the \$1.2 billion Amtrak requested. Although Amtrak may end the year with less than its targeted \$75 million in working capital, it should be able to continue operating while Congress considers the long-term future for intercity pas-

senger rail service. I look forward to a full and open debate on this issue.

#### TOURISM BOARD

Mr. President, the conferees authorize the Secretary of Commerce to award grants and make direct lump sum payments of up to \$50,000,000 to support ravel to the United States. To carry out this new authority, the appropriators establish the United States Travel and Tourism Promotion Advisory Board and provide \$50,000,000. This Tourism Board has never been considered by the authorizing committee of jurisdiction, nor did the Department of Commerce have any input on the creation of this new Board. This is another example of authorizing language in an appropriations bill and \$50,000,000 is an enormous amount of money for an initiative that has not yet been fully vetted.

#### NASA

Mr. President, I commend the conferees for their efforts to address the funding needs of the Space Shuttle Columbia accident investigation. Just yesterday, the Commerce Committee held a hearing on the investigation, and I agree that the Congress should be supportive of the *Columbia* Accident Investigation Board. We must find the cause of this horrible tragedy, and ensure that such an accident never happens again.

Unfortunately, other NASA provisions are included in the conference report that should be handled by the authorizing committee of jurisdiction. For example, the conference report establishes a NASA working capital fund for capital repairs, renovations, rehabilitation, sustainment, demolition, or replacement of NASA real property. As Chairman of the Senate Commerce Committee, which has jurisdiction over NASA, I am fully aware of NASA's declining infrastructure and the need to ensure safety of NASA missions. In light of the Space Shuttle *Columbia* accident, I think it would be a prudent course of action if we fully consider this provision in the context of an overall review of NASA, which is currently underway. No hearings have yet been held on this proposed working capital fund, nor has it been considered by the full Senate. I do not question the conferees' strong interest in addressing NASA funding needs, but I note this is yet another case of authorizing on an appropriations bill.

I am particularly concerned by provisions in the conference report that would establish a NASA demonstration project regarding an enhanced-use lease of real property. The Commerce Committee has not had a change to review this language, and no hearings have been held on this enhanced lease scheme. The leasing of public property deserves a public discussion.

#### ELECTION REFORM

I am pleased to see that the conferees appropriated almost \$1.5 billion to implement the election reform bill. This funding is a good start for a process to improve our system of election administration and renew the public's confidence in our election system. I am especially pleased that this conference report includes payments to help states to promote disabled voter access.

#### NOAA

The conference report provides more than \$490 million in earmarks and programs just for the aquatic—not atmospheric—programs of the National Oceanic and Atmosphere Administration. This funding will go toward more than 150 line items. The Administration did not request funding for these programs in their budget, in fact, many programs that they did request funding for are underfunded or zero-funded.

The conference report appropriates an astounding \$100,000,000 for fisheries disaster as-

sistance. Of this amount, \$35,000,000 is for direct assistance to the state of Alaska, for any person, business, or town that has experienced an economic hardship even remotely related to fishing. This money is in addition to the \$20,000,000 they are also getting for developing an Alaskan seafood marketing program.

Of the remainder:

\$35,000,000 is for the shrimp industries of the Gulf of Mexico and South Atlantic, to provide far-reaching assistance for many aspects of these fisheries;

\$20,000,000 is provided for voluntary capacity reduction programs in the Northeast and West Coast groundfish fisheries;

\$5,000,000 is for Hawaiian fishermen affected by fishing area closures and other management rules; and

\$5,000,000 is for blue crab fisheries affected by low harvests.

The report also provides these hand-outs without requiring any accountability for how the money is actually spent. These appropriations were made without offering any form of justification or rationale. How much federal money do these regions really need, if any? If these needs are legitimate, how do they compare to the needs of other regions? We'll never know, because these appropriations circumvented every stage of committee review, consultation, analysis, and authorization. We have no basis for determining how necessary this is or whether or not this is sound policy.

