Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the matter of the order governing the amendment of the Senator from Texas be set aside so that I may offer an amendment.

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

AMENDMENT NO. 80

(Purpose: To defer section 8 assistance for expiring contracts until October 1, 1999)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 80.

Inset on page 43, after line 15:

''PUBLIC AND INDIAN HOUSING

''HOUSING CERTIFICATE FUND

''(DEFERRAL)

''Of the funds made available under this heading in Public Law 105–276 for use in connection with expiring or terminating section 8 contracts, $350,000,000 shall not become available until October 1, 1999.''.

On page 42, strike beginning with line 10 through the end of line 21.

Mr. STEVENS. Mr. President, this is an amendment that deals with the provision in the bill that was reported from the committee that deferred spending from the temporary assistance to needy families account.

This will defer, instead, monies from the section 8 fund of HUD. There is approximately $1.2 billion in that account. This will defer for 1 year the use of $350 million in that account. It replaces the TANF amendment in the bill. Under that amendment, we deferred until 2001 the availability of funds which are transferred to the States.

Because of the misunderstanding about that fund, I want to explain why we use that fund in the first place. I am once again alarmed over the misinformation that has been spread by some people in that entity, that agency, to try and make it look like somehow or other we took monies away from States or any specific State.

In the first place, these grant awards are made quarterly. Actual cash outlays are made, but they are not transferred to the States until the States make expenditures in their TANF programs, the Temporary Assistance to Needy Families. In other words, the States first make the payments, and we pay it back. Some people, in the House in particular, have said this a way that the States can use this money for a piggy bank. In no way can they take this money and put it into another bank account and draw interest on it if they comply with the law. That is one report I have heard—that we are preventing States from taking the money to put it into their own accounts.

We checked and we found that there was between $3 billion and $3.5 billion at the close of fiscal year 1998 in this fund. There are two quarters that have not even been distributed yet of this fiscal year 1999. And it is clear that the States have spent some money, and there is plenty of money to meet the States' expenditures and their requests for reimbursement of those expenditures. But this is not a fund that the States can come to willy-nilly and transfer the funds to their accounts.

Secondly, Mr. President, we deferred this money from obligation in this fiscal year—really until 2001, October 1, 2001.

The States would not—the bill that was reported from the committee—lose any of their funds. We, pursuant to the entitlement that was authorized, agreed that Federal funds, taxpayers' funds, in the amount of $16.5 billion, from 1997 through 2002, would be placed in this account, to be available to reimburse States for the expenditures they made for Assistance to Needy Families.

Nothing in what the Appropriations Committee did harmed that program at all. But because by October 1 another $16.5 billion would have been added to $3 billion to $3.5 billion in that account—and there has never been a drawdown at the rate that would make those funds needed within that period of time.

This is not a rainy day fund. We have been told that some people have said that States take these monies and put them in a rainy day fund to use at a later date. But the law says they can only get them to reimburse expenditures. If the administration is allowing this fund to be used as a rainy day account or a piggy bank account, it is wrong.

We have had so many calls from so many States, including my own. And I see the Senator from New York is here, and I know that they have been besieged because of their population base. Of course, they are eligible for more money from this account, more than anyone other than California. But it depends on how much they spend before they can get it back.

We made the decision to offset this bill. This is the first time we have offset totally a supplemental emergency bill. I have said to our committee, we ought to offset emergency funds with prior appropriated emergency funds and nonemergency funds with nonemergency prior appropriated funds. I think we are going to have a little discussion about that here on the floor.

But clearly what we have done, Mr. President, is we have used this bill to reprogram prior appropriated funds. These funds that were appropriated to the TANF account are sitting there waiting for the States to spend money and then come and ask for it to be repaid. The process is so rapid that the administration has not paid the first two quarters of this year yet. So this is not something we have interfered with by deferring money until the second fiscal year. Because, as I said, this account would get $16.5 billion credited to it on October 1.

What we have done is, in order to avoid this controversy—and we do not need a controversy on this bill. We need to get it done. This bill, in my opinion, is a very important bill. It will provide money for assistance because of a great natural disaster in a neighboring country in this hemisphere. The President asked us to declare that an emergency. We have taken the declaration of emergency through as far as the outlay categories are concerned, because it is very difficult to score under the budget process outlays that come from emergency accounts.

We have not taken an emergency declaration through on those things that we believe are nonemergency in terms of the authorization process. So by that I mean, I fail to understand how we should extend the concept of emergency appropriations to natural disasters off our shores. We should be able to find the money, if we want to be good humanitarian members of this hemisphere, to assist our neighbors.

I believe we should assist them. But I do not believe we should use the laws that were intended to demand taxpayers' funds immediately to meet natural disasters or declared emergencies by the President of the United States within the boundaries of our United States.

So Mr. President, I offer this amendment in the spirit of compromise, to try and take away this battle that I saw coming over the use of TANF funds. No one supports the concepts of this Temporary Assistance to Needy Families. We all know it replaced the old Aid to Families with Dependent Children, the AFDC program, that assisted so many States, including mine for so many years.

But this now is a block grant program that works in conjunction with the welfare-to-work concepts, and that is very vital for the States. We know that. And I think the fear that was engendered in those States that somehow or other we might not keep the commitment that was made, that if they make those expenditures we would repay them according to the formula under the law that was passed in 1996, the Welfare Reform Act, is unfortunate and wrong.

I hope that someone in the administration is listening. One of these days I will find some way to tweak the nose of the people who keep doing this, because they did it in the terms of border guards last week, and now they are doing it in terms of the States themselves in terms of the comments that have been made that somehow or other we were taking money that the States were entitled to; we were deferring money that they were entitled to,

which they would never get under the process of the law anyway until the time we deferred the expenditures.

As a matter of fact, some people on this side of the aisle have argued with me to say this is not a full offset because I know that I am offsetting the expenditures under this bill against a fund that would never be expended this year. That is partially true. That is why we have declared an emergency, as far as the outlays, and we have admitted that, and we have said that is the only way we can do it. But we need to do it. I hope, in particular, my new friend from New York will understand that we are doing this to meet his objections and others, and we do so in the spirit of compromise.

Thank you, Mr. President.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President.

First, I want to, on behalf of Senator MOYNIHAN and myself, thank Chairman STEVENS, as well as Senator BYRD, for their assistance in removing the $350 million offset from the TANF, Temporary Assistance for Needy Families, account, which would have deferred the funds until 2002.

Mr. President, I and many others in New York feared that this offset set us off on the wrong course, that it would run counter to the intention of the welfare reform bill which allowed States to set aside TANF funds for use at a later date when welfare rolls would rise, such as during a future recession.

My State, as the chairman knows, was particularly affected. The State was the source of nearly a quarter, about $80 million, of the $350 million that was offset. So I am pleased that the alternative offset would shift some HUD funds from one fiscal year to the next, funds that never would have been used. We have checked with both the administration as well as our side on Housing and on Banking and on Appropriations, and they agree with that.

I say to the chairman that I appreciate very much the spirit of compromise in which this was offered. I understand his view and I will bring that message back to our State. The people of New York will now be breathing a sigh of relief that this has been replaced.

I also thank the Senator from Pennsylvania, Mr. SANTORUM, who worked with me on this. He found his State in a similar position as ours. At least for my first foray into the Senate legislative process, it has been a bipartisan and productive effort. For that, I very much thank the chairman for his understanding of our needs and yield back the remainder of my time.

Mr. STEVENS. Mr. President, I am going to ask for adoption of the amendment but I will not move to reconsider because there may be some who want to discuss this, too. I will make a motion to reconsider this later today. May I reserve the right to make that later today?

The PRESIDING OFFICER. That motion can be made today or any of the next 2 following days.

Mr. STEVENS. I shall make it this afternoon, and I ask for the adoption of the amendment.

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

The amendment (No. 80) was agreed to.

AMENDMENT NO. 81

(Purpose: To set forth restrictions on deployment of United States Armed Forces in Kosovo)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 81.

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

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

The amendment is as follows:

On page 58, between lines 15 and 16, insert the following:

TITLE ____ RESTRICTIONS ON DEPLOYMENT OF UNITED STATES ARMED FORCES IN KOSOVO

SEC. ___01. SHORT TITLE.

This title may be cited as the ''_____ Act of 1999''.

SEC. ___02. DEFINITION.

In this title, the term ''Yugoslavia'' means the so-called Federal Republic of Yugoslavia (Serbia and Montenegro).

SEC. ___03. FUNDING LIMITATION.

(a) LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense, including funds appropriated for fiscal year 1999 and prior fiscal years, may be obligated or expended for any deployment of ground forces of the Armed Forces of the United States to Kosovo unless and until—

(1) the parties to the conflict in Kosovo have signed an agreement for the establishment of peace in Kosovo;

(2) the President has transmitted to Congress the report provided for under section 8115 of Public Law 105–262 (112 Stat. 2327); and

(3) the President has transmitted to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(A) a certification—

(i) that deployment of the Armed Forces of the United States to Kosovo is in the national security interests of the United States;

(ii) that—

(I) the President will submit to Congress an amended budget for the Department of Defense for fiscal year 2000 not later than 60 days after the commencement of the deployment of the Armed Forces of the United States to Kosovo that includes an amount sufficient for such deployment; and

(II) such amended budget will provide for an increase in the total amount for the major functional budget category 050 (relating to National Defense) for fiscal year 2000 by at least the total amount proposed for the deployment of the Armed Forces of the United States to Kosovo (as compared to the amount provided for fiscal year 2000 for major functional budget category 050 (relating to National Defense) in the budget that the President submitted to Congress February 1, 1999); and

(iii) that—

(I) not later than 120 days after the commencement of the deployment of the Armed Forces of the United States to Kosovo, forces of the Armed Forces of the United States will be withdrawn from on-going military operations in locations where maintaining the current level of the Armed Forces of the United States (as of the date of certification) is no longer considered vital to the national security interests of the United States; and

(II) each such withdrawal will be undertaken only after consultation with the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives;

(B) an explanation of the reasons why the deployment of the Armed Forces of the United States to Kosovo is in the national security interests of the United States;

(C) the total number of the United States military personnel that are to be deployed in Kosovo and the number of personnel to be committed to the direct support of the international peacekeeping operation in Kosovo, including ground troops, air support, logistics support, and intelligence support;

(D) the percentage that the total number of personnel of the United States Armed Forces specified in subparagraph (C) bears to the total number of the military personnel of all NATO nations participating in the international peacekeeping operation in Kosovo;

(E) a description of the responsibilities of the United States military force participating in the international peacekeeping operation to enforce any provision of the Kosovo peace agreement; and

(F) a clear identification of the benchmarks for the withdrawal of the Armed Forces of the United States from Kosovo, together with a description of those benchmarks and the estimated dates by which those benchmarks can and will be achieved.

(b) CONSULTATION.—

(1) IN GENERAL.—Prior to the conduct of any air operations by the Armed Forces of the United States against Yugoslavia, the President shall consult with the joint congressional leadership and the chairmen and ranking minority members of the appropriate congressional committees with respect to those operations.

(2) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(i) the Committee on Appropriations, the Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(B) JOINT CONGRESSIONAL LEADERSHIP.—The term ''joint congressional leadership'' means—

(i) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(ii) the Majority Leader and the Minority Leader of the Senate.

SEC. ___04. REPORT ON PROGRESS TOWARD MEETING BENCHMARKS.

Thirty days after the date of enactment of this Act, and every 60 days thereafter, the President shall submit to Congress a detailed report on the benchmarks that are established to measure progress and determine the withdrawal of the Armed Forces of the United States from Kosovo. Each report shall include—

(1) a detailed description of the benchmarks for the withdrawal of the Armed Forces from Kosovo;

(2) the objective criteria for evaluating successful achievement of the benchmarks;

(3) an analysis of the progress made in achieving the benchmarks;

(4) a comparison of the current status on achieving the benchmarks with the progress described in the last report submitted under this section;

(5) the specific responsibilities assigned to the implementation force in assisting in the achievement of the benchmarks;

(6) the estimated timetable for achieving the benchmarks; and

(7) the status of plans and preparations for withdrawal of the implementing force once the objective criteria for achieving the benchmarks have been met.

SEC. ___05. STATUTORY CONSTRUCTION.

Nothing in this title restricts the authority of the President to protect the lives of United States citizens.

Mr. STEVENS. Mr. President, I ask unanimous consent the amendment now be laid aside and no call for regular order, except one made by myself or the mover of the amendment, the Senator from Texas, serve to bring back the pending amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

AMENDMENTS NOS. 82 THROUGH 88, EN BLOC

Mr. STEVENS. Mr. President, I have a package of amendments that have been cleared and I would like to say for the record what they are. They are:

An amendment by Senator MCCAIN to extend the Aviation Insurance Program through May 31, 1999.

An amendment by Senator GRASSLEY providing $1.4 million to expedite adjudication of civil monetary penalties by the Health and Human Services Appeal Board. It also provides for an offset for that amount of $1.4 million.

We have Senator SHELBY's amendment which makes a technical correction to title IV.

We have an amendment by Senator BYRD making a technical correction to the Emergency Steel Loan Guarantee Program in the bill.

An amendment by Senator FRIST and Senator THOMPSON providing $3.2 million for repairs to Jackson, TN, Army aviation facility damaged by a tornado in January. It also provides for an offset in the same amount.

An amendment by myself for a technical correction to the current year, 1999's Commerce-Justice-State bill, and provides for rules on the taking of Beluga whales.

I send these amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. MCCAIN, Mr. GRASSLEY, Mr. SHELBY, Mr. BYRD, Mr. FRIST and Mr. THOMPSON, proposes amendments numbered 82 through 88, en bloc, as follows:

AMENDMENT NO. 82

(Purpose: To extend the aviation insurance program through May 31, 1999)

At the appropriate place, insert the following:

SEC. 17. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 of title 49, United States Code, is amended by striking ''March 31, 1999.'' and inserting ''May 31, 1999.''.

AMENDMENT NO. 83

(Purpose: Expediting adjudication of civil monetary penalties by the Department of Health and Human Services Appeals Board)

On page 29, insert after line 10:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for ''general departmental management'', $1,400,000, to reduce the backlog of pending nursing home appeals before the Departmental Appeals Board.

On page 42, line 8, strike $3,116,076,000 and insert $3,114,676,000

On page 42, line 9, strike $164,933,000 and insert $163,533,000.

Mr. GRASSLEY. Mr. President, I am offering this amendment to speed up adjudication, by the appeals board of the Department of Health and Human Services, of appeals from nursing facilities of civil monetary penalties levied by the Health Care Financing Administration (HCFA) for violations of standards established pursuant to the Nursing Home Reform Act of 1987. Currently, there is a substantial backlog of some 701 such cases. Delay in final adjudication of such cases subverts the purpose and effect of civil monetary penalties, delaying corrective action, and improvements in the quality of care offered by nursing facilities. Delays in adjudication of these cases also burdens nursing facilities through additional legal fees and the perpetuation of uncertainty caused by unresolved disputes.

The number of such cases filed each year by nursing facilities has increased each year since 1995, the year when regulations for the Nursing Home Reform Act's enforcement standards went into effect. Currently, as I noted earlier in my statement, there are 701 such cases pending.

Mr. President, the steady increase in appeals of civil monetary penalties since 1995 shows the effect of increased use, by the States and HCFA, of the enforcement regulations which went into effect in 1995. Nevertheless, in hearings I held in the Special Committee on Aging last July, the General Accounting Office reported that nursing facilities providing poor quality of care regularly escaped sanctions which could cause care to be improved. The pattern seemed to be that a facility would be sanctioned for poor quality of care, be required to attest in writing through a plan of correction that steps had been taken to improve care, and then be found deficient on the next visit from State officials. This pattern often continued for long periods of time. And when sanctions such as civil monetary penalties were levied by HCFA, the sanctioned facilities would appeal, causing lengthy delays in final resolution of the case.

One week before my July hearings, President Clinton launched a variety of new initiatives designed to improve the quality of care in nursing facilities. Among those new initiatives was one designed to eliminate paper compliance with quality standards and to proceed more quickly to sanctions for those homes with a history of poor care.