Furthermore, the conference report requires the Department of Commerce and Coast Guard to provide coordinated, routine support for fisheries monitoring and enforcement through use of remote sensing, aircraft, and communications assets, with particular emphasis on federal waters seaward of the costs of South Carolina and Georgia. Again, without any review by the authorizing committee, we have no basis or knowing why this is regional program is a good use of federal dollars and resources is this really the best use of limited Coast Guard resources, at a time when our country is under a heightened terror alert?

The conference report also earmarks \$10 million from the "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" fund, to develop an Alaskan seafood marketing program. \$10 million is whole lot of money to be spending on a marketing program, yet we are given no details on exactly what this federal funding will be used.

#### COAST GUARD

The conference report and statement of managers earmarks a total of \$83.962 million of the Coast Guard budget. The level of Coast Guard earmarks increased over \$10 million compared to the enacted FY02 Coast Guard budget.

In this critical time when the Coast Guard is so hard pressed to carry out its Homeland Security missions, in addition to its many traditional missions, it is indefensible to be earmarking the Coast Guard's budget for pet products. Adding insult to injury, the Committee report takes the Coast Guard to task for devoting its scarce resources to homeland security at the expense of its other traditional missions, yet in the same report, they earmark critically needed resources for other projects. This type of micro-management serves only to tie the Coast Guard's hands and deny it the flexibility it needs to respond to very real threats.

We all know the Coast Guard is underfunded and definitely in need of additional personnel and resources. Our first step should be to give it is full budget without these unrequested and restrictive earmarks.

Here are just a few examples.

The statement of managers earmarks \$1,600,000 for enhanced oil spill prevention activities in the waters of Washington State. This earmark was not requested by the Administration and I think it should probably receive an award for the most creative language. It states, and I quote, "the Committee expects the Captain of the Port to use his professional judgment in allocating these funds to measures that he believes will best protect these waters. Such measures could include a cost sharing arrangement with the State of Washington for the hiring of a rescue tug at Neah Bay. However, these funds could be allocated to alternative measures if, in the view of the Captain of the Port, such alternative measures will provide a superior level of protection." Does anyone wonder what decision the Appropriations Committee expects this Coast Guard captain to make?

\$4 million is for LTS-101 helicopter engines.

The statement of managers earmarks \$10,000,000 of the Coast Guard's Acquisition, Construction, and Improvements budget for a new line item entitled "Security Surveillance and Protection." What does this mean? The Senate report vaguely stated that this provision is to develop and acquire equipment that will improve security surveillance and perimeter protection capabilities in the Nation's ports, waterways, and coastal zones. In other words, it could mean almost anything.

The statement of managers earmarks \$16,000,000 for costs associated with repairing and rebuilding the Coast Guard's Integrated Support Center at Pier 36 in Seattle. These funds are in addition to the \$10,000,000 earmarked for this project in the FY 2002 Transportation Appropriations bill. None of these are funds were requested by the Administration and this project is not one of the Coast Guard's highest priorities for shoreside construction. My question is, how much will be earmarked for this project in next year's budget?

Of particular note, the Conference report earmarks over 27 percent of the Coast Guard's research and development budget for specific projects. These earmarks will hinder the Coast Guard's efforts to better surveil our ports, create new technologies to detect explosives and weapons of mass destruction, and develop non-lethal technologies.

The statement of managers earmarks \$1,000,000 to support the continued development, demonstration, and evaluation of engineered wood composites at Coast Guard facilities. The statement of managers also earmarks \$1,000,000 for a pilot project to test automatic search and rescue spectral imaging technology for Coast Guard C-130 aircraft solely located at Kalaeloa, Hawaii.

Once again we are seeing an Appropriations Bill attempting to circumvent the authorization process. This bill would limit the funding for Coast Guard flag officers to 37. The Coast Guard is authorized under Title 14 to have 48 flag officers and currently has 37 flag officers on active duty. As the Coast Guard grows in size to meet its new homeland security missions it will not have any of its authorized flexibility to promote additional flag officers. If there is a concern that the Coast Guard has too many flag officers, then that concern should be raised through the Commerce Committee.

The bill authorizes the Coast Guard Yard at Curtis Bay, Maryland and other Coast Guard specialty facilities designated by the Commandant to enter into joint public-private partnerships and in doing so may enter into agreements, receive, and retain funds from and pay funds to such public and private entities, and may accept contributions of funds, materials, services, and the use of facilities from such entities. This provision

would enable the federally subsidized Yard to indirectly compete with private industry for shipbuilding contracts. This is authorization language pertaining to the Coast Guard Yard that is clearly within the jurisdiction of the Commerce, Science, and Transportation Committee. Nonetheless prior to the consideration of this legislation by the Appropriations Committee, it did not consult with or notify either the Commerce, Science, and Transportation Committee concerning the changes in law.

Mr. MCCAIN. I yield the floor.

Mr. STEVENS. Mr. President, the Senator from Nevada had an inquiry. I yield to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Just so the two leaders know, does the Senator from Illinois know for how long he wishes to speak?

Mr. DURBIN. I ask the Senator from Nevada what the plans are for this evening?

Mr. REID. What we are working toward is having final passage on the bill this evening, if all things work out right.

Mr. DURBIN. I certainly don't want to delay final passage.

Mr. REID. Why doesn't the Senator proceed.

The Senator from Georgia also wishes to speak for 3 minutes?

Mr. STEVENS. Yes.

Mr. REID. Why don't we have the Senator from Georgia speak first for 3 minutes, and then the Senator from Illinois speak. If the managers want to speak then, they can do so. I so ask unanimous consent.

Mr. STEVENS. It is 5 minutes and 3 minutes, is that correct?

Mr. REID. He's going to stop whenever you want him to.

Mr. STEVENS. All right.

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

Mr. CHAMBLISS. Mr. President, I don't think I will take my full 3 minutes. I just want to rise and say that while, Mr. Chairman, I am going to vote for the omnibus bill, I am really disappointed with the agriculture disaster portion in this omnibus bill. On the Senate side, we debated and discussed this issue at length. The chairman of the Senate Agriculture Committee, who is also chairman of the Senate Agriculture Appropriations subcommittee, I thought did an excellent job of putting together a package that accomplishes the goal of getting funds immediately in the hands of farmers all across America. My farmers have had 5 rough years back to back, and they need money now.

Under the provisions that came out of the conference committee, which was basically the House provision, farmers across America are not going to be getting funds until probably August, September, or October. Farmers are going to be out of business if they don't get relief now. To pass this provision in this bill I think is the wrong approach. I don't like that provision in the bill. I do support it. I know the

chairman had a very difficult time with this particular issue as well as other issues, but I think that is wrong and I wanted to register my objection. I yield back my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, as a member of the Senate Appropriations Committee, I know the amount of labor and work that goes into the preparation of a bill of this magnitude. I also know when you postpone the orderly process of passing spending bills and wait an extra 4 or 5 months, there is an opportunity for mischief. I think only in time will we be able to sift through 1,600, 1,800, 2,000 pages of this bill to find out in painful detail what is included.

There are several things that have come to my attention. I would like to draw them to the attention of my colleagues here in the Senate.

Let me start by saying there is one issue most people don't like to talk about and I am going to raise this evening because I think it is critically important. The District of Columbia is a city which is governed by a mayor, a city council, and 535 wannabe mayors in the Congress.

It seems that every Member of the House or Senate who wanted to be a mayor at some time in their lives decided at some point to make a decision for the District of Columbia. I think that is unfortunate. The people of this city, like every city, have a right to govern themselves. Occasionally that intrusion of congressional mischief can reach a perilous state. Let me give an example.

The AIDS rate for the AIDS disease in our Nation's Capital is the highest in the country. It is 10 times the national average. More and more women are being diagnosed with AIDS in Washington, DC. DC health officials reported last October 616 new AIDS cases in 2001 alone, 33 percent among women. In 1981 women only accounted for 7 percent of AIDS cases.

City health officials in Washington estimate 40 percent of AIDS cases are associated with injected drugs.

The question is, how can we stop this AIDS epidemic in the Nation's Capital, which is not only infecting more and more women and children, but appears to be out of control. Frankly, there are programs that work. One of the programs is not popular to talk about. Most of my colleagues run away from it, but you cannot run away from reality. It is a needle exchange program. It is a program that invites addicts in, in an effort to try to first give them a needle that is clean, and then bring them into rehabilitation so they can stop their addiction.