The upshot of oversight by the Special Committee on Aging and the Presidential initiatives is that there has been a substantial increase thus far in 1999 of appeals of civil monetary penalties by nursing facilities.

Certainly, facilities have the right to appeal sanctions levied by HCFA. But it is also important that appeals be heard and resolved in a reasonable amount of time. Delay subverts improvement in the quality of care in nursing facilities as real deficiencies go uncorrected. Delay also slows the development of precedents which would clarify outstanding issues. Slow development of such precedents encourages facilities and their legal representatives to file appeals because guidance as to the worthiness of an appeal is lacking. And, as the body of precedents becomes more complete, adjudication of cases becomes speedier.

The root problem has been that the departmental appeals board does not have sufficient resources to keep up with the increase in new cases, to say nothing of working off the current backlog of cases. I am given to understand that, at the present time about 25 new cases are filed with the appeals board each week. As will be clear from the table I am attaching to my statement, the number of cases decided each year has averaged around 23 for the last 3 years. Clearly, the board is swamped and needs help.

The President's budget for fiscal year 2000 proposes $2.8 million for the board. Were the Congress to provide those funds, it will certainly take time for the appeals board to gear up and begin to speed up adjudication of appeals.We can't wait to begin addressing this problem, Mr. President. The amendment I offer would provide $1.4 million to be made available through the supplemental appropriation we are now considering. I have not proposed to provide the full $2.8 million the President's budget proposes for the next fiscal year because the appeals board could not effectively spend that amount in what remains of the fiscal year. Therefore, I have essentially prorated that amount over the time remaining in this fiscal year.

AMENDMENT NO. 84

At the appropriate place in the bill, insert:

SEC. . TITLE 49 RECODIFICATION CORRECTION.—Effective December 31, 1998, section 4(k) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1370), as amended by section 7(a)(3)(D) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4329), is repealed.

AMENDMENT NO. 85

(Purpose: To make a technical correction)

On page 16, strike beginning with line 12 through page 23, line 8, and insert the following:

EMERGENCY STEEL LOAN GUARANTEE PROGRAM. (a) SHORT TITLE.—This section may be cited as the ''Emergency Steel Loan Guarantee Act of 1999''.

(b) CONGRESSIONAL FINDINGS.—Congress finds that—

(1) the United States steel industry has been severely harmed by a record surge of more than 40,000,000 tons of steel imports into the United States in 1998, caused by the world financial crisis;

(2) this surge in imports resulted in the loss of more than 10,000 steel worker jobs in 1998, and was the imminent cause of 3 bankruptcies by medium-sized steel companies, Acme Steel, Laclede Steel, and Geneva Steel;

(3) the crisis also forced almost all United States steel companies into—

(A) reduced volume, lower prices, and financial losses; and

(B) an inability to obtain credit for continued operations and reinvestment in facilities;

(4) the crisis also has affected the willingness of private banks and investment institutions to make loans to the U.S. steel industry for continued operation and reinvestment in facilities;

(5) these steel bankruptcies, job losses, and financial losses are also having serious negative effects on the tax base of cities, counties, and States, and on the essential health, education, and municipal services that these government entities provide to their citizens; and

(6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''Board'' means the Loan Guarantee Board established under subsection (e);

(2) the term ''Program'' means the Emergency Steel Guaranteed Loan Program established under subsection (d); and

(3) the term ''qualified steel company'' means any company that—

(A) is incorporated under the laws of any State;

(B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and

(C) has experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis, after January 1, 1998.

(d) ESTABLISHMENT OF EMERGENCY STEEL GUARANTEED LOAN PROGRAM.—There is established the Emergency Steel Guaranteed Loan Program, to be administered by the Board, the purpose of which is to provide loan guarantees to qualified steel companies in accordance with this section.

(e) LOAN GUARANTEE BOARD MEMBERSHIP.—There is established a Loan Guarantee Board, which shall be composed of—

(1) the Secretary of Commerce, who shall serve as Chairman of the Board;

(2) the Secretary of Labor; and

(3) the Secretary of the Treasury.

(f) LOAN GUARANTEE PROGRAM.—

(1) AUTHORITY.—The Program may guarantee loans provided to qualified steel companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board.

(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any 1 time under this section may not exceed $1,000,000,000.

(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified steel company may not exceed $250,000,000.

(4) MINIMUM GUARANTEE AMOUNT.—No single loan in an amount that is less than $25,000,000 may be guaranteed under this section.

(5) TIMELINES.—The Board shall approve or deny each application for a guarantee under this section as soon as possible after receipt of such application.

(6) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated $140,000,000 to remain available until expended.

(g) REQUIREMENTS FOR LOAN GUARANTEES.—A loan guarantee may be issued under this section upon application to the Board by a qualified steel company pursuant to an agreement to provide a loan to that qualified steel company by a private bank or investment company, if the Board determines that—

(1) credit is not otherwise available to that company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of that company;

(2) the prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan; and

(4) the company has agreed to an audit by the General Accounting Office, prior to the issuance of the loan guarantee and annually while any such guaranteed loan is outstanding.

(h) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

(1) LOAN DURATION.—All loans guaranteed under this section shall be payable in full not later than December 31, 2005, and the terms and conditions of each such loan shall provide that the loan may not be amended, or any provision thereof waived, without the consent of the Board.

(2) LOAN SECURITY.—Any commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

(3) FEES.—A qualified steel company receiving a guarantee under this section shall pay a fee in an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan to the Department of the Treasury.

(i) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress annually, a full report of the activities of the Board under this section during fiscal years 1999 and 2000, and annually thereafter, during such period as any loan guaranteed under this section is outstanding.

(j) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, $5,000,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

(k) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

(*l*) REGULATORY ACTION.—The Board shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of enactment of this Act.

(m) EMERGENCY DESIGNATION.—The entire amount made available to carry out this section—

(1) is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)); and

(2) shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement (as defined in the Balanced Budget and Emergency Deficit Control Act of 1985) is transmitted by the President to Congress.

AMENDMENT NO. 86

(Purpose: To increase, with a rescission, the supplemental appropriations for fiscal year 1999 for military construction for the Army National Guard)

On page 30, line 1, strike ''$11,300,000'' and insert ''$14,500,000''.

On page 43, line 12, strike ''$11,300,000'' and insert ''$14,500,000''.

AMENDMENT NO. 87

At the appropriate place in the bill, insert:

SEC. . Notwithstanding any other provision of law, the taking of a Cook Inlet beluga whale under the exemption provided in section 101(b) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)) between the date of the enactment of this Act and October 1, 2000 shall be considered a violation of such Act unless such taking occurs pursuant to a cooperative agreement between the National Marine Fisheries Service and Cook Inlet Marine Mammal Commission.

AMENDMENT NO. 88

At the appropriate place in the bill, insert:

SEC. . Funds provided in the Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (P.L. 105–277, Division A, Section 101(b)) for the construction of correctional facility in Barrow, Alaska shall be made available to the North Slope Borough.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 82 through 88) were agreed to.

Mr. STEVENS. Mr. President, the Senator from Arkansas, Mr. HUTCHINSON, is here and he will offer an amendment. After he has presented his amendment, I state to the Senator it will be my intention to move to table his amendment.

I ask unanimous consent that the vote on that motion to table and the vote on the motion to table the Harkin amendment occur at 2:30.

Mr. HARKIN. Torricelli.

Mr. STEVENS. Torricelli/Harkin amendment occur at 2:30.

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

Mr. STEVENS. I thank the Chair.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 89

(Purpose: To require prior congressional approval before the United States supports the admission of the People's Republic of China into the World Trade Organization)

Mr. HUTCHINSON. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 89.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ___. PRIOR CONGRESSIONAL APPROVAL FOR SUPPORTING ADMISSION OF CHINA INTO THE WTO.

(a) IN GENERAL.—Notwithstanding any other provision of law, the United States may not support the admission of the People's Republic of China as a member of the World Trade Organization unless a provision of law is passed by both Houses of Congress and enacted into law after the enactment of this Act that specifically allows the United States to support such admission.

(b) PROCEDURES FOR CONGRESSIONAL APPROVAL OF UNITED STATES SUPPORT FOR ADMISSION OF CHINA INTO THE WTO.—

(1) NOTIFICATION OF CONGRESS.—The President shall notify the Congress in writing if the President determines that the United States should support the admission of the People's Republic of China into the World Trade Organization.

(2) SUPPORT OF CHINA'S ADMISSION INTO THE WTO.—The United States may support the admission of the People's Republic of China into the World Trade Organization if a joint resolution is enacted into law under subsection (c) and the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives the notification referred to in paragraph (1).

(c) JOINT RESOLUTION.—

(1) JOINT RESOLUTION.—For purposes of this section, the term ''joint resolution'' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: ''That the Congress approves the support of the United States for the admission of the People's Republic of China into the World Trade Organization.''.

(2) PROCEDURES.—

(A) IN GENERAL.—A joint resolution may be introduced at any time on or after the date on which the Congress receives the notification referred to in subsection (b)(1), and before the end of the 90-day period referred to in subsection (b)(2). A joint resolution may be introduced in either House of the Congress by any member of such House.

(B) APPLICATION OF SECTION 152.—Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to a joint resolution under this section to the same extent as such provisions apply to resolutions under section 152.

(C) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) CONSIDERATION BY APPROPRIATE COMMITTEE.—It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(E) CONSIDERATION IN THE HOUSE.—A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

Mr. HARKIN. Mr. President, parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I am just trying to find out from the Senator, is there a time allotment or not?

Mr. STEVENS. When the Senator finishes, I will make a motion to table. It should be about 1 o'clock.

Mr. HARKIN. I just didn't know——

Mr. STEVENS. Mr. President, we have not asked for a time limitation on the Senator making his presentation, but he knows that as soon as he finishes, I will make a motion to table.

Mr. HARKIN. The Senator is going to table both at 2:30?

Mr. STEVENS. Mr. President, I will make a motion to table the amendment of the Senator from Arkansas, and after the Senator from Iowa, I will make a motion, but I got unanimous consent that those votes occur at 2:30.

Mr. HARKIN. That is fine with me. I just wanted to make sure.

Mr. BAUCUS. Mr. President, who has the floor?

Mr. STEVENS. The Senator from Arkansas has the floor.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BAUCUS. Mr. President, will the Senator yield for a question—for a parliamentary inquiry?

Mr. HUTCHINSON. I will be glad to yield.

Mr. BAUCUS. I understand the distinguished Senator from Alaska is saying he is going to move to table. I would like to speak on the amendment, but the Senator is moving to table as soon as the Senator is finished.

Mr. STEVENS. Mr. President, I would be pleased if the Senator would agree to try to reach a time agreement on that, because we have other Senators wishing to offer amendments this afternoon also.

Mr. President, may I ask the Senator, first, that the Senator yield to me? I apologize.

Mr. HUTCHINSON. I will be glad to yield to the distinguished chairman.

Mr. STEVENS. How much time would the Senator like to have?

Mr. HUTCHINSON. I think for my presentation I probably only need 15 minutes. If there are those who speak against the amendment, I would like to yield proportionally then.

Mr. STEVENS. Mr. President, if I still have the floor, how much time does the Senator from Montana seek?

Mr. BAUCUS. I was thinking of 10, 15 minutes.

Mr. STEVENS. Could we have an agreement that there be 30 minutes on this amendment? Is the Senator from Montana speaking against the amendment?

Mr. BAUCUS. I am speaking against the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object——

Mr. STEVENS. I am seeking a limitation of 30 minutes on the amendment, that the time following that time to be—I will make a motion to table, only a motion to table be in order.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. STEVENS. Mr. President, I am informed that Senators ROTH and MOYNIHAN wish to speak, and I ask unanimous consent that the time be expanded to 40 minutes to be followed only by a motion to table offered by me.

Mr. HUTCHINSON. Reserving the right to object.

Mr. STEVENS. Forty-five minutes. The Senator wants to close.

Mr. HUTCHINSON. I suspect the others the Senator mentioned are going to speak in opposition. There are some who might want to speak in favor. If we are going to extend the time afforded Senators who want to speak against, I think we might have trouble extending the time with that restriction.

Mr. STEVENS. Mr. President, I do desire to limit the time if possible, so we can have a vote when the Senate comes back out of that conference.

Could we agree to 30 minutes on a side? Is there objection to 30 minutes on a side? I renew my request——

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

Mr. STEVENS. The agreement then is 1 hour equally divided?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair.

This is a very straightforward amendment that simply says that before China can be admitted to the World Trade Organization, there will have to be a joint resolution passed by the Congress supporting that accession of China to the World Trade Organization.

It is very simple. It is simply saying we should have a voice in this. We should not have the administration arbitrarily and unilaterally making a very, very significant and major decision without the input of the U.S. Congress and this body. It does not prejudge what should happen. It does not say whether China should be in or not. There may be very compelling arguments that could be presented in such a debate. But it does say that before China is admitted to the World Trade Organization, every Senator in this body ought to have an opportunity to look at the evidence and have a say in the outcome of that debate. That is why we need this amendment, because Congress needs to, once again, assert its constitutional responsibility in the area of foreign commerce.

I believe we must do it now for a couple of reasons. It is the only opportunity we are going to have before the recess, and our only opportunity before Zhu Rongji visits this Nation next month. He will come during our Easter recess. So, if Congress is going to have any kind of statement on this, if we are going to be able to take any kind of action on this, we must take it now.

I know some of my colleagues will say this should have gone through committee. In an ideal world I would agree. It is very straightforward. I do not think it would require a great deal of debate, as to whether someone is for it or against it, but ideally that is where it should have gone. But, once again, the stream of negotiations that have taken place in recent weeks between our country and the Chinese Government, with our officials going to China—Deputy Treasury Secretary Larry Summers, Secretary of State Albright, U.S. Trade Representative Charlene Barshefsky have all been making repeated trips to China—negotiating, obviously; attempting to broker a deal on the World Trade Organization accession of China.

If we wait for an announcement by the administration that a deal has been reached, an announcement by the administration that the outlines of an agreement have been reached, we will make China's membership in the WTO a fait accompli. Any effort to stop it after the fact, after the negotiations are completed and after an agreement has been announced, I think will be too late for this body to really make a difference.

The amendment is, as I said, very straightforward. It would require a joint resolution to be passed before the United States could support admission of China into the WTO. Again, it does not preclude our support for China's entry. It simply sends a clear statement that Congress should be involved in the process of deciding U.S. support for China's accession into the WTO. The administration should not make any hasty deals with China. We must give careful consideration to the timing as well as to the consequences of Chinese accession. Congress must be thoroughly involved in that debate.

We cannot negotiate a trade deal with the most populous nation in the world, and, as we hear so often, the largest market in the world, in a vacuum. There are certain facts that we must face; there is a political environment in which all of these negotiations are occurring. The Chinese have used espionage to obtain important nuclear secrets from the United States. That is a matter that must be fully investigated. I believe it will be. I believe the appropriate oversight committees are moving expeditiously to investigate. But it certainly is not going to happen before we go out on the Easter recess. We may have hearings next week, but we will not see the end of this, we will not have all the facts on the table, before the Easter recess and before Zhu Rongji visits this country.

Another fact that faces us is our trade deficit with the Chinese is at an alarming all-time high of $56.9 billion for 1998. It is rising exponentially every year. That reality ought to cause us to pause before we see the administration rush into a WTO deal. The Chinese continue to keep many of their markets closed, particularly to our agricultural sector, our farmers, who are in such crisis.

The Chinese have signed and blatantly disregarded the International Covenant on Civil and Political Rights and have engaged in a widespread crackdown on prodemocracy activists in China, effectively silencing all political dissent. We cannot give WTO membership in a vacuum, ignoring all other realities that face us. The 1999 State Department report on China, released in the last few weeks, demonstrably proves China's ignoring of the very covenant on civil and political rights that they signed last year. If we cannot trust them to live up to a human rights covenant that they signed, how can we assume they are going to live according to the rules and the obligations of the World Trade Organization? There is an issue of trust. They have not justified the trust we would show in placing them in the World Trade Organization.