There are those who say don't give them clean needles because they will just keep using them. But you know what they will use, they will use dirty needles and pass the AIDS epidemic on and on and on.

I am not expert in this area. I get squeamish talking about needles and

injections. But the fact is, the people who are experts, the American Medical Association and medical officials, have said it works. Put these programs on the street corners and in the storefronts of Washington, DC, and we can start reducing the AIDS infection rate in our Nation's Capital.

There is no reason in my mind why the people of the District of Columbia should not be able to use their own money to try this approach to reduce drug addiction and reduce the AIDS epidemic in their hometown.

Across the United States, there are programs in many States. But sadly enough, the Members of the House of Representatives have put in a provision that prohibits the District of Columbia from even using its own tax dollars to in any way support this kind of project.

Some of the very congressmen who beat on the desk and beat on their chest and talk about how they are going to fight these needle exchange programs represent districts and States where these programs take place today. This is a sad outcome in this bill. I hope those who reflect on it will realize they are taking some high and mighty moral position and people will die because of it.

Stand by the doctors, stand by the professionals. Stop playing mayor and city council for the District of Columbia. Sadly, this appropriation continues to do so.

Exhaustive scientific review has found that needle exchange programs are an effective way to slow the spread of HIV and AIDS. In a speech last September, Dr. Joseph O'Neill, Director of the Office of National AIDS policy indicated that the administration did not oppose the use of state and local funds to support needle exchange programs.

The American Medical Association, the American Nurses Association, the American Association of Pediatrics, and the American Public Health Association endorse these programs. The Institute of Medicine identified access to sterile syringes as one of four "unrealized opportunities" in HIV prevention in a publication issued last year. The IOM committee recommends that the Administration "rescind the existing prohibition against the use of Federal funds for needle exchange to allow communities that desire such programs to institute them using federal resources."

Former Surgeon General David Satcher, MD stated that:

There is conclusive scientific evidence that syringe exchange programs, as part of a comprehensive HIV prevention strategy, are an effective public health intervention that reduces transmission of HIV and does not encourage the illegal use of drugs.

Former Surgeon General C. Everett Koop, MD concluded that needle exchange programs are an "effective means of preventing the spread of the disease [HIV/AIDS] without increasing the used of illicit drugs." He called limiting the use of state and local

funds for these programs "counter-productive."

The Centers for Disease Control and Prevention estimated that there were 156 needle exchange programs operating in the United States in 81 cities and 31 States last year, many of which receive state and local financial support for their activities. None of these programs receive Federal support at this time.

The CDC publication also indicated that 95 percent of needle exchange programs in operation referred clients to substance use treatment and counseling programs, and over half provide on site voluntary HIV testing and more than a quarter also screen for hepatitis B and C.

In 2000, four needle exchange programs were functioning in my home state of Illinois.

In spite of the overwhelming support from public health and medical professionals, we here in Congress have once again prevented the District of Columbia from using its own local funds to finance these lifesaving programs. I was pleased that the Omnibus Appropriations bill passed by the Senate allowed the District of Columbia to use LOCAL funds to finance a needle exchange program. Washington, DC has one needle exchange program, Prevention Works, that is supported with private funding. Both the Mayor and Police Chief support the program.

However, I am deeply disappointed to learn that the conference report we are considering today maintains the irresponsible status quo, which prevents the District from using its own locally generated revenue to finance needle exchange programs.

This conference report disregards the expert opinions of former Surgeon Generals David Satcher and C. Everett Koop, leading medical and public health organizations, the Director of the Office of National AIDS policy and the Institute of Medicine.

It is my sincere hope that next year we will stop politicizing this issue and recognize that the District of Columbia, just like all of our home states and districts, deserves to have all possible resources at its disposal to combat this devastating public health crisis.

The same is true when it comes to attorneys' fees for special education. Think about this. In every school district in America, if you have a disabled child and want that child to have an education, you have a right to say to the school district: Here is my child who needs the education. If the school district contests it and says this child doesn't have a disability and we are not going to pay for a special ed teacher, you have a right to appeal that decision. That's the case across America.

Sometimes, because it is complicated and expensive, attorneys are involved to represent the parents and the school district and to resolve their differences. It happens every day across America.

In the District of Columbia it has gotten out of hand. Some law firms—

only a few—have exploited the parents of disabled children and turned in attorneys' fees requests to the District of Columbia public school system that are way out of line. Some of these firms have become shady operations that offer not only attorney counseling, but special education services, a package that raises many suspicions.

Senator KAY BAILEY HUTCHISON and I have debated this over and over again as to whether to cap the fees that can be paid to attorneys and what to do about it. In the Senate we raised the cap on attorneys' fees for DC special education to \$4,000 maximum per case. I hope that is enough to take care of these cases. But I will tell you I do not believe we should be imposing a cap on attorneys' fees. The parents of these poor children who are disabled should not be denied legal representation.

I am happy Senator HUTCHISON and I could agree on limiting the attorneys' activities so those questionable activities, those criminal activities will stop. But I think we should put an end to this cap on attorneys' fees and say to the DC public school system once and for all, for goodness sakes, offer kids with disabilities the kind of special education opportunities that are available across America. This provision capping attorneys' fees in this appropriation bill I think is a mistake.

Not only are such caps an intrusion on home rule and local spending prerogatives, I do not believe that imposing a cap on payment of attorneys' fees is the way to address significant and long-standing problems with the delivery of special education services to children in the District of Columbia. These fees arise because parents are forced to bring due process actions against the city school system—and the parents win their cases.

It is unacceptable for Congress to impose a dollar cap on how much the City may pay attorneys who win these cases, particularly after a judge has awarded a fee based on a reasonableness standard. However, I do support language in this bill which addresses concerns about particular attorneys who have shamelessly taken advantage of the system.

I support a complete bar on paying attorneys' cases in which the District's Chief Financial Officer, CFO, determines that an attorney, officer, or employee of the firm has a pecuniary interest in any special education diagnostic services, schools, or other special education service providers.

Furthermore, I believe the provisions in the Senate bill which mandate stronger ethical standards are appropriate.

I support the provisions in the bill dictating that the District's CFO require disclosure by attorneys in IDEA cases of any financial, corporate, legal, board membership, or other relationships with special education diagnostic services, schools, or other special education service providers before paying any attorneys' fees; that the CFO may

require certification by counsel that all services billed in special education were rendered; that the CFO report to Congress quarterly on the certifications and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA; and that the District's Inspector General may audit the certifications to ensure attorney compliance.

It is my hope that these provisions will produce needed accountability. I am glad they were retained in the final product.

I am disappointed, but not surprised, that the cap remains in this final version of the bill. I share the sentiment that abuses of this program need to stop. I want to work to address that problem and to figure out why the District has had such perennial problems with its ability to meet the needs of its children in special education.

But it is wrong for this Republican Congress to deprive children of legal recourse when they are denied services to which they are entitled. It is wrong for the Republican Congress to preclude the District of Columbia from using its own funds to make all legitimate payments in this critical special education program.

There is another provision that was slipped in this bill as it relates to the Bureau of Alcohol, Tobacco and Firearms and the Freedom of Information Act. This provision is an enormous setback to the efforts of State and local governments to combat illegal firearms trafficking. It undermines the very purpose of the Freedom of Information Act.

This act entitles citizens to open access to Government records, prevents the Government from shielding its activities from public scrutiny. The City of Chicago, which I represent, filed a Freedom of Information Act request to obtain information about the ATF trace database. The purpose, of course, is to determine which gun sellers and manufacturers were responsible for selling guns to criminals.

In response to these rulings, the gun industry went to the House Appropriations Committee and asked for a rider in this bill to prevent the ATF from complying with the FOIA request and telling the City of Chicago and the public what they were doing.

This provision sets a dangerous precedent because it essentially directs a Federal agency not to comply with the Federal court ruling, thus undermining the very purpose of FOIA. If litigants can be denied information under FOIA through legislative action—even when a Federal court has upheld this request—FOIA itself is in jeopardy.

There is no cost justification for this. This doesn't have anything to do with appropriations. This is an effort by the gun industry to stop cities that are ravaged by gun crime from going after the irresponsible gun dealers who are

selling guns to criminals. And the NRA and the gun industry are shielding them with this rider in the appropriations bill.