Article I of the Constitution gives Congress express power over foreign commerce. There is no question but that this is our right. There is no question in this Senator's mind that it is our responsibility to step forward and say: WTO membership for China will not be granted without a debate in the House and Senate and a joint resolution.

There are serious questions that the House and the Senate need to address. For us to sit back and go off on our Easter vacation, to go off on recess, to hold our town meetings or to take our trips around the world, and to have been silent on this issue, I think, at this time, will be indefensible. I suspect there will be some kind of announcement on the U.S. position on China's membership in the WTO while we are gone. Then we would never have had the opportunity to debate very important questions.

I do not have all of the answers to these questions, but I know they are serious questions and I know the Senator from Montana, the Senator from Alabama, who was on the floor just a moment ago, and myself ought to have a right, before we have the United States taking a position on WTO membership, to debate that on the floor of the Senate, to thoroughly examine the questions that have not yet been answered.

One question I would have is this: Are we lowering the WTO bar for China, to rush them into membership?

Since 1995, four countries have completed negotiations on accession protocol: Ecuador, Mongolia, Bulgaria, and Panama. All four of these nations were required to eliminate, on the date of accession or with very short transitions, trade practices that were incompatible with WTO rules. That has been the standard. Since 1995 the four nations that have sought to enter the WTO have been required to eliminate their trade practices that were incompatible with WTO rules. But China has firmly and continuously and repeatedly said they want a different standard. They want a longer transition period. They do not want to meet those WTO rules at the time of or soon after their accession to the WTO. That is a question I believe this body deserves the opportunity to investigate and debate thoroughly before we announce a national position regarding China's admission.

Another question I think is a serious question for debate: Are we allowing China into the WTO before they have made the kind of market reforms to bring them into conformity with WTO standards? The administration argues if we will just let China in, we will have greater influence on China's reform efforts than we do now while they are outside of the World Trade Organization. I suppose that is debatable. But we ought to have the opportunity to have that debate.

In my estimation, our influence on China would be far greater before they are admitted to the World Trade Organization than afterwards. Our ability to influence the kind of reforms the World Trade Organization would desire will be far greater if we say you are going to accrue the benefits of trade under the WTO only after these market reforms have taken place, these trade barriers have been lowered. Reforms should first be enacted, changes should first occur, and then membership should be granted —not vice versa.

I think this question deserves debate: Can China be trusted on trade issues? When we look at our exploding trade deficit with China, can they be trusted on trade issues if admitted to the World Trade Organization, or will we admit them to the World Trade Organization and then find them cavalierly ignoring the standards and the rules of the World Trade Organization? Our administration's own Trade Representative Barshefsky stated in her testimony, a little over 2 years ago, in reference to China, that ''China imposes new import barriers to replace those it removed.'' In other words, there can be the appearance of reform taking place, but if there are new barriers that are being erected while the old ones are being brought down, you really have not achieved the reforms necessary for World Trade Organization membership.

China has almost one-third of its industrial production controlled by the state. Almost two-thirds of urban workers are employed in state-owned enterprises. These state-owned enterprises are notorious for their ability to destroy wealth. Some economists estimate that it would be cheaper for China to close down their state-owned enterprises and keep paying the workers—close down the enterprises, go ahead and pay them their salaries, they would still come out ahead, than to keep operating. But because the state-owned enterprises would be vulnerable to foreign competition, the Chinese Government has a strong disincentive to the state-owned enterprises that are heavily subsidized through China's centralized and insolvent banking system.

One of the pledges that the Chinese Government made was that they would rapidly privatize the state-owned enterprises, shutting down those that they had to, privatizing others, allowing them to create capital by selling stock, but because of the recent economic downturn in China in which their robust growth rate has dropped appreciably, China now has backed off that pledge and has once again begun a round of bank loans to these very unprofitable, state-owned enterprises to subsidize them and to keep them in business.

This is backpedaling already on the kinds of reforms that would be expected if China were in fact ready for admission to the World Trade Organization.

Another question that this body needs to debate is, Should China be admitted as a developing country with far less stringent expectations and longer transition than allowed for other nations? That is what they desire. They say we are a developing Nation; therefore, we should be treated more leniently. They base their claim primarily upon their per capita gross domestic product. By every other measure, China is a major economic power in the world today and they want to be treated as such. They want to be recognized as a major economic power.

China will argue that as a developing country, they are entitled to use subsidies. They are entitled to put limits on exports and other policies to promote development of certain key industries such as automobiles and telecommunications and heavy industrial equipment.

China maintains that such programs are a part of China's industrial policy and not related to its application to the World Trade Organization. Many trade officials simply disagree with that assertion by the Chinese Government. That is a question and that is an issue the Senate should have the opportunity to debate, not after the fact but before China is admitted to the World Trade Organization and before the U.S. Government announces its position on Chinese accession.

A WTO paper, prepared in response to a request from Chinese negotiators, suggested that industrial policies in China and other countries could violate the basic principles of nondiscrimination and national treatment and other WTO rules. They are not in compliance. They are not ready to join the WTO. Political considerations should not be the driving force in rushing China into the WTO before they have made necessary reforms.

Another question I believe we should debate is this: Should China be given membership in WTO before Taiwan, which is simultaneously seeking membership? Will it be the position of the U.S. Government that we support the admission of People's Republic of China to the World Trade Organization while not yet supporting Taiwan's admission? Which one should be admitted first? I think that is an important issue. I think that is one my colleagues in the Senate deserve to have the opportunity to discuss thoroughly.

Many believe that once China is admitted, they will work feverishly to block Taiwan's entry, even though Taiwan is a much more developed Nation, has a much more developed economy, and an economy which is much more consistent with WTO rules. Yet without a vote of the Senate or a vote of the House, this administration is prepared to support the admission of China to the WTO before Taiwan's admission.

I believe this question deserves debate as well: Will a premature entry by China into WTO hurt American business interests? I know that large corporate interests in this country support China's immediate accession to WTO, but many business people in this country have serious concerns as to how China's admission to WTO will impact them. U.S. business interests often want permanent MFN for China and would like to use an agreement on WTO, I believe, as a means to push for this goal, but many of these business interests are also concerned that China's WTO accession, without meeting market access and other requirements, would seriously limit U.S. business access to the Chinese market for a long time to come. The very access that American business wants so desperately, we would be locked out of that access permanently or for a long duration should they be admitted to the World Trade Organization before they have met market access rules. As a result, many U.S. interests are pushing U.S. negotiators to remain firm, to stand pat, and not concede on the conditions of China's entry into the World Trade Organization.

I believe another question that this body needs to debate is, How will WTO admission for China affect jobs? Indeed, we should consider how it would affect our jobs here in the United States.

I remind my colleagues, contained in this very supplemental appropriations bill, which we are soon prepared to vote on, is a measure to assist the U.S. steel industry and the jobs that go with it. Some of those jobs are in my home State of Arkansas, Mississippi County, Blytheville, AR, the No. 2 ranked county in the Nation in steel production. According to the Department of Commerce, last year alone the U.S.-China trade deficit in iron and steel was a $161 million loser for the United States. The year before that the U.S. realized a steel trade deficit of $141 million, and in 1996 the deficit was $140 million. Each year the deficit in iron and steel increases dramatically.

My point is, this Congress should have a say in whether we allow an agreement to be made when our trade imbalance is what we experience, even without granting China World Trade Organization status.

At the appropriate time, I would like to see China join the World Trade Organization and abide by its rules. I do not believe China is ready at this time to go beyond paying lip service to the fundamental changes necessary for accession, though I know some of my colleagues do believe that they are ready. However, I believe we can all agree that we ought not make this decision hastily. The consequences are too great and long lasting and, just as importantly, we ought not let the executive branch make this determination unilaterally.

Article 1 of the Constitution gives to us, the Congress, the express power over foreign commerce. This decision is too important for us to cede that power, and this amendment is a means by which we can preserve our legitimate role in the legislative branch.

Mr. President, I reserve the remainder of my time, and I inquire how much time remains?

The PRESIDING OFFICER. There are 11 minutes 15 seconds remaining.

Mr. HUTCHINSON. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Arkansas raises obviously a very important question, and that is, essentially, the terms under which the

United States should agree to help encourage China to be a member or accede to the WTO. It is obviously important because China, particularly in the next century, is going to be a very important country. It is now the largest country in the world, the most populous, the largest standing army, a nuclear power, one of the fastest growing ''developing countries,'' thousands of years of history, a very proud people. We in the United States clearly must be very careful and clear headed in our relationship with such a country, particularly when the question arises as to the terms under which China would accede to the WTO.

It is also true that under the Constitution, the U.S. Congress provides that the Congress essentially set trade policy. That is true. But the use of power is a very important matter. Sometimes it is important to use power that is entrusted to one. Sometimes it is important to forebear the use of power that is entrusted to one.

Certainly, Congress has the authority to pass the amendment suggested by the Senator from Arkansas. But that is not the question. The real question is, Should Congress adopt that amendment?

In my judgment, it has the ring of simplicity which often sounds good, but when one thinks about it a little bit more deeply and what the consequences of that amendment would be, it, at the very least, causes people to pause and, in my judgment, causes Senators to not support the amendment.

I am reminded of a statement by H.L. Mencken, a famous Baltimore Sun journalist: ''For every complicated problem, there is a simple solution, but it is usually wrong.''

That is this case. There is a complicated problem—China and our trade relationship—and the simple solution to some degree is, ''Congress should vote on whether to admit China to the WTO or not.''

This would set new precedent, a groundbreaking and very alarming precedent. In each of the previous 110 cases where countries have acceded to the GATT, or to the WTO, there has not been a congressional vote. Congress has never voted on whether a country should accede to the GATT, currently to the WTO. That is an executive decision.

There is a good reason why Congress has not voted in the past. Essentially, it is for the reasons suggested already by the Senator from Arkansas, because if we were to vote on whether China should accede to the WTO, that vote would essentially be a vote not on WTO, but it would be a vote on our ''overall China policy.'' It would include countless other relationships that we have with China.

The Senator from Arkansas already mentioned them. Human rights, for example. The Senator is very upset with China's human rights policy. He said that should be looked into. He implied looking into it in the context of this debate.

I, too, am upset with China's human rights policy. I daresay every Member of the Senate is upset with China's human rights policy. But are those issues considered in trade negotiations? Are they considered by the World Trade Organization? The Senator from Arkansas might think that they should be, but they are not considered in trade negotiations and in whether or not China is or is not meeting commercially acceptable principles under which it would properly be admitted to the World Trade Organization.

The Senator also mentioned the words ''political environment.'' He said this issue has to be considered in the total political environment of our relationship with China. He mentioned espionage. That is a charged issue right now. I daresay that if the Congress were to vote in the next several months presumably on whether China should accede to the WTO, there would be an amendment on espionage, there would be an amendment on human rights, an amendment on labor relations, an amendment on the environment. I can think of countless subjects that would be included, by the design of certain Senators, in any decision by the Congress whether or not China should be admitted to the WTO.

It reminds me very, very much of the debate we already had with respect to China, and that is whether the Congress, when we come up with the annual MFN review—actually a lot of us like to call it normal trade relationship not most-favored-nation status. MFN is a gross misnomer. MFN is not at all what it implies. It is not most favored. In effect, it is least favored, because we have so many trade agreements with so many other countries under terms that are more beneficial than the bottom line terms of MFN.

During the MFN debate, or normal trade relations debate, we have had in this Congress, particularly several years ago, the question was whether we should pass in this Congress every June a conditional extension of MFN or nonconditional extension of MFN.

Those who argued for conditional extension said, ''Well, we will continue MFN with China for another year if China abides by certain human right regimes, if China abides by certain nuclear technology transfer provisions, if China signs a comprehensive missile test ban treaty, if China''—all these other things.

In a sense, that debate became a debate about China and gave interest groups an opportunity—I use this term loosely—to kind of take off on or vent their spleens about a certain policy with which that Senator or interest group had a disagreement.

I have no problem with that. In fact, I support it. I support Members of the Senate and the House working vigorously to improve upon the relationship with China in each of the specific areas that we engage China, and there are many of them. Trade is one. Even within trade, there are many, many different levels. There are tariffs. There are distribution systems. There is access. There are all kinds of matters with which we have to deal.

Let's take national security, not very related to trade—indirectly but not directly. Our administration, other countries' administrations engage China on a host of national security issues.

Let's take the Taiwan Straits, for example. That is a separate matter. It is an extremely important issue. It is one that has become a bit sensitive in the last several days, but the U.S. Defense Department, the NSC, and our executive branch are working out with Taiwan, with China, and with Japan as much as possible the various interrelationships of that issue.

The main point is, those issues should be dealt with separately and on separate tracks. They should not be all subsumed in the one vote on whether China should be a member of the WTO.

I think it is also important to remember we have a lot of problems with China, but China has done a lot of good things, too.

What are they? Recently in the economic sphere, China, at great cost to itself, has not devalued its currency. China, in the last year, has been under tremendous pressure to devalue its currency so that it could sell more products overseas; it would help boost its economy. But China has not.

Why has China not devalued its currency? In many respects because the Americans have encouraged them, have asked them not to devalue. Why? Because if they were to devalue their currency, then the other southeastern countries—the baht in Thailand, the Indonesian currencies, North Korea—there would be great pressure on them to devalue further, which means that our exports will be that much more expensive, their exports to the United States that much less expensive, and the trade deficit we are all so worried about will be even worse.

China, at great cost to itself, has so far—that might change—not devalued the currency.

China has also signed the Comprehensive Test Ban Treaty. They signed it. That is a major step. That is good. China has helped provide more stability between India and Pakistan, particularly when those countries were starting to test missiles. It has been a very great help to us.

They also have begun to downsize their state-owned enterprises. That is not something we asked them to do, but at great cost to themselves, they are doing so, and that is a major effort.

There is banking reform.

The PLA, their army in China, which used to be a major competitor with companies in the United States, was not just an army, it was a manufacturing firm, an industry or a company making all kinds of products.

The PLA are going out of business. It is not entirely done yet, but they are going out of business. That is good. Even more fundamentally, let's think of this. What if this were 25 years ago and we were faced with the Asian currency turmoil, which did spread over to Brazil and over to Russia and has affected the whole world, as a matter of fact? If this were to have happened 25 years ago, I daresay that China would have used it as an opportunity to further destabilize—they could have used it as an opportunity to gain a strategic position in, say, Vietnam or in Burma, Thailand, maybe even in Japan, as they did 25 years ago when they exercised their power, but not in the economic sense.

Instead, today, 25 years later, when presented with this crisis, what has China done? It has not been a bad boy; it has been a good boy. China has, instead, downsized its state-owned enterprises as much as it possibly can. It is reducing its bureaucracy, cutting a lot of the dead wood. It is cutting back on the army dramatically. I was in China about a year ago talking with a general and all his colleagues who were being given the boot because the general officers corps, in addition to the lower ranks, was being cut back dramatically.

They are going through a lot of painful times. I am not going to stand here and apologize for China. We are very concerned about China. But instead, China is trying to be a player.

Why is WTO good for America and why is it good for China? WTO is good for America only under commercially acceptable principles. I must underline that forcefully. It is good for America because it will help encourage a greater rule of law in China, because there are commitments that China would have to agree to. It would help America because we could take China to the WTO.

The Senator from Arkansas has a concern whether we could ''trust'' China. I tell you, Mr. President, China will do more of what we wish if they are a member of WTO, at least on trade issues, because we can take China to the WTO.

The WTO is now much more impartial and more effective as a dispute settlement mechanism than it was under the old GATT, to be honest about it. The WTO as an institution is being tested now, particularly with respect to bananas and beef hormones, and some other issues—whether countries live up to it—but still it is a lot better than the old GATT, under which there was virtually no dispute settlement mechanism.

WTO is good for China, too. Why? Basically because it gives China status and more investment in China; it gives China the opportunity to be more of a player in the world economic scene. And that is all good. That is good for China; that is good for America.