I was joined by Senators JACK REED and TED KENNEDY in urging that this provision not be included. Unfortunately, it was.

Let me acknowledge also, as has been said by some of my colleagues, that I am very concerned about the language of funding for homeland security in this bill. The Senate, in its version of this bill, added almost \$4 billion in homeland security funds to be sent back to the State and local governments to protect America. As I stand and speak on the floor of the Senate, we are warning families across America that we are in orange alert and that they have to take special precautions to protect themselves and their children from the possibility of biological and chemical warfare and dirty radioactive bombs.

Sadly enough, we are not providing the resources for the State and local governments to meet this challenge. Make no mistake, America is prepared to attack in the Middle East, but America is not prepared to defend itself at home. That is a sad reality. This bill cuts out almost \$4 billion that would have gone for some very important purposes: Additional money for the Transportation Security Administration for monitoring airports; additional money for the INS and border security to stop those from coming in this country who are bent on bad behavior; community policing grants to try to help communities have someone on the other end of the line when you dial 9-1-1, cut \$130 million; FEMA disaster recovery assistance, cut by \$1 billion; the Department of Justice Office of Domestic Preparedness, cut by \$1 billion; firefighter grants, cut by \$150 million; interoperable communications equipment grants, cut by \$235 million—the No. 1 priority in my State so that the police and firefighters and medical first responders can communicate, cut in this appropriations bill from the Senate level.

These cuts, frankly, came at the request and with the approval of the White House and the Office of Management and Budget.

Emergency Operation Center, cut nationwide by \$155 million; port container security, cut by \$45 million; port technology demonstration projects so that we can see dangerous cargo coming in these ships, cut by \$1 million; explosives training initiative, cut by \$7 million; and \$42 million from embassy security.

I pray to God that nothing happens to this country as a result of terrorism. But I think we have been derelict in our duty to provide the resources to State and local governments to protect families and to protect communities and businesses across America. This bill, with its \$4 billion in cuts off the Senate level, leaves us in a precarious situation and one that I hope does not

come back to haunt us in years to come.

Let me conclude on a positive note. I thank the Senator from Alaska. Despite these words of critique, I personally appreciate, as does Senator DEWINE, the personal interest and initiative he took in the global AIDS epidemic. His decision on the floor to approve an amendment which we offered is going to mean that thousands and maybe more will have their lives saved. I thank the Senator from Alaska. He has been a leader on this issue all the way. We have reached a 42-percent increase in funding to fight the global AIDS epidemic through his cooperation and leadership. I thank him very much.

I yield the floor.

I ask unanimous consent that a statement entitled "Underfunding Homeland Security" be printed in the RECORD.

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

#### UNDERFUNDING HOMELAND SECURITY

At a time when the Administration is ramping up for war overseas, one would think we would be doing everything possible to fortify our security at home as well.

That's certainly what the Administration has led us to believe, but oddly enough, we're poised to pass this 1100 plus page omnibus bill that slashes funding for the pillars of homeland security.

And after cutting funds for first responders, for airport security improvements, for community police officers and more, what do they propose? That Americans fortify their own homes with duct tape and plastic sheets. This Administration can and must do better to protect the safety of the American people.

This bill leaves significant gaps in funding for homeland security priorities.

The Republican-controlled conference committee rejected increases in homeland security funding that were approved unanimously last year by a Democratic-led Appropriations Committee. Instead, the Republican-controlled conference imposed an additional 0.65 percent across-the-board cut to all federal programs, leaving already cash-strapped initiatives in even greater need. The results of the cumulative cuts, which total more than \$4.4 billion, include:

**First Responders:** This bill cuts \$2.98 billion from activities designed to aid first responders. Cuts include a \$1.59 billion reduction for the Federal Emergency Management Agency (FEMA)—including a \$150 million cut to firefighter grants—as well as a \$235 million cut to funds for police and firefighters to purchase communications equipment and a \$155 million cut to fund emergency operations centers.