We are so interrelated today economically, politically, socially that when one part of the world's economy collapses or goes south, it has effects everywhere. It affects the Senator's farmers. They have a harder time selling soybeans. It affects farmers in my State. They have a harder time selling wheat. That is why, when the Asian currency crisis occurred, at least in my State, our agricultural exports fell $50 million compared to the preceding year.

I must say, I think we have done a pretty good job as a country in managing, as near as we could, the currency crisis, which we did not cause. It was caused by a whole host of factors—essentially greed by a lot of creditors who did not look at financial statements closely anymore. But we have done a pretty good job managing. Secretary Rubin, Chairman Greenspan, Secretary Summers have done a good job of helping stabilize, as much as they possibly could, this turmoil.

Mr. President, the Senator also asked, ''Well, gee, who should be admitted first, Taiwan or China?'' That is a political issue. We should not look at this as a political issue. We should look at these countries on their merits. And if China does meet the commercially acceptable principles test closely, tightly, we should admit China. If they do not, we should not.

There are lots of different areas there that I wish to just briefly mention as to the test I think China should meet. I must say, Mr. President, I do not think this administration is going to send us a weak agreement. It would be foolish for them to agree to China's accession into the WTO under noncommercially acceptable terms. It would not make any sense. For one thing, it would be an outrage. Second, it would have an effect on MFN, a vote later. It would have an effect on fast-track proposals that may or may not come up. It just does not make sense. They will not do it.

One final point is this. The Senator wants a vote. The Senator is going to have a vote. It is on MFN extension, because, by definition, if the United States agrees, because China has met commercially acceptable principles, that China should accede to the GATT, then by definition this Congress must vote on whether to give China permanent MFN status.

There will be a vote. And obviously, if the U.S. Senate believes that the terms under which China is admitted are not acceptable, I daresay that this body will not agree to permanently extend MFN to China. So we ought to have a vote. The Senator wants a vote. By definition, there will be a vote.

But to have a second vote—and the second vote would be whether to admit—I say, would essentially be a referendum on China. It would not just be trade issues, it would be all the other issues, with all the other amendments that would come up, just as they did in the old MFN extension debate. Back then, after lots of gnashing of teeth and working ourselves through all this, what did the Congress do? The Congress agreed, the President agreed, that it made more sense to have unconditional extension of MFN rather than conditional.

What the Senator from Arkansas is essentially saying is, he wants conditional, he wants to have a vote on accession. And I would guess he also would like to have an opportunity to offer amendments on the pending bill. If the Senator says no amendments on the pending bill, that is another matter. I would like to hear the Senator's views on that—whether the Senator wants a straight up-or-down vote only on whether China should be a member of the WTO, whether he would oppose all amendments, whether he believes, frankly, there should be no amendments or not. That would be an interesting question.

Anyway, Mr. President, I made my main point, which is, let's have the vote, let's have the vote on MFN extension, not on the overall policy, because it has never happened before. In all the trade agreements that have been submitted to the WTO and in all the questions of accession to the WTO in the past—there have been 110 of them—never has a Congress voted, never.

And there are reasons. There are executive agreements. If we were to vote on it, particularly in this body, as a nonparliamentary form of government, it would be filled up with all different types of issues which are virtually unrelated to trade—very important issues: Human rights, national security, missile proliferation, nuclear proliferation, labor laws, environmental laws, but not WTO accession.

So I say, let's not vote for the Senator's amendment. Let's look at WTO when it comes up in the context of MFN. Then let's also work to engage China on all of the other issues on which we are dealing with China but on separate tracks, separate ways, because that is going to be a lot more effective. We should not link all this together. We should not link it together, but, rather, deal with these issues separately.

Thank you, Mr. President.

I yield the floor and I reserve the remainder of my time.

Mr. CHAFEE. Mr. President, I appreciate the concern of the Senator from Arkansas regarding the possibility of China's entry into the World Trade Organization (WTO). However, I do not believe his amendment is warranted, and urge the Senate to reject it.

The issue before us is the accession of China into the WTO. There is no question that China's accession into the world trading system carries important ramifications—not only for their economy, but for ours (and indeed, for those of all other WTO nations). Today, China is the world's third largest economy after the US and Japan, and the world's eleventh largest trading nation. US-China trade alone is more than $80 billion.

Clearly, because of these facts, we have much to gain by bringing China

into the world trading system and subjecting her to the WTO rules and regulations. At the same time, we understand that bringing China into the system also will mean some changes for our own industries. However, as long as China is brought in according to appropriate terms and conditions, I believe we have far more to gain than to lose.

The China WTO accession negotiations have dragged on for 13 years now. Much of the delay is related to the periodic changes of mind by the Chinese government as to whether they really want to join or not. After all, it will mean enormous changes for them as well. At the moment, the Chinese appear very interested in concluding their accession. I believe we should take this opportunity to see what might be accomplished.

That said, the United States has said repeatedly that China may enter only—and I stress, only—on ''commercially meaningful'' terms. Despite the current Chinese enthusiasm for the negotiations, if it does not lead to a ''commercially meaningful'' agreement, then the administration cannot accept it.

That is a crystal clear fact. We in Congress has made clear that an agreement that is not ''commercially meaningful'' is unacceptable. USTR, Treasury, the State Department, and USDA know this. They fully understand that they will have one chance, and one chance only, to present us with an agreement. All the Chinese enthusiasm in the world cannot change that fact. Thus, I believe that the administration will not—and indeed cannot—bring home an accession agreement that does not meet those terms.

The amendment before us would have Congress vote on the accession of China. Yet that is not the process that we follow for accession of new WTO members. Since 1995, 12 countries have joined the WTO. Congress has not voted on any of them. This would be a bad precedent to send. It would open a whole hornet's nest of votes on China's policies, trade or otherwise. And, given that the administration knows that a bad deal will not pass muster here, I would argue that it's just not necessary.

I say to my colleagues: let's let the experts do their job. They have their guidance from Congress. The USTR team, led by our experienced and tough Special Representative Charlene Barshefsky, have been working on China accession for years, and know the issues inside out. I am confident that they won't—indeed, can't—let us down.

Mr. MOYNIHAN. Mr. President, I join with the distinguished chairman of the Finance Committee in opposing the pending amendment. I do agree with the senator from Arkansas that the Congress ought to take a close look at the terms of any agreement that is reached with China regarding its accession to the WTO. But that is already provided for in the law. Under section 122 of the Uruguay Round Agreements Act, the administration must consult with the appropriate committees with regard to the accession of any country to the WTO. Those consultations are now taking place. I am assured that Ambassador Barshefsky will meet with each and every Senator who has an interest in this matter.

Moreover, as a participant in the WTO's Working Party on the Accession of China, the United States already has an effective veto over China's admission if we determine that the protocol of accession and China's market access commitments are inadequate. Since the Working Party operates by consensus, we could simply block the approval of the Working Party report and that would be the end of the matter.

It is clear that bringing China within the WTO framework—and subject to the WTO's rules—would be in the United States' interest. China is ranked as one of the top ten exporting countries in the world (WTO report, 1997 ranking) and ranks as the 12th largest importer. It must certainly be to the benefit of the world trading system to have China abide by the same rules as others.

American farmers and businesses also have an interest in securing improved access to China's market, and the WTO accession negotiations may provide the best opportunity that we will have in a very long time.

Certainly the United States should not accept an agreement that would bend the rules for China. Nor should we settle for a minimal market access package. And we will not. But neither should we cut off the negotiations at this point, which I fear this amendment would do. In essence, it signals, at a minimum, great skepticism on the part of the United States Congress.

I urge my colleagues to vote against this amendment.

Mr. ROBB. Mr. President, whatever frustrations many of us may have right now regarding our bilateral relations with China, including allegations of Chinese espionage against our national labs, the deteriorating human rights situation in that country, the ballooning trade deficit, and more, we need to be careful about micro-managing the Executive as it conducts comprehensive negotiations over the terms of China's accession to the World Trade Organization (WTO).

Congress' voice ought to be heard on this subject, and it will be. The Jackson-Vanik amendment to the Trade Act of 1974 precludes granting unconditional MFN (permanent normal trade relations status) without a Congressional vote. By law, we will have the opportunity to carefully review and pass judgment on whatever agreement the Administration reaches with China, whenever that may occur: during Premier Zhu Rongji's visit next month, later this year, or perhaps years from now.

Ambassador Barshefsky and the other USTR officials negotiating directly with the Chinese deserve credit for appropriately consulting with Congress. Just yesterday lead negotiator Bob Cassidy reviewed in great detail with our staffs all aspects of the negotiations. Active consultations at this stage make sense, but the Senate directly intervening in the process by requiring a congressional vote on a WTO agreement with China—on the front and back ends of the protocol negotiations—is redundant, unnecessary, and tramples on Executive branch prerogatives. On those grounds, I support the tabling motion.

Mr. THOMAS. Mr. President, as the Chairman of the Subcommittee on East Asian and Pacific Affairs, I rise in opposition to the HUTCHINSON amendment and urge my colleagues to vote to table it.

I support China's accession to the WTO. I believe that it is in our own best interests to draw China further into the world community through fora such as the WTO. It will benefit the United States by creating a more-equal trade relationship between us, and will work to promote the rule of law in China. I also believe that it will benefit the United States by taking bilateral trade disputes which may pop up between us and making them multilateral, thereby minimizing the opportunity for those disputes to spill over and infect the rest of our relationship.

Of course, my support has an important caveat. China must accede on what are called ''commercially acceptable principles.'' China cannot accede as a developing country in some areas, and a developed country in others, leaving it to China to determine which are which. If the time comes for China's accession, Mr. President, you can be sure that if I am not convinced that the terms of China's accession are commercially acceptable, I will be the first Member to rush to this floor to oppose accession.

This amendment though, Mr. President, is not about the mechanics of accession to the WTO. Rather, it is yet another thinly-veiled attempt by its author—one in a long series of attempts—to single China out and punish it for offenses—real or imagined—committed in other spheres. Let me be clear: there is no argument that there aren't problems in our relationship with China, serious problems that we need to address. But there are more appropriate ways to address those problems. WTO accession is a trade issue. It is not a human rights issue. It is not a military issue. It is not a technology or nuclear transfer issue. It is not an issue about how China treats Taiwan or Hong Kong or Tibet. The issue should not be linked under the guise of a WTO debate; we should not turn a decision on WTO into a referendum on the immediate state of our overall bilateral relationship.

In addition, the sponsor makes a great deal of only wanting to pass this amendment in order to afford the Senate the opportunity to debate and then

vote on all the merits of China's accession should that time come. But Mr. President, we already have that opportunity. If and when China accedes to the WTO, that is not the end of the process. Congress still has to vote on extending permanent most-favored nation status to China. That debate will give the Senate, and the sponsor, ample opportunity to address all of the myriad issues surrounding China that he rightly feels are so important. It will give us a chance to raise concerns about human rights, military buildup, trade deficits, and all the rest. There is no need to afford ourselves the same opportunity twice.

In addition, Mr. President, requiring this second vote has no precedent. One hundred and ten countries have acceded to the WTO since 1948, and not once has the Senate required that we be afforded a separate vote on one of those accessions. But the Senator from Arkansas would like to single China out and set a different standard for that country's accession, to treat it differently than any other country that has come before it, or—presumably—would come after. I don't believe he can make a compelling case for doing so. Moreover, I am not convinced that giving ourselves veto authority in this manner over a trade agreement reached by the Executive Branch could pass constitutional muster.

For all these reasons, Mr. President, I urge my colleagues to oppose the amendment and support the motion to table of the Senator from Alaska.

Mr. ROTH. Mr. President, I rise to oppose the amendment offered by my distinguished colleague from Arkansas, Senator HUTCHINSON. Like him, I am deeply concerned about the issues he is attempting to address with this legislation—human rights violations and security concerns involving China, particularly the theft of scientific information from Los Alamos. I am concerned about China's military build-up, its continuing threats of force against Taiwan, and what is taking place in Tibet. I believe that appropriately addressing these issues is vitally important and I look forward to working with Senator HUTCHINSON and others to do so.

However, as chairman of the Finance Committee, I must oppose both the method and timing of this approach. It not only fails to allow the Senate to raise and address the sensitive issue of trade relations with China in the appropriate forum of the Finance Committee—a forum where the merits of such an amendment can be carefully studied and weighed against the best interests of our nation—but this approach also has tremendous foreign policy implications that need careful scrutiny.

Let me address the first concern. Trade negotiations and trade agreements go to the core of the Finance Committee's jurisdiction over trade matters. Together with Senator MOYNIHAN, I as Chair, and he as ranking member, are responsible, not only for the Committee's substantive role in the trade policy process, but also are the guardians of its prerogatives. The Committee was the first formed in the United States Congress when tariffs were the central source of revenue to a still new republic. Trade and tariff policy remain central to the Committee's role in the legislative process.

For example, the Finance Committee reported out a trade bill the first day of the 106th Congress. In addition, at my instigation, the Committee has launched a comprehensive review of America's trade policy, including the role that China's accession to the WTO would play in our trade policy.

Unfortunately, there has been no attempt to offer this legislation and lay it before the Finance Committee for its review. Nor has there been any attempt by its supporters to engage with the Committee in the process of our review of America's trade policy.

Instead, this amendment seems to be driven by the emotions of the moment toward a form of legislative anarchy. It has gone around the Finance Committee in a way that provides no time for the deliberations for which the Senate is designed. It attempts to move legislation of monumental importance to our trade and foreign policies on the back of a supplemental appropriations measure principally designed to help impoverished countries in Central America and to support the constructive role Jordan has played in the Middle East peace process.

Beyond these procedural concerns, I am deeply concerned about the underlying intent of this amendment. Is this bill being raised at this time out of a concern that our trade negotiators will not strike a deal that serves our commercial interests in China? Or is this bill being offered simply to hinder those negotiations in response to recent allegations of spying or the theft of secrets from Los Alamos?

I ask those questions because there seems to be a rush to pass this measure in advance of the visit of Zhu Rongji to the United States. It rests on the assumption that the United States will reach an agreement on WTO accession and that, by virtue of that deal, China will enter the WTO the day after Zhu leaves.

That is simply wrong. Everything we hear of the negotiations is that it will be difficult even to reach an agreement on U.S. access to China's market. I want to emphasize to my colleagues that a deal on market access, even if it is reached in time for the summit, is only one step along the road to China's accession to the WTO. The more difficult negotiations on when and how China will agree to be bound by the basic rules of the WTO remain. No protocol of accession will be approved until those negotiations are complete.

In other words, there is no reason to act precipitously on this measure. There is no reason to subvert the normal legislative processes to secure passage of this amendment at this time. Indeed, the Finance Committee is actively at work on trade matters as part of the trade policy review I have initiated. That is the appropriate venue for the initial discussion of this measure and any necessary refinements to my colleague's approach.

China has been the subject of intense concern to the Finance Committee. We have made it clear at every stage that constructive trade relations with China must offer concrete assurances of U.S. market access consistent with our national interest. We have also made it clear that there must be no rush to judgment or attempt to offer a politically-motivated deal to the Chinese simply because the White House wants a foreign policy ''deliverable'' to cap the upcoming summit meeting.

My impression from our discussion with Ambassador Barshefsky is that, while there has been considerable progress in recent days, there is still a considerable distance to go even before the United States could agree to a package on market access, much less the more difficult process of negotiating the actual protocols of accession.

Beyond these reasons, Mr. President, I oppose Senator HUTCHINSON's amendment on China's accession to the World Trade Organization because of the damaging precedent it would set for all future WTO accessions. It would dramatically undercut the United States' consistent position—under both Republican and Democrat presidents—that accession to the WTO and its predecessor organization, the GATT, is not a political decision, but is one we as Americans base simply on another country's willingness to be bound by the same rules that govern our other trading partners in the world trading system. It is quintessentially a commercial agreement that should be judged on its merits as such.