**Police/Law Enforcement:** The bill reduces funding for Community Oriented Policing (COPS) public safety and community policing grants by more than 40 percent—from \$330 million to \$200 million. This cut would completely eliminate funding needed to hire 1,360 community-based police officers.

**Aviation/Port Security:** The bill cuts \$170 million from Transportation Security Administration (TSA), impeding efforts to improve airport security, and cuts \$46 million from port security funds. The bill also makes cuts to the U.S. Customs Service, resulting in the loss of more than 200 employees and compromising the implementation of the Container Security Initiative and other homeland security efforts. The INS/border security budget is also reduced by approximately \$182 million.

Other Cuts: The bill also cuts programs to train state and federal law enforcement and security personnel by nearly \$50 million, including a \$7 million cut to the Explosives Training Initiative and \$42 million to embassy security.

A supplemental appropriations bill would be necessary to provide funding adequate to meet the homeland security needs of localities across the country in advance of any military action in Iraq.

## ILLINOIS

States and localities are still waiting for the funds promised to them. The States have legitimate concerns. There's a lot of brave talk about fighting terrorism, but when it comes to paying for it, this administration has not delivered.

In my home State of Illinois, we have an Illinois Terrorism Task Force (TTF). This is a collective body representing 50 agencies addressing emergency needs throughout the state of Illinois. They have told me that a minimum of \$100 million is required to cover security expenses in Illinois for FY03.

The Terrorism Task Force originally asked for \$320 million in federal funding and then scaled back its request to the current level (\$100 million) in anticipation of federal budget cuts.

According to the TTF director Mike Chamness, these funds are crucial to Illinois' ability to properly address the threat of terror.

Without these dollars, programs designed to secure Illinois will cease to exist.

First responders will be ill-equipped and prepared to address emergency situations.

Major items in the TTF's \$100 million request include:

\$25 million for first responders' respiration equipment upgrade (nuclear, biological, and chemical).

\$14.4 million for communication systems (interoperable communications equipment for police, firefighters, and state/local emergency operations centers).

Elite Terror Response Team: under current funding Federal monies have not been available to send teams for the "Elite Response" training.

It is imperative that my home state of Illinois—like every other State in this nation—provides their front-line first responders the best equipment, the essential tools, and the finest training available. We rely on their readiness and should expect nothing less. These funds are needed sooner, not later.

## CITY OF CHICAGO

Now let me tell you about the funding needs for Homeland Security in the City of Chicago.

The City of Chicago had made an assessment of total budget needs for homeland security at around \$175 million.

The top ticket item in Chicago is the Chicago public safety radio migration plan which is estimated to cost \$80 million.

The migration allows for all agencies to communicate in an interoperable manner on a daily basis without major equipment modification or complicated system changes.

Among other important needs are:

Emergency Responder Training and Equipment—\$7.9 million. CPD is requesting first responder training, first responder equipment and secondary responders unit training.

Emergency Operations Center Expansion—\$10 million. This expansion will provide incident manager with real-time live video, satellite imagery, building X, Y, and Z coordinates and other state of the art technologies.

Hazardous Materials Equipment—\$7 million. The Chicago Department of Environment is requesting hazardous materials response equipment for any large, widespread or egregious hazardous incident.

## NEED TO DO MUCH MORE THAN DUCT TAPE &amp; PLASTIC

We can't stand up and say we're truly doing everything we can to ensure that our cities and counties, bridges and roads, airplanes and trains are as secure as possible and that our fellow Americans are safe on our soil if this bill is what represents the level of our commitment to fund programs to ensure homeland security.

I fully expect the President to come back to Congress and ask for additional funds to support our military needs overseas. Without question, we must address these needs. But it would be unconscionable to increase funding for military activities in Iraq and neglect our security needs at home. If war comes with Iraq, the battle lines will be expanded to include our country. We simply cannot afford to leave American citizens unprotected.

## ATF/FREEDOM OF INFORMATION ACT PROVISION (RE: CITY OF CHICAGO LAWSUIT VS. GUN INDUSTRY)

Another provision slipped in to the appropriations bill at the last minute involves the Bureau of Alcohol, Tobacco and Firearms and the Freedom of Information Act.

This provision would be an enormous setback to the efforts of state and local governments to combat illegal firearms trafficking and would undermine the very purpose of the Freedom of Information Act.

The Freedom of Information Act entitles citizens to open access to government records and prevents the government from shielding its activities from public scrutiny.

The City of Chicago filed a FOIA request to obtain information from an ATF trace database. A U.S. District Court and the U.S. Court of Appeals for the Seventh Circuit ordered the ATF to release these records.

In response to these rulings, the gun industry went to the House Appropriations Committee and asked for a rider to prevent the ATF from complying with this FOIA request.

This provision sets a dangerous precedent because it essentially directs a federal agency not to comply with a federal court ruling, thus undermining the very purpose of FOIA. If litigants can be denied information under FOIA through legislative action—even when a federal court has upheld the request—FOIA itself is in jeopardy.

There is no cost justification for this provision. The City of Chicago demonstrated in its litigation that it would take the ATF less than 10 minutes to assemble and release the data it has requested.

I was joined by Senators Reed and Kennedy in urging that this provision not be included, and I am disappointed that it was.

In the past, I have challenged the Senate and the President to back up the high priority we have placed on the global AIDS pandemic with adequate resources.

[Senator DeWine has even called me a "bull dog" on this issue. I took that as a great compliment.]

This 2003 appropriations process demonstrated that the Senate does indeed recognize the need for increased resources to fight global AIDS.

In December, I, and 15 other Senators, sent a letter to appropriators asking them to increase overall AIDS spending by 50 percent over 2002 levels. At the time we were looking for an increase of \$236 million.

While facing \$9-\$10 billion in cuts throughout the FY 2003 appropriations bill, the Foreign Operations Subcommittee responded to this request, and managed to find an additional \$41 million for global AIDS.

The Senate Labor, Health and Human Services Subcommittee agreed to match House approved levels, increasing the funds going to the CDC's Global AIDS Program by about \$15 million.

While this increase of \$56 million was welcome, unfortunately, it was not enough.

Senator Mike DeWine and I set out to achieve that 50 percent increase, and through a floor amendment to the omnibus bill, sought another \$180 million to bring overall spending on Global AIDS to \$1.525 billion.

This amendment was accepted—its success demonstrates the Senate's sincere commitment to fighting global AIDS.

\$100 million of these funds were slated for the U.S. contribution to the Global Fund—the world's primary organization to monitor and support worldwide AIDS prevention, treatment and care programming.

And the remaining \$80 million would go to USAID global AIDS programs.

Well, during conference, we lost \$80 million of the \$180 million total. But, nevertheless, I count this as a victory for the global AIDS pandemic.

In the end, an additional \$50 million was secured for the Global Fund, bringing the U.S. contribution up to \$350 million for 2003, and an additional \$50 million went to bilateral programs.

This omnibus bill designates \$1.2 billion for global AIDS. That is a 46 percent increase over what Congress appropriated in 2002.

The President's 2003 budget request suggested an increase in funding of global AIDS funding of 29 percent. I would say we have come a long way.

We will need this type of increase—at least a 50 percent increase—each year until we can close the gap between expenditures and resources necessary to fight this pandemic.

The President's FY04 budget request amounts to an increase of only 32 percent over the \$1.4 billion the U.S. will spend overall on global AIDS in 2003.

[This bull dog] I will be back, asking that at a minimum we achieve a 50 percent increase in global AIDS funding each year for the next few years.

We must continue to do more for the 42 million people worldwide who are living with HIV/AIDS and prevent a good portion of those that will become newly infected in 2003.

During the last ten minutes I have been speaking, approximately 58 people have died from AIDS, 11 of those were children.

A 15-year-old boy in Botswana faces an 80 percent chance of dying of AIDS.

By 2010, it is estimated that sub-Saharan Africa alone will be home to 20 million AIDS orphans; that's 20 million children who have lost one or both parents due to AIDS.

We must act now to help those who today suffer from the impact of HIV/AIDS as well as to change the future of today's children.

We know the situation is dire. We have data to support what program work. Now its time to fund the programs that work.

The 2003 appropriations bill helps us to take yet another tiny step forward in fighting global AIDS.

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

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

## ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent, under the previous