I also oppose this amendment as a matter of Senate procedure. I have always objected to attempts to legislate on appropriations measures. Offering substantive amendments to appropriations bills subverts the normal process of the Senate by which legislation is introduced, moved through the committee of jurisdiction with expertise on the matter, and moved to the floor.

Attempts to modify substantive law on the back of appropriations bills often results in the delay of the appropriations themselves. Whether my colleagues support the current supplemental or not, I think we would all agree that the bill deserves to rise or fall on its own merits, not as a result of extraneous and unrelated matters.

For all these reasons, I urge my colleagues to vote against Senator HUTCHINSON'S amendment.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, might I inquire as to how much time each side has remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 11 minutes 15

seconds. The Senator from Montana has 9 minutes 52 seconds.

Mr. HUTCHINSON. Thank you, Mr. President.

If I might just briefly respond to a few of the points that my good friend from Montana made in his excellent statement.

It seems to me to be a difficult proposition to come to the floor of the Senate and argue that we should not have a debate and to argue we should not have a vote on the admission of China to the World Trade Organization. Yet that is the posture which the opponents of this amendment must be.

The Senator from Montana has said it would be an ''alarming precedent''—I believe those are the exact words—that has never happened before. In many ways, China is unprecedented. They are unprecedented in their size, their population, and their impact upon world events. And in many ways the abuses that are currently going on by their government to their own people are unprecedented. It is unprecedented to have a nation in the World Trade Organization with 40 percent of the economy controlled by the state. That is unprecedented.

Perhaps that is a good reason to have a debate on this issue and have a vote on who should be admitted to the World Trade Organization, since it would be unprecedented for a nation of this size, with such a mixed economic system, to be admitted to the World Trade Organization. It is unprecedented to admit to this trade organization a nation that views us as a hostile power and, as evidence indicates, has aggressively spied on the United States and stolen nuclear secrets from the United States.

To say it is an ''alarming precedent,'' I think is a great overstatement. In fact, if there was ever a reason to change the precedent, it would be because of China's behavior.

The Senator from Montana said amendments would certainly be messy. That is what democracy is about. That is what happens; that is what debates are about; that is what freedom is about. It might be messy; it might be unpleasant to vote on amendments that might be offered. But to respond to the question of the Senator from Montana, I am more than delighted to have a straight up-or-down vote with no amendments. If we were in the House of Representatives, we could have the Rules Committee provide such an order; we would have no amendments, and we would vote up or down on whether China ought to go into the World Trade Organization. I am delighted to have such an opportunity, and I make a commitment to that right now. If we have a unanimous consent, at the appropriate time, I support having a clean vote on China's accession to the World Trade Organization.

I was somewhat surprised to hear my colleague from Montana say China has not been a bad boy, they have been a good boy; a number of things they helped us with—Pakistan and India. They had signed international agreements. They had shown restraint.

They have been adjudged one of the greatest proliferators of weapons of mass destruction in the world today. In fact, they were a great contributor to the problems and the arms race that has developed between Pakistan and India.

Signed international agreements—indeed, they have signed international agreements. Last year, they signed the International Covenant on Civil and Political Rights, and since they signed that international agreement our State Department has adjudged their behavior on civil and political rights abysmal. They have a new and vicious and brutal crackdown upon the rights of their own people. That is the international agreement.

My colleague said they have shown restraint, not like the adventuresome nature of their politics 25 years ago; they have shown restraint. Well, I don't believe it is restraint for them to vigorously modernize their weapon systems and to vigorously seek American technology through legal and illegal means.

All of that aside, some of the questions were answered, but many of the questions I raised were not addressed at all and have nothing to do with anything other than trade and the economy. But they are questions that need to be debated, questions that need to be answered. Are we lowering the WTO bar for access to the Chinese? To say that we can deny them permanent MFN after the fact, after they have been admitted to the WTO, and that will be our vote, I think begs the question. There will be such international pressure for permanent MFN if we have already supported their admission to the WTO that it will be inexorable. It will be a fait accompli. But the evidence clearly is that we are setting a different standard for China.

In my discussions with the State Department over a year ago, they made it very clear to me that they were debating within the State Department whether we would have greater influence on China with them in at a lower standard, or out waiting for them to change and to make the necessary reforms. It is very clear that the administration has pursued the idea of lowering the standards so that China could be brought in prematurely. Admitting them as a developing country is changing the standards for China. These are issues which have not been addressed today in our debate but need to be addressed by the U.S. Senate.

I will not go through all of those questions again, but they are important questions. The Senate and the Congress should not keep ''punting'' on trade issues. We have a constitutional role. We are a coequal power with the executive branch. This is an opportunity for us to regain our voice on those very, very important issues that affect the lives of every American. The issue today is not do we want China in the WTO; the issue is do we want to have an opportunity to debate that and to vote on that. That is the issue.

I have said, and I will say again, I want China in the World Trade Organization at the right time and under the right circumstances. But I do not believe that we should allow the administration to make a unilateral decision coopting the constitutional right of the House and Senate to express itself on this very, very important issue.

I hope that this amendment will be passed, that we will have the opportunity at the appropriate time to vote yes or no on China's admission to the World Trade Organization. I hope that the reforms are made in China so that I could vote yes on that. I would like to see that, but I believe that we have the greatest leverage we will ever have in bringing about reforms before we concede ahead of time that they should go into the WTO.

I believe this is an eminently reasonable amendment because we are not prejudging what the outcome should be. We are simply saying we should have the right to vote. We should say yes or no—not trade negotiators in a vacuum apart from those who were elected by the people to represent.

I reserve the remainder of my time and I yield the floor.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Arkansas has a little under 4 minutes, and the Senator from Montana has a little under 10 minutes.

Mr. BAUCUS. I will take just 2 or 3 minutes before I yield back my time. We are getting into the repetitious stage.

Let me say that it is important to think about the precedent. Congress has never voted on this issue before. There are a lot of other countries that are going to be seeking membership in the WTO. They are basically former Soviet Union republics. Russia—name them. They all are going to be looking for membership in the WTO. If we start voting now on membership, I think we have to do the same for all the others, and they will get caught up in the other issues, too, that have already been discussed.

Frankly, the Senator from Arkansas made my case when he said that at this time we have the greatest leverage. It sounds to me as if the leverage he is talking about is on human rights. It is on lots of issues. I just think that we do not want to get to a debate on China policy if and when the U.S. executive branch seeks to have China become a member of the WTO.

I also suggest to my good friend from Arkansas it is a good opportunity for the Senator and all of us who are concerned about the terms of China's infamous WTO, the economic terms, to make our case very strenuously now with the administration, with Ambassador Barshefsky, with others in the administration, so that they do come

up with terms that we would more likely agree with than not.

Now is the time. There are intense negotiations going on now. Premier Zhu Rongji is about to visit this country. I think it is Premier Zhu Rongji's visit to the United States which gives us ''leverage,'' because he will want to come with an agreement. We should make use of that leverage by vigorously talking with the administration.

It has been a good debate and I think we should deal with all these issues of China separately, not in the context of WTO. I hope that the Senators would agree with the Senator from Alaska when he moves to table the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield back my time.

Mr. HUTCHINSON. Mr. President, I will take a moment, and then I will yield my remaining time.

I say that the leverage of which I speak—I think the Senator from Montana knows and agrees that the leverage is greater now before China goes into the World Trade Organization. The issues of which I speak deal primarily with trade issues. I hope we will use that leverage for human rights and nuclear nonproliferation across the board. But certainly there are trade issues that are critically important.

We have almost a $60 billion deficit with China. They have great barriers there, and we cannot lower the standards just so we can have a political announcement and have a gift that we are providing the Chinese by saying we are going to support your accession to the World Trade Organization.

I didn't want to offer this amendment today. I would much rather that this had gone through the committee. I would rather we had a different vehicle. But we are going out on Easter recess and the Premier is coming to this country. The negotiations are coming to a head. This is the only opportunity we have to ensure that we will have a voice on whether or not they should go into the WTO.

I urge my colleagues to support this amendment—not to table it but pass the amendment and let the administration know how seriously we take this issue, and that as a coequal branch of Government we should be able to approve or disapprove whether China goes into the WTO.

There are serious issues that were not raised in this debate. We have had a good debate, but there needs to be a much more thorough debate, with many more Members involved. That will take place at the appropriate time if this amendment is passed. I ask colleagues to support it at the appropriate time.

I yield the remainder of my time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, is all time yielded back?

The PRESIDING OFFICER. All time has been yielded back.

Mr. STEVENS. Mr. President, I am constrained to make a motion to table because I believe that this amendment, if not tabled, would take a considerable amount of time. I served in China in World War II. I would like to be involved at length in this debate, but this is not the time or the place for that debate.

I hope all Senators will understand that I make this motion merely to try to control this supplemental and get it ready for a conference at the earliest possible moment.

I move to table the amendment and 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.

Mr. STEVENS. Mr. President, that will be postponed until 2:30.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I ask unanimous consent that the only amendment that would be in order between this time and 2:30 would be the Torricelli-Harkin amendment, that there be no second-degree amendments, and that if the Senators finish the use of their time prior to that time, the Senate stand in recess until 2:30.

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

AMENDMENT NO. 92

(Purpose: To terminate the funding and investigation of any independent counsel in existence more than 3 years, 6 months after the termination of the independent counsel statute)

Mr. TORRICELLI. Mr. President, I send an 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 New Jersey [Mr. TORRICELLI], for himself, Mr. HARKIN, Mr. DURBIN, Mrs. FEINSTEIN, and Mr. REID, proposes an amendment numbered 92.

Mr. TORRICELLI. 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 45, between lines 18 and 19, insert the following:

SEC. ___. LIMITATION OF FUNDING.

(a) IN GENERAL.—Effective December 31, 1999, funding authorized pursuant to the third and fourth provisos under the heading ''SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES'' under the heading ''LEGAL ACTIVITIES'' under the heading ''GENERAL ADMINISTRATION'' in title II of Public Law 100–202 (101 Stat. 1329-9; 28 U.S.C. 591 note) shall not be available to an independent counsel, appointed before June 30, 1996, pursuant to chapter 40 of title 28, United States Code.

(b) PENDING INVESTIGATIONS.—Any investigation or prosecution of a matter being conducted by an independent counsel, appointed before June 30, 1996, pursuant to chapter 40 of title 28, United States Code, and the jurisdiction over that matter, shall be transferred to the Attorney General by December 31, 1999.

Mr. TORRICELLI. Mr. President, I rise today with my colleague from Iowa, Senator HARKIN, and on behalf of Senator DURBIN, Senator FEINSTEIN, and Senator REID of Nevada, to offer an amendment to bring some rational conclusion and fair determination to the issue of independent counsels in the U.S. Government.

I begin with a simple admission. In 1994, as a Member of the House of Representatives, I voted for and argued for the enactment of an independent counsel statute. I was not mindful then, as I am now, of the complete record and statements as to the likely outcome of the independent counsel statute.

Howard Baker, then a Member of this institution, argued that the independent counsel statute would ''establish a virtual fourth branch of Government, and would substantially diminish the accountability of law enforcement to the President, the Congress, and the American people.''

Acting Attorney General Robert Bork, warned: ''What you are doing [with the independent counsel statute] is building an office whose sole function is to attack the executive branch throughout its tenure. It is an institutionalized wolf hanging on the flank of the elk.''

Mr. President, I take no delight in admitting it, but it is inescapable. Mr. Baker, Mr. Bork, and other Members of this institution were right. And many of us in my party, and, indeed, President Clinton, who ultimately signed the law, were wrong.

It is now clear—I think unmistakably clear—that the independent counsel law, when it expires on June 30, 1999, will not be reauthorized. There is not only not the votes in this Senate or in the other body, but there is not a rationale based on the historic experience to allow this law to continue.

It brings me no pleasure to bring to the floor of the Senate the weight of the evidence that supports the conclusion that the law should expire. But it is overwhelming, and it isn't only Kenneth Starr. Independent counsels, from Walsh to Smaltz, have given us no choice but to close this unfortunate chapter. The list of abuses by independent counsels are daunting, and they are dangerous. Mr. Starr has no monopoly in his violations of law, ethics, or common sense. But the investigation that is now underway in the Justice Department of Judge Starr is still instructive. It teaches us a lot about the basic failings of this law, how it can be abused, and why the amendment that I offer today, along with Senator HARKIN, is of such value.

First, Mr. Starr apparently may have failed to inform the Attorney General about his contacts with Paula Jones' attorneys. Indeed, he may have misled the Attorney General on this issue.

Second, it is overwhelmingly clear that Mr. Starr, or his subordinates, leaked confidential grand jury information in direct violation of the Federal Rules of Criminal Procedures.

Third, it is possible that Mr. Starr may have used questionable prosecutorial tactics by making an offer of immunity to Ms. Lewinsky contingent on her not contacting her attorney.

These may not be the only violations of procedure or law, but they tell us something about the fact that there is something institutionally wrong with how the independent counsel statute has functioned.

I do not raise these things out of any vendetta against Mr. Starr, or his tactics, or his office, because this is an institutional problem. Indeed, in the last few years, Donald Smaltz has spent $7 million investigating former Secretary of Agriculture Michael Espy. Last year, after a 2-month trial, in which the defense never found it necessary to call a single witness, that $7 million investigation resulted in a jury acquitting Mr. Espy on each and every one of the 30 counts in the indictment.

C. David Barrett spent $7 million investigating former HUD Secretary Cisneros on allegations that he lied about payments to a former mistress. Mr. Barrett went so far as to indict the former mistress over misstatements on a mortgage application form. Nor is it limited to this administration.

In the previous administration, after a 6-year investigation, Lawrence Walsh indicted Casper Weinberger only 5 months before the 1992 Presidential election in either a moment of political convenience, or worse. Mr. Walsh had spent $40 million over 7 years in his investigation.

I believe it is now clear that, despite the best of intentions and our frustration with the Watergate experience, we now know the independent counsel statute is deeply flawed. It has created a prosecutor that is accountable to no one. It is a contradiction with the most basic lessons of our Founding Fathers in the Constitutional Convention. Indeed, in Federalist 51, Madison sums up the need for checks and balances of every office, every center of power in the Federal Government, with a simple phrase ''Ambition must be made to counteract ambition.''

Mr. Walsh, Mr. Barrett, Mr. Starr, and Mr. Smaltz are ambitious men, but their ambition is met with no countervailing power.

There is, in theory, in the Office of the Attorney General the opportunity to dismiss for cause, to hold accountable, but in the political realities of our time no Attorney General could exercise that authority against an independent counsel investigating an administration in which he or she is a component part.

The Congress does not even control the ability of oversight of expenditures. As a Member of the Senate, and as a member of the Judiciary Committee with oversight responsibilities for the Judiciary, for the operation of the Attorney General, I wrote to Mr. Starr and to the Justice Department asking about how this $50 million had been spent and received nothing but a vague reply with broad categories. Mr. Starr's office remains the only functioning office in the entire U.S. Government where the people's representatives cannot inform on behalf of the people how millions upon millions of dollars are spent. But mostly, I suppose, if the money were wasted and power were exercised responsibly but the net result was still a rising level of public confidence in public integrity, it might be worth the abuse or the expenditure. But this isn't the case either.

The independent counsel statute has not succeeded in removing politics from prosecution. It has brought a new element to politics, the hijacking of these offices, the use of them for their own political purposes, only now without oversight. Public confidence in the administration of justice has not only not improved but it has completely failed.

Now it is being argued that the law will expire and there will never be independent counsels again. I believe that is an accurate portrayal of the situation, but the current five independent counsels should simply be allowed to continue in their work. The question remains, how long and for how much?

Mr. Starr has suggested his investigation may go to the year 2001. He has the power for it to continue until the year 2010, 2020. When will Mr. Barrett complete his case, in this decade or the next? And, if $50 million was an outrage by the public for the expenditures of Mr. Starr, there is nothing between here and his expenditure of $100 million, $200 million. Is he the only person in the Federal Government who will retain the power to unilaterally spend unlimited sums of funds with no oversight for any purpose?

That is what brings me to the floor today with Senator HARKIN, to offer an amendment that allows Mr. Starr, Mr. Barrett, and the other three remaining independent counsels to continue with their investigation for 6 months after the expiration of the independent counsel statute on June 30. For the remainder of this year, they retain their authority, their budget appropriations, and they should complete their files and prepare their cases. During that 6 months, they should work with professional prosecutors in the Justice Department, the Public Integrity Section, as applicable, and prepare the transfer of their cases. The cases will continue. They will be in able hands with professional prosecutors, with ample resources.

This law is not intended to end any investigation. It will not end any investigation, but it will allow for the orderly transfer of these investigations and prosecutions within the Justice Department. Those two investigations which have not had independent counsels appointed for 3 years, involving Secretary Herman and Secretary Babbitt, are not affected by this amendment. It is our belief those independent counsels have not had at least 3 years to prepare their cases. We will give them every benefit: Take the time as independent counsels after the law has expired, prepare your cases, continue the prosecution if you have a case, or dismiss it if you do not. This amendment is reserved only for those cases where more than 3 years has expired and where, after the expiration of the independent counsel statute, there is a need to then proceed.

I believe this amendment is fair. It will help restore public confidence and allow the Congress to know the taxpayers' money is being spent properly. It will transition the Federal Government into the post-independent counsel statute method of dealing with these important questions.

I thank Senator FEINSTEIN and Senator DURBIN for joining with Senator HARKIN and with me in offering this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with respect to my colleague from New Jersey and the other cosponsors of this amendment, I rise to oppose the amendment. I understand some of what has moved them to have the strong feelings they do that lead to this amendment, but I think it is certainly ill timed and ultimately ill advised.

I say it is ill timed because the Committee on Governmental Affairs, on which I am honored to serve as the ranking Democratic member, is in the middle of an inquiry, holding hearings on the fundamental question of whether to reauthorize the independent counsel statute, hearings which will continue for at least a month more. I think it is worth letting that process work what we hope will be its thoughtful and constructive way.

I know many of my colleagues oppose reauthorizing the statute, and that is true of Members on both sides of the political aisle, just as I am heartened by the fact that Members on both sides of the political aisle support the retention of the independent counsel statute or some version of it. I hope we can work together to develop a law that establishes the principles of independence of investigation when the highest officials of our Government are suspected of criminal behavior. It may take some time and some convincing. Most people believe this will not happen by the June 30 expiration date of the current statute. The statute, therefore, may lapse for a time while we work on this. But that would not be a catastrophe, because under existing law the independent counsel who are in effect now would continue to do their work.

Regardless of how the underlying question of whether we have an independent counsel—inside the Justice Department, outside the Justice Department—or not, is resolved, I believe it would be a serious mistake to single out, as this amendment does, what I

gather to be four of the independent counsels for termination while their investigations are ongoing. In that sense, this amendment is not just a preemptive attack on the statute while we are still considering as a committee and as a body whether to reauthorize it, it is what might be called a personal attack on the most controversial independent counsels. In that sense, it actually cuts against the purpose of the statute in the first place, which was to provide for independence of investigation and prosecution. The fear was, when the statute was drafted and adopted in 1978 after Watergate, that prosecution—investigation of high-ranking officials of our Government would be interfered with by people in the executive branch who would be affected by those investigations.

There is a way in which this amendment puts Congress in a position of compromising the independence of these investigations. Under the amendment, all the independent counsel investigations besides the ones covered still operating after the law expires on June 30, would continue. It is not until they reach the 3-year deadline in the amendment, but until their work had been completed and their offices were terminated pursuant to the statutory provisions which are currently in effect.

There are two other ongoing independent counsel investigations begun in 1998 which, as my friend and colleague from New Jersey, I believe, just indicated, would never be affected—in fact, would never be affected by this amendment. Similarly, there may be other independent counsel currently operating under court seal, which we would therefore not know about, who would not be affected. And the Attorney General may appoint additional independent counsel before the statute expires on June 30. All of these would not be affected. This amendment as I understand it and read it, affects only four independent counsel: Kenneth Starr, David Barrett, Donald Smaltz, and Larry Thompson.

I am not rising to oppose this amendment because I want to defend the investigations that these four men have carried out. I do not want to. I don't need to. Some of the criticisms of their work may be valid; some may not be. But that is not the point, as I see it. The point is, and the question is: Do we in Congress want to set the precedent of terminating an ongoing separate branch investigation and prosecution for whatever the reason that it has aroused our opposition? I think this would be a bad precedent which smacks of violation of the separation of powers doctrine and values.

I know we maintain the power of the purse, and it is an important power, but it has to be exercised with great discretion and sensitivity, particularly when we are affecting one of the other branches of Government and particularly when we are affecting a branch of Government whose particular participants here are involved in controversial independent investigations. It was no accident that the framers of the Constitution went out of their way in a whole series of cases, including in the impeachment provisions in the Constitution which we have just come through, to make it very clear that Congress does not have the power to prosecute. That was one of the lessons the framers learned from their own history. So, as we remember in the impeachment provisions, and it was central to the decision that many of us made, that impeachment existed not to prosecute the President in that case.

That was something that the Constitution tells us could be done after an individual left office by the appropriate branch of government. I worry very much about the effect of the precedent that will be set here, understanding some of the concerns that motivate the amendment, but thinking beyond the current situation. A precedent would be set for Congress to intervene and terminate independent criminal investigations and/or prosecutions. We do not have to do it. The law makes clear that there are others who can take these steps. The independent counsel statute itself contains a mechanism by which the Attorney General can remove any independent counsel, including these four, for cause. So far she has declined to use that authority. I think to some extent what is involved here is our respect for her right, as the Nation's chief law enforcement officer, to make the decision as to whether to use the power we have given her in statute to decide whether or not to remove these four independent counsel.

Why should we presume to replace our judgment for hers? The statute also contains a provision by which either the Attorney General, the independent counsel, or the special panel of three appellate judges can move to terminate an investigation, if its work has been substantially completed, whether or not the independent counsel himself thinks that is the case. This amendment makes an exception to those ongoing statutory provisions for four independent counsel. It is not the proper role of Congress, in my belief, to decide that certain prosecutors should be fired in the midst of their work. We should apply the same provisions of the law to those independent counsel whose investigations have displeased us, either because of the content or the length of the investigations, as we do for those that have not displeased us.

Even if this amendment's 3-year cutoff applied equally to all of the independent counsel, it may well constitute an unjustifiable interference in ongoing criminal investigations.

The independent counsel statute, as it exists today and as I mentioned earlier, grandfathers existing investigations, if the statute is not renewed, for a number of very good reasons. Among them are that after a prosecutor has spent time on a lengthy and complex investigation, he has built up a store of information, institutional memory, ongoing leads and relationships. Much of that would be lost if these cases were turned over to the Department of Justice midstream. Again and again, I have heard critics of the independent counsel statute complain of the inefficiencies involved in requiring newly appointed independent counsel to find office space and assemble staff before they begin their work, but we need to weigh carefully whether there are greater inefficiencies and greater harms involved in tearing apart these offices before they have finished their work. The inefficiencies, I think, would be compounded if we in Congress ultimately pass a statute to replace the current law.

The legislative process has barely begun on the question of whether or not to renew in its current form or some revised form the Independent Counsel statute. None of us, certainly not I, can say where this will lead. Perhaps a new independent counsel would have to be appointed and attempt to reconstruct the work that had been done. Before a new law is passed, it is not clear to me how the Attorney General would be expected to handle the investigations that would be returned to the Department at the end of the year.

Yesterday, in testimony before the Governmental Affairs Committee, the Attorney General promised to continue appointing independent counsel where necessary, pursuant to regulations, if the current statute expires.

The amendment before us may have the ironic effect of requiring the Attorney General to immediately appoint a new independent counsel to resume investigations and prosecutions that were already well underway towards completion, which I fear might mean not only a bad precedent and principle, but additional expenses as well.

Finally, Mr. President, the Attorney General declared yesterday that she is opposed to reauthorizing the independent counsel statute, but I think it is fair to say that she nonetheless saw dangers, problems implicit in the pursuit and purpose of the amendment before us now. I thought she urged us to reject it. At least she said it didn't make sense to her. I admire her forthrightness on both counts, though I disagree with her on one. Whether or not you support the independent counsel statute, I hope my colleagues will think twice before going on record and supporting the precedent of premature termination by Congress of prosecutors who are appointed to be independent guardians of justice, independent from the executive branch and independent from the legislative branch as well.

I thank my colleagues.

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

Mr. LIEBERMAN. I will.

Mr. TORRICELLI. Mr. President, I thank the Senator for yielding.

I want to make certain that the record is complete and accurate. The

Senator has suggested that it would be interfering with an ongoing criminal investigation. The Senator understands that in these 6 months, the independent counsel would have time to take their cases, as they are now prepared, and their relatively small offices and give them to professional prosecutors in the Justice Department who have been pursuing similar or more important cases for years. There is no diminution in resources, quality of personnel, or ability to pursue the case. Ironically, this is probably bad news for the potential defendants, because they are going to be facing much more experienced prosecutors.

I just wanted to make certain that was clear on the record and the Senator understood that.

Mr. LIEBERMAN. Mr. President, I thank my friend from New Jersey. I do understand it. My reaction to it is that we are still taking from these offices that have been working on these cases and establishing a precedent for various reasons. It is a precedent that can be misused, as time goes on, of terminating an ongoing independent counsel prosecution by the individual, firing the individual who is doing it, turning it over to the Justice Department, which, of course, has many, many capable and experienced lawyers, but who have not been working on this case. Therefore, I think that it would suffer not only from redundancy and inefficiency, but most of all, I worry, no matter what we think about these four or the independent counsel statute, it would set a bad precedent of legislative intervention into independent investigation and prosecution.

Mr. TORRICELLI. Mr. President, will the Senator continue to yield for one more inquiry?

Mr. LIEBERMAN. I will.

Mr. TORRICELLI. The point was made, as well, as to whether or not this is an unconstitutional interference. The right of the Congress to reassign responsibilities, to reassign appropriations, of course, is an innate part of the function of Congress. The Senator from Connecticut, as did the Senator from New Jersey, I am sure, voted, for example, for the State Department reauthorization, the Department of Energy reauthorization, where we simply reassigned executive responsibilities as part of our constitutional power.

Finally, I, too, was there for the Attorney General yesterday. The Senator from Connecticut may remember, I asked her, in my concluding questions, whether or not the Justice Department had the resources to deal with these cases. She was confident they would and could deal with these cases so that justice was done and there was no diminution of effort in the pursuit of justice in these cases.

I simply want the RECORD to reflect that her answer was affirmative. I thank the Senator from Connecticut for yielding and apologize to the Senator from Iowa for taking the time.

Mr. LIEBERMAN. I thank my friend from New Jersey. I will speak for a moment more and then yield to the Senator from Iowa.

I think the Attorney General yesterday was asked two different questions, quite different, and didn't give inconsistent answers, but I think my interpretation was, she said that an amendment of this kind would be unwise. She did say that if it was agreed to, the Department, as the Senator from New Jersey has indicated, would be capable of picking up these cases.

Secondly, I want to indicate that I am not reaching a constitutional judgment that this is a violation of separation of powers. I have tried to be careful in my comments to state that. I do think it evokes separation of powers concerns and values. Taking the example that the Senator from New Jersey gives of reauthorization of State Department or Energy Department Offices, to me this would be a little bit like abolishing an assistant secretaryship in one of those Departments because we didn't like the work that the particular Assistant Secretary was doing and saying, turn it over to the Secretary of State or Secretary of Energy and let them do it the way they want to do it. While we have the power to do that and we have the power of the purse, it would set a precedent that could come back to haunt us.

I thank my colleagues, I thank my friend from New Jersey, and I yield to the Senator from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have listened with great interest to the arguments made by the author of the amendment, Senator TORRICELLI—of course, I am a cosponsor of the amendment—and the very lucid and well thought out arguments of my friend from Connecticut.

First I will respond to my friend from Connecticut by saying that he used the word ''ill-timed'' on a number of occasions in his argument. I quite disagree with my friend on that. I believe this is perfect timing.

What are we talking about here? We are on a supplemental appropriations bill. We are making some cuts someplace. We are spending money. We are trying to reach some emergency spending moneys that we need, and we are all looking for places to save money. Here is one place we can save some money. That is what this is about, too.

If there is one thing I continually hear from my constituents in Iowa and from people around the country, it is, ''How much more money are you going to pour down that rat hole?'' How much more money are we going to spend on these special prosecutors that go on and on and on? I think the timing is very appropriate right now, when we are on an appropriations bill talking about how much money we are spending and how much money we can save to meet critical needs in this country. I think it is very appropriately timed on this legislation.

Mr. President, the Starr investigation has been traumatic for this country, it has been divisive for our national fabric, and these gaping wounds need to be healed. The focus so far has been on allowing the independent counsel statute to lapse on the assumption that it will put an end to the episode. In reality, that is far from the case.

The independent counsel statute will lapse on June 30, but it does not put an end to the ongoing investigations. Keep in mind that the amendment offered by the Senator from New Jersey and others, of which I am a cosponsor, basically goes just to those investigations that have been ongoing for over 3 years. There are a couple that are less than 3 years. Our amendment does not touch them.

We are only answering the three—actually there are four. The Senator from Connecticut mentioned the fourth one. It caught me by surprise and I had to look it up. It turns out the fourth one is an ongoing investigation into Secretary of HUD Samuel R. Pierce. If I am not mistaken, he was Secretary of HUD under Ronald Reagan. They still have an investigation going on him. It just goes to show you, these things just go on year after year after year.

What we are saying is, if we have an independent counsel who has been operating for more than 3 years, in 6 months—by the end of this year—they have to close up shop and turn it over to the Justice Department.

We are not saying that no one will be let off. No appeal is going to be dropped. No valid investigative lead will be abandoned. The cases will be pursued in keeping with Justice Department rules by some of the most experienced prosecutors in the country.

Again, I point out there is little doubt that these cases will be under scrutiny internally at the Justice Department, certainly by the media and by the Congress.

We have a President, an Executive, of one party, Congress run by another party. I daresay there are going to be some checks and balances here. Anyone who thinks this can be smothered by the Justice Department does not recognize how this town works. What it will do is save us a lot of money, and that is what I keep hearing about from my constituents.

Until I started looking at this independent counsel law during the impeachment trial we had in the Senate, I had not paid all that much attention to it. In fact, I admit freely, when the extension passed in 1993, I was one of those who voted to extend it. I wish now I had not, because I think it has run amok. That is why I will be in favor of letting it expire on June 30.

In looking at this, I was trying to find out how Ken Starr could rack up a bill between $40 million and $50 million in less than 3 years. How could that be possible?

I began trying to find the line items where he was spending the money. Guess what I found out. We cannot get

that information. I can go to the Department of Agriculture and I can find out where every last nickel they spend goes. I can go to the Defense Department and find out exactly where every nickel they spend goes. They have to line item everything. That is true of any branch of Government but not of the independent counsel. Believe it or not, you cannot find out where he is spending the money. All they have to put it under is general broad categories, summaries.

For example, here is a bill, and this came from the Los Angeles Times. They said they paid $30,517 for psychological analysis of evidence in the suicide of former White House lawyer Vincent Foster by the same Washington group that looked into the untimely death of rock musician Kurt Cobain. What is that all about?

Then there is $370 a month in parking. We do not know who for or what for, but it is there, $370 a month. Here is $729,000 on five private investigators who were hired to supplement dozens of FBI agents. What did it go for? Where did that money go? We do not know. Here is a report that Mr. Starr paid $19,000 a month in rent at a luxury apartment building for staff members—19,000 bucks a month? I would like to know what he was renting. Again, we do not know because we cannot get into the line items.

That is just another glaring deficiency in this huge loophole that we opened with the independent counsel law. It is, in fact, a fourth branch of Government with no checks and balances and no accountability to Congress.

Despite the fact that Mr. Starr made his referral to Congress, it was considered and dispensed with through a long, tortuous episode in the House and long, tortuous episode in the Senate with the impeachment trial. According to newspaper accounts, Mr. Starr has no plans to wind things down. In fact, there are indications he may keep the investigation going not for 1 year, not for 2 years, but for 3 more years. That is why we are offering our amendment; cut funding in 6 months for any independent counsel investigation that has been ongoing for 3 years or more. That is enough time.

The Starr investigation has been going now for almost 5 years, and I think we are pretty darn close to $50 million, maybe more by now. We are just saying, during these 6 months, to Mr. Starr and these other independent counsel, even the one who is investigating Samuel Pierce from the Reagan administration, it is time to put their books together and make any referrals for any additional action or investigations to the Attorney General.

This deadline gives plenty of time to the independent counsel to finish their work. And, again, if there is any problem, the American people can rest assured that these cases will be handled by a specialized office of the Justice Department that has been doing this for over 20 years.

I think we have all concluded that the independent counsel law is fatally flawed. Under these circumstances, it would be a mistake to let the Starr investigation continue on indefinitely without any end date, without any oversight, without any rein on prosecutorial excess, without any rein on money.

I think we ought to listen to people and let the country move on. Mr. Starr has had long enough to investigate Whitewater and Monica Lewinsky. The Senate considered the charges against the President. We dispensed with them. I think 6 months is long enough to wrap things up. Make the referrals he deems necessary so we can put this behind us.

Again, I just point out, Mr. President, that Mr. Starr is sort of like a gold-plated energizer bunny—his investigation keeps going on and on, and the money just keeps going up and up and up.

Twenty independent counsel investigations have been initiated since 1978, at a cost estimated at nearly $150 million. Here is one. Donald Smaltz began his $17 million investigation of former Ag Secretary Espy in November 1994. He filed 30 counts. The jury threw them all out. The jury threw them all out. He spent $17 million. What happened? Well, it sure ruined Agriculture Secretary Espy, I can tell you that; but the jury found him innocent—$17 million.

David Barrett began his investigation, which I understand is now around $7 million, of former Housing Secretary Cisneros in May of 1995.

So the bills just keep getting racked up. The independent counsel keep going, and the people of this country are wondering, What in the heck are we doing? Here we are on an appropriations bill, we are trying to scrounge every nickel, every penny we need to meet the critical needs of people in this country. We have it in the farm sector. We have a lot of critical needs in rural America, I can tell you that right now, with the devastating crop prices and livestock prices. And we are looking for money for some assistance for farmers. We can't find it. Yet we have millions for Ken Starr and for all these other investigators to just keep living in luxury apartments and running up the bills to the taxpayers with no accountability.

So that is why I think we have to do this. Six months is long enough. I do not know what the Governmental Affairs Committee will report out, when they report it out. It is my own observation that when this law expires on June 30 there are not the votes here to extend it. Some people may want to extend it, but I do not think there will be the 60-plus votes necessary to extend that law. But that does not make any difference; the ones that are going on now can just keep right on going. I just think it is time to heed the common wisdom of the people of this country and shut the spigot off and turn it over to the Justice Department by the end of the year.

I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we at the Governmental Affairs Committee are, indeed, conducting hearings with regard to the independent counsel. The criticisms of the Independent Counsel Act have been many and well known for many, many years. The Act was passed in 1978. I was one of the ones who was critical of the idea that you could set somebody up totally separate and outside the process and not accountable in the very beginning.

A lot of my friends now who criticize the Act, of course, thought it was a very good idea back when the independent counsel were investigating the other party. All of the criticisms about Mr. Starr, of course, were applicable to Mr. Walsh's investigation, which went on longer, cost more than Mr. Starr's investigation back during previous administrations.

We should not look at this in terms of who is investigating whom. As I say, I have been critical of it all along. I still am. But the question is, Where is the power going to reside if you have a real conflict of interest? If you have a President of the United States who has been accused of serious misconduct, can his appointee, the Attorney General, investigate that with any credibility? I think for most of the Attorneys General we have had throughout our history, the answer is, yes, they have been people of great integrity. But what about the perception? Is that a good idea?

So if we do not have an independent counsel, we give it back to the employee of the President to investigate the President? That is an inherent conflict of interest. Attorney General Reno herself, the Department, the administration back in 1993, all agreed that was a bad idea, and they were for the independent counsel. Now, recent events, and Mr. Starr's criticism, has caused them to reverse on a dime and say that they have discovered structural defects in the statute.

The statute has been basically the same since 1978. They are just now discovering those structural defects in the statute. It looks an awful lot like the question of, Whose ox is being gored? But we are trying to stay away from too much of that.

I have been critical, of course, of this Justice Department in not appointing an independent counsel in the case that I feel calls out for it the most. We have a classic case with regard to the campaign financing scandal—one of the largest scandals we have ever had in this country—a classic case for why the independent counsel law was passed. Yet all these others have been appointed, but when it comes to the big guy, we do not have an appointment in that particular case.

But, that aside, we are trying to examine all sides of this: Should we continue the law? Should we not continue the law? And if we continue the law, should we modify it? All those are possibilities. All those are on the table. And we do not know what the result is going to be yet.

So along comes this amendment that is on the floor now—a terribly bad idea. Regardless of whether you are for the independent counsel statute or against the independent counsel statute, the idea that Congress should step in, either now, 3 months from now, or 6 months from now, and call to a halt investigations that have been going on for a year—not just Mr. Starr's investigations but other independent counsel—and say, ''Congress knows best; we're going to get into the middle of these criminal investigations, and although we set up the independent counsel law that was passed in this U.S. Congress—they were duly appointed—we're going to call a halt to them because we don't like the people who are being investigated; we don't like the amount of money that you're spending,'' or all those newfound criticisms that we have been silent on up until now since 1978, is an extraordinarily bad idea.

The Congress has already determined that even if the independent counsel law lapses, these investigations that are ongoing should continue.

The Attorney General can ask the three-judge panel to call a halt to an investigation if she believes that it is justified. She has not done that. In fact, the Attorney General does not support this amendment. This amendment would say: Let's call a halt to all of it and give it back to the Attorney General.

I asked the Attorney General yesterday, in Governmental Affairs, just one question: ''As a matter of policy, do you think it would be wise for Congress to terminate current ongoing investigations, regardless of what happens after that?'' Attorney General Reno's response: ''I think since these investigations are underway, they should probably be concluded under the current framework.'' So she doesn't support this amendment, an extraordinarily bad idea.

So it goes back to the Attorney General under this amendment, as I say, not just Mr. Starr's investigation, but the investigation with regard to Mr. Cisneros, for example, others, the Webb Hubbell investigation. All of that would be brought to an end and sent back to the Attorney General.

And she has two choices: She can either keep it and dispose of it herself, at a time when that Department probably has less credibility than it has had in many, many years; or she can launch a new investigation and call for a new special counsel to come in—extraordinarily expensive, wasteful, nonsensical, Mr. President; a very, very bad idea, whether or not you are for or against the extension of the Independent Counsel Act.

Congress should not be interjecting itself to terminate investigations at midstream when there is also a mechanism, if it is justified, for that to be done. So I sincerely hope that my colleagues will join me in opposing this amendment.

I yield the floor.

Mr. STEVENS. Mr. President, I intend to move to table this amendment. It is a very serious subject and we have had extensive hearings before the Governmental Affairs Committee, which Senator THOMPSON chairs. I do believe we will have to address this subject at a later time in the Senate, but this is not the time to do it.

Therefore, I move to table that amendment and 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.

Mr. STEVENS. I ask unanimous consent there be 2 minutes equally divided for explanation of the second amendment prior to the vote on the second amendment, that is, this amendment I have just moved to table.

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

Mr. STEVENS. Mr. President, I ask unanimous consent for 2 minutes between the two votes to explain the process that will occur after that vote.

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

Mr. STEVENS. Is all time expired?

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 89

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I annouce that the Senator from Arizona (Mr. MCCAIN), is necessarily absent.

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—69

Abraham	Feinstein	Lincoln
Akaka	Fitzgerald	Lugar
Allard	Frist	Mack
Baucus	Gorton	McConnell
Bayh	Graham	Mikulski
Bennett	Gramm	Moynihan
Biden	Grams	Murkowski
Bingaman	Gregg	Murray
Bond	Hagel	Nickles
Boxer	Harkin	Reed
Breaux	Hutchison	Reid
Brownback	Inouye	Robb
Bryan	Jeffords	Roberts
Byrd	Johnson	Rockefeller
Campbell	Kennedy	Roth
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Cochran	Kohl	Smith (OR)
Daschle	Landrieu	Stevens
Dodd	Lautenberg	Thomas
Domenici	Leahy	Voinovich
Durbin	Levin	Warner
Edwards	Lieberman	Wyden

NAYS—30

Ashcroft	Enzi	Santorum
Bunning	Feingold	Sessions
Burns	Grassley	Shelby
Collins	Hatch	Smith (NH)
Conrad	Helms	Snowe
Coverdell	Hollings	Specter
Craig	Hutchinson	Thompson
Crapo	Inhofe	Thurmond
DeWine	Kyl	Torricelli
Dorgan	Lott	Wellstone

NOT VOTING—1

McCain

The motion to lay on the table the amendment (No. 89) was agreed to.

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Alaska.

AMENDMENT NO. 92

Mr. STEVENS. Mr. President, under the agreement we have, there will be 1 minute on each side to explain the next amendment. Senator TORRICELLI will be first with that minute. Following that, I have 2 minutes to explain to the Senate what we have to do after this vote.

The yeas and nays have been ordered, Mr. President. I did order the yeas and nays.

But before that vote, Senator TORRICELLI is to be recognized for 1 minute. It is only 1 minute. I hope we could have order so the Senate can hear these Senators.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, before the Senate is the question of when the independent counsel statute expires. There is still the issue of the appropriations, and whether the poor continuing independent counsel will be able to spend, not just this year, but on into the future, $10 million, $20 million, $100 million.

We begin the orderly process, on 6-month notice, of moving those cases into the Public Integrity Section of the Justice Department where the Attorney General has assured us she is prepared to receive the cases. They will be pursued professionally and prosecuted to the full extent of the law. All we have provided for is the orderly transfer of those cases. Justice will be done. Every case will be pursued. It will be done within the Justice Department, and at long last there will be accountability of how much we spend.

If you have been asked by constituents: Isn't $50 million too much? Will it be $100 million? Will it be $200 million? This is the answer to your constituents' inquiry. It is control, but it also assures justice within the Department.

The PRESIDING OFFICER (Mr. FITZGERALD). The time of the Senator has expired. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, the Senate has previously determined if, in fact, the Independent Counsel Act is allowed to expire, investigations that are currently underway will be ongoing. Why did the Senate decide that? The obvious reason is it is a bad idea for the Congress to be terminating investigations in midstream and sending them back to Justice.

This amendment would reverse that previous determination that this body has made. They would send it back to Justice with choices: They would either have to shut down the investigation, make the determination themselves, which would be terrible in terms of appearance, or they would have to continue the investigation and bring somebody else in to do it, which would be terrible in terms of efficiency.

I asked Attorney General Reno in the Governmental Affairs Committee what she thought about it. She said, ''I think, since these investigations are underway, they should probably be concluded under the current framework.''

I suggest this is a very bad idea and should be defeated.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask for 2 minutes here to inform the Senate what procedure I hope we will follow at this time. We have a list of amendments here, some 70 amendments, but I do not expect them all to be offered. Particularly, I do not expect them all to be offered when you see what is going to happen to this amendment. I say that advisedly, after being advised by the proponents.

But, Mr. President, it is going to be my policy as the majority manager of this bill to move to table every amendment that is not cleared on both sides. This is an emergency measure. We are going home a week from Friday. Next week is all taken up with the budget. We either get this done now so we can go to conference with the House on Monday or Tuesday and bring it back before Friday, or we might as well forget about it.

So I respectfully inform the Senate I shall move, as the manager, to table every amendment that does not have bipartisan support. So, if you have an amendment on that list and you do not want to lose on it, now is the time to take it off.

Mr. GRAMM addressed the Chair.

Mr. STEVENS. Mr. President, I ask unanimous consent the yeas and nays that have been ordered be vitiated, and we take a voice vote on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, may I pose a question to the Senator?

Mr. STEVENS. Yes.

Mr. GRAMM. This is a motion to table the amendment?

Mr. STEVENS. Yes. The Senator will see we are going to voice vote it and it will carry.

Mr. GRAMM. With that assurance from the manager of the bill, I do not object.

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

Mr. STEVENS. I thank the Chair.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the motion.

The motion to lay on the table the amendment (No. 92) was agreed to.

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.

Mr. STEVENS. Mr. President, we are prepared to go through any amendment that is going to be offered and give our advice as quickly as possible as to whether or not we will support that amendment. I urge Senators to bring the amendments to us. Senator BYRD and I will go over them immediately, and we can determine how many of these amendments we might have to vote on. As soon as the leader has made his request for a time agreement, we will go further into the operation here of the Senate before we finish this bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am curious to know what amendments might be coming up. Is there a list available we can look at? Obviously, they are not all going to be approved. It is my understanding, from what the manager said, if any amendment is objected to, then he will include that amendment in those to be tabled by voice vote?

Mr. STEVENS. I don't know about the voice votes, Mr. President, if the Senator will yield. I do know we will have a list here very soon. The leader will present it. That is what we are waiting for now. I do say we have a tentative list. We are trying to winnow that down, but if we can get agreement on that list, I think then we can proceed. I don't know whether we can get agreement on the list and that is what we are waiting for. But we will show you the list as soon as possible.

Mr. CHAFEE. Should we wait around here?

Mr. STEVENS. We should have that list within about 20 or 30 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. THURMOND. I ask unanimous consent the privilege of the floor be granted to Ernie Coggins, a legislative fellow, during the pendency of the emergency supplemental appropriations bill.

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

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.

AMENDMENTS NOS. 93, 94, 95, 96, 97, 98, EN BLOC

Mr. STEVENS. Mr. President, I am going to send to the desk a package of amendments.

The first is an amendment by Senators HELMS and MCCONNELL directing the Office of Inspector General, Agency for International Development, to audit expenditures for emergency relief activities.

The second is an amendment by Senator REID to provide an additional $500,000 for technical assistance related to shoreline erosion at Lake Tahoe, NV.

The next is an amendment by Senator KYL to provide an additional $5 million for emergency repairs to Headgate Rock hydroelectric project in Arizona.

Next is an amendment by Senators DOMENICI and REID making a rescission of $5.5 million to funds available to the Corps of Engineers to offset additional funds provided in the previous two amendments.

Next is an amendment by Senators JEFFORDS and BINGAMAN directing the Agency for International Development to undertake efforts to promote reforestation and other environmental activities.

Last is an amendment by Senator LEVIN allowing the President to dispose of certain material in the National Defense Stockpile.

These have all been cleared on both sides, and they are all fully offset.

I send the package to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. HELMS, Mr. MCCONNELL, Mr. REID, Mr. KYL, Mr. DOMENICI, Mr. JEFFORDS, Mr. BINGAMAN, and Mr. LEVIN), proposes amendments Nos. 93 through 98, en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 93

(Purpose: Relating to activities funded by the appropriations to the Central America and the Caribbean Emergency Disaster Recovery Fund)

On page 8, line 22, insert before the proviso the following: ''*Provided further*, That up to $1,500,000 of the funds appropriated by this heading may be transferred to 'Operating Expenses of the Agency for International Development, Office of Inspector General', to remain available until expended, to be used for costs of audits, inspections, and other activities associated with the expenditure of funds appropriated by this heading: *Provided further*, That $500,000 of the funds appropriated by this heading shall be made available to the Comptroller General for purposes

of monitoring the provision of assistance using funds appropriated by this heading: *Provided further*, That any funds appropriated by this heading that are made available for nonproject assistance shall be obligated and expended subject to the regular notification procedures of the Committees on Appropriations and to the notification procedures relating to the reprogramming of funds under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1):''.

AMENDMENT NO. 94

Insert in the appropriate place:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

CONSTRUCTION, GENERAL

For an additional amount for ''Construction, General,'' $500,000 shall be available for technical assistance related to shoreline erosion at Lake Tahoe, NV caused by high lake levels pursuant to Section 219 of the Water Resources Development Act of 1992.

AMENDMENT NO. 95

Insert in the appropriate place:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Water and Related Resources

For an additional amount for ''Water and Related Resources'' for emergency repairs to the Headgate Rock Hydroelectric Project, $5,000,000 is appropriated pursuant to the Snyder Act (25 U.S.C.), to be expended by the Bureau of Reclamation, to remain available until expended.

AMENDMENT NO. 96

Insert in the appropriate place:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

CONSTRUCTION, GENERAL

Of the amounts made available under this heading in P.L. 105–245 for the Lackawanna River, Scranton, Pennsylvania, $5,500,000 are rescinded.

AMENDMENT NO. 97

On page 9, line 10 after the word ''amended'' insert the following: '': *Provided further*, That the Agency for International Development should undertake efforts to promote reforestation, with careful attention to the choice, placement, and management of species of trees consistent with watershed management objectives designed to minimize future storm damage, and to promote energy conservation through the use of renewable energy and energy-efficient services and technologies: *Provided further*, That reforestation and energy initiatives under this heading should be integrated with other sustainable development efforts''.

AMENDMENT NO. 98

(Purpose: To authorize the disposal of the zirconium ore in the National Defense Stockpile)

On page 58, between lines 15 and 16, insert the following:

TITLE V—MISCELLANEOUS

SEC. 5001. (a) DISPOSAL AUTHORIZED.—Subject to subsection (c), the President may dispose of the material in the National Defense Stockpile specified in the table in subsection (b).

(b) TABLE.—The total quantity of the material authorized for disposal by the President under subsection (a) is as follows:

Authorized Stockpile Disposal

Material for disposal	Quantity
Zirconium ore	17,383 short dry tons

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of material under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the material proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the material specified in such subsection.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term ''National Defense Stockpile Transaction Fund'' means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

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

The amendments (Nos. 93, 94, 95, 96, 97, and 98) were agreed to.

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

The motion to lay on the table was agreed to.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the following amendments be the only remaining first-degree amendments in order to S. 544, with the exception of the pending amendments; that they be subject to relevant second-degrees and that no other motions, other than motions to table, be in order.

I submit the list and, Mr. President, I believe the Democratic leadership has a copy of this list also.

The list of amendments is as follows:

AMENDMENT LIST FOR SUPPLEMENTAL

Domenici:
1. New Mexico southwest border HIDTA.
2. Oil/gas loan guarantee.
Specter/Durbin: Unfair foreign competition/trade fairness.
Hutchison: Kosovo.
Robb: Cavalese, Italy claims.
Stevens:
1. Non-Indian health service.
2. Glacier Bay compensation.
3. Relevant.
4. Relevant.
Hatch: Ethical standards for Federal prosecutors.
Gregg: Fishing permits.
Gorton:
1. Hardrock mining.
2. Power generation equipment.
Brownback/Roberts: Natural gas producers.
DeWine:
1. Counterdrug research.
2. Counterdrug funding.
Smith (NH): Kosovo.
Enzi:
1. States' rights.
2. Livestock assistance.
3. Livestock assistance.
4. Relevant.
Murkowski: Glacier Bay.
Ashcroft: Emergency assistance to USDA.
Bond:
1. Hog producers.
2. 1998 disaster.
Jeffords: Relevant.
Gramm:
1. Strike emergency designation.
2. Steel loan program (4 amendments).
3. Offsets (4 amendments).
4. Relevant.
Kohl: Bankruptcy technical correction.
Lincoln:
1. Debris removal.
2. CRCT.
Gorton: Loan deficiency payments.
Dorgan: Shared appreciation amendment.
Kohl: NRCS conservation operation funding.
Lott: 3 relevant amendments.
Lott: Rules.
DeWine: Steel.
Leahy/Jeffords: Funding for apple growers.
Cochran:
1. Relevant.
2. Relevant.
Grams: $3.4 million transfer within HUD.
Burns: Sheep improvement center.
Nickles: Emergency.
Craig: Agriculture sales to Iran.
Biden: Relevant.
Bingaman:
1. SoS Home care.
2. Energy related.
3. Ag related.
Byrd:
1. Relevant.
2. Relevant.
3. Relevant.
Daschle:
1. Ellsworth AFB.
2. Missouri River.
3. Firefighters.
4. Relevant.
5. Relevant.
6. Relevant.
7. Tobacco recoupment.
Dorgan: Grain sale to Iran.
Durbin:
1. Medicaid recoupment.
2. Kosovo (2nd degree).
3. Relevant.
Edwards: TANF.
Feinstein: WIC increase.
Feingold: Relevant.
Harkin;
1. Tobacco.
2. Relevant.
3. Relevant.
4. Relevant.
Johnson:
1. Relevant.
2. Relevant.
3. Relevant.
Kerry: Hard rock mining.
Kerrey: Flood control—Corps of Engineers.
Landrieu:
1. Central America—disaster fund.
2. Immigration.
3. Immigration.
Leahy: Apple growers.
Levin: Relevant.
Murray: Rural schools—class size fix.
Reed: OSHA Small farm rider.
Robb: Ski gondola victims.
Torricelli: Relevant.
Graham:
1. Micro Herbicide.
2. Sec. 3002—Counterdrug.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, and I will not, I will just describe the list for our colleagues to indicate that there are approximately 45 Republican amendments and approximately 35 Democratic amendments on the list just submitted, but I do not object. I support the request made by the majority leader.

Mrs. HUTCHISON. Reserving the right to object, I want to make sure I understand what the majority leader has put forward. The amendments would be amendable with relevant second-degrees; is that correct? Would substitutes also be allowed on amendments?

Mr. LOTT. Mr. President, in answering the question of the Senator from Texas, all first-degree amendments that are listed would be subject to relevant second-degree amendments, but if they are not on that list, then they would not be subject to relevant second-degree amendments. I guess that a second-degree amendment in the nature of a substitute would be in order.

The PRESIDING OFFICER. If it is relevant, it would be in order.

Mrs. HUTCHISON. Thank you.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Did we get agreement to that request? I will go ahead and complete the entire request. Let me say on the list of amendments, Senator DASCHLE is correct. There are apparently 80-something amendments on that list. I assume that a lot of them are defensive in nature and some of them can very likely be accepted. We have the two best managers, probably, in the Senate handling this bill—the Senator from Alaska, Mr. STEVENS, and the Senator from West Virginia, Mr. BYRD. I am sure they will go through that list like a knife through hot butter. But there are some on that list that certainly will have to be dealt with in the regular order. We will work on our side to get that list worked down, just as I am sure Senator DASCHLE will.

Mr. President, I further ask unanimous consent that following the disposition of the above-listed amendments, the bill be advanced to third reading and passage occur, all without any intervening action or debate. I further ask that the bill remain at the desk, and when the Senate receives the House companion bill, the Chair automatically strike all after the enacting clause, insert the text of S. 544, as amended, the House bill be advanced to third reading and the bill be passed, all without intervening action or debate.

I further ask that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

For the information of those who might be wondering about that, the House has not yet acted on this supplemental. It is anticipated they will not act until Tuesday or Wednesday of next week. Therefore, we do not want to run this to final completion. This will allow us to stop at a critical point and wait for the House action and then go straight to conference.

Finally, I ask that the Senate bill be placed back on the Calendar and final passage occur no later than 11 a.m. on Friday, March 19, and that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I have just noted that there are approximately 90 amendments. I agree with the characterization of the majority leader that we have the two finest managers the Senate could put forth as we work through this bill, and I am sure that they will cut through those amendments like a knife through hot butter. As eternal an optimist as I am, I am still not optimistic at this point that we can complete work on all 90 amendments prior to 11 o'clock, so I will object.

I do ask for the cooperation of our colleagues in the hopes that we can finish this bill. Obviously, there is a great deal of work that yet needs to be done. If we work this afternoon and work hard, perhaps as early as this evening we might be able to finish, but let's give it our best effort and revisit the question of when we can go to final passage. So I object.

Mr. LOTT. Mr. President, I revise my unanimous consent request. It is the same as earlier stated, but I will delete the last phrase with regard to these words: ''And final passage occur no later than 11 a.m. on Friday, March 19, and that paragraph 4, rule XII, be waived.'' Therefore, it will conclude with these words: ''Finally, I ask that the Senate bill be placed back on the Calendar.''

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

Mr. LOTT. I thank Senator DASCHLE. Mr. President, I yield the floor.

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. SPECTER. 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. SPECTER. Mr. President, there is likely there will be an amendment offered relating to Kosovo. I would like to speak briefly on that subject, if I may, in the absence of any other Senator on the floor.

I note the distinguished chairman of the Appropriations Committee has just come to the floor. Does the chairman wish to take the floor?

Mr. STEVENS. Will the Senator yield?

Mr. SPECTER. I do.

Mr. STEVENS. Mr. President, the Kosovo amendment has been set aside temporarily. The meeting is going on in the leader's office. I wonder if the Senator knows that is going on and should participate in that.

Mr. SPECTER. I thank the chairman. I will participate. I want to make just a couple of comments.

Mr. President, the Kosovo matter again raises the issue about the respective power of Congress under the Constitution, the sole authority to declare war, and the authority of the President as Commander in Chief. This is a recurrent theme of consideration.

Within the course of the past year, we faced the issue of airstrikes, which were anticipated against Iraq in February of 1998. At that time, I wrote the President, and spoke on the floor of the Senate calling on the President to seek congressional authority, if action was contemplated there, because an airstrike was an act of war and only the Congress of the United States has the authority to involve the Nation in war.

There are circumstances where the President has to act in emergency situations, where as Commander in Chief he must act in the absence of an opportunity for congressional consideration. At that time, there was adequate opportunity for congressional consideration. However, it was not undertaken, and that incident passed without any military action. We then had the events of this past mid-December where airstrikes were launched on Iraq. Again, on that occasion, I had written to the President of the United States urging that he make a presentation to the Congress as to what he wanted to do. Again, airstrikes constitute an act of war, and we have learned from the bitter experience of Vietnam that we cannot successfully undertake a war without the support of the American people. And the first action to obtain that support is from the Congress of the United States.

We have now been in Bosnia for a protracted period of time. Originally, this was supposed to be a limited engagement. That has been extended. Congress enacted legislation to cut off funds under certain contingencies. That has all lapsed, and we remain in Bosnia with very substantial expenditures. Fortunately, there has not been military action. So although there have been some casualties, it has not been as a result of a conflict.

We are looking at a situation in Kosovo which is enormously serious. I, again, urge the President of the United States to make a presentation to the Congress as to what he would like to undertake. The House of Representatives, by a fairly narrow vote, authorized some limited use of force in Kosovo. The headline featured was ''President Gets Support That He Had Not Asked For''. Presidents are very reluctant to come to the Congress with a request for authorization, because that may be interpreted to dilute their authority to act as Commander in Chief unilaterally without congressional authority.

I had filed a resolution on the use of force with missile and airstrikes, which would involve minimal risk and strike where there are no U.S. personnel placed in harm's way. I did that really to stimulate debate by Congress on what authorization there should be. But it is more than a matter of notification. The administration talks of notification, and very frequently even notification is a virtual nullity coming at a time when Congress has no opportunity to really be involved in the decision making process.

I can recall back in mid-April of 1986 when President Reagan ordered the airstrike on Libya. The consultation was had—really notification, not consultation, the difference being that if you notify, you are simply telling Congress what has happened. If you consult, that has the implication that there may be some response from the administration depending on the congressional reaction. Both are vastly short of authorization, which is what the Constitution requires on a declaration of war.

But, in any event, in mid-April of 1986, congressional leaders were summoned to be told that the planes were in flight. There was a meeting with many Senators shortly after the attack occurred, there was quite an interesting debate between the Senator from West Virginia, Senator BYRD, and Secretary of State Schultz as to whether Congress could have had any effect, or whether congressional leaders could have had any effect, if they wanted to have an impact on that situation.

But when we take a look at what is happening now in Kosovo with a massing of forces, and we take a look at the terrain, we take a look at the air defense, we may be involved in more than missile strikes. And it is one thing to support missile strikes. It is quite another thing to support airstrikes. It all depends upon the facts and the circumstances in situations where the Congress needs to know more, and the American people need to know a great deal more.

So it is my hope that the President will address this issue, will tell the Congress of the United States what he would like to do in Kosovo, seek authorization from the Congress, and tell the American people what he has in mind.

I know from my contacts in my State of 12 million people that Pennsylvanians do not have much of an idea about what is involved in Kosovo. And there are very, very serious ramifications and questions as to what our posture would be with NATO, if we do not join NATO forces on something which is agreed to there. But, when nations of NATO act, they do not have our Constitution. They are aware of our Constitution. They are aware of the provisions of our Constitution, that only the Congress can declare war.

So if there is not congressional support, if there is not congressional action, they are on notice that they do not have a commitment in the Congress of the United States, a Constitutional commitment in the United States, to act. What the President may do unilaterally, of course, is a matter which has always been a little ahead of the process. It is a fact that frequently Congress sits by and awaits Presidential action.

If it is a success, fine. If it is a failure, then there may be someone to blame—the President, not the Congress.

But it is my hope the President will come to the Congress, tell the Congress what it is he wants, tell the American people what it is the President thinks ought to be done so we can have an understanding as to what is involved here. So we can have an understanding as to what the risks are, what the objectives are, what the end game is, and what the exit strategy is. Then we can make a rational decision.

I yield the floor.

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

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

The bill 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.

Mr. STEVENS. Mr. President, I have a progress report for the Senate. Our chief of staff, Mr. Cortese, has just informed me that we have approximately 20 of the 70 amendments that were listed on the agreement almost ready for presentation for approval on a bipartisan basis.

I am making this statement to appeal to Senators who have amendments on the list to bring them to our staff so we can review them now, and I hope that when we explain to them why we cannot take them, they will withdraw their amendments.

I am hopeful we can pursue a process and find a way to complete action on this bill by noon tomorrow. I do hope that will happen.

I will be able to present those other amendments to the Senate for approval on a bipartisan basis probably within an hour or so. Meanwhile, we cannot proceed all the way through the amendments unless the Senators give us their amendments to review. I know there are two committee meetings at this time, Mr. President. They are slowing down this process, and they are both trying to get bills out in order that they may be considered next week. We will just have to bear with the situation for a few more hours.

We intend to keep going on this bill, and that may mean late tonight, if necessary. If we had the cooperation of the Senate in presenting these amendments, I think we could tell the Senate by 6 or 6:30 the number of votes we will have to have and when they will occur.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair, which will occur about 5 o'clock.

There being no objection, the Senate, at 4:37 p.m., took a recess subject to the call of the Chair.

The Senate reassembled at 5:31 p.m., when called to order by the Presiding Officer (Mr. SMITH of Oregon).

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, for the information of the Senate, I have been notified that we can ask unanimous consent to remove from the agreement list of amendments for this bill the Landrieu amendments on immigration, the Edwards amendment on TANF, and the Specter amendment on unfair foreign competition. I ask unanimous consent they be deleted.

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

Mr. STEVENS. Mr. President, these amendments have been withdrawn after consultation. I congratulate the Senators for their willingness to work with us and urge other Senators to come forward and tell us if they do not intend to offer their amendments. We are very close to proceeding with a package of amendments here. There is one last problem.

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.

AMENDMENTS NOS. 100 THROUGH 110, EN BLOC

Mr. STEVENS. Mr. President, I shall send to the desk a package of amendments. Once again, they are amendments that have been cleared on both sides with the legislative committees as well as the subcommittees of appropriations with respect to the various jurisdictions.

The first amendment is by Senator DOMENICI to expand the jurisdiction of the State of New Mexico's portion of the Southwest Border High-Intensity Drug Trafficking Area.

Next is an amendment by Senator ROBERTS to provide relief from unfair interest and penalties on refunds retroactively ordered by the Federal Energy Regulatory Commission.

Next is an amendment for myself to exempt non-Indian Health Service and