

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. McCASKILL.) Without objection, it is so ordered.

Mr. PRYOR. Madam President, are we in morning business?

The PRESIDING OFFICER. We are.

#### FEMA RECOUPMENT

Mr. PRYOR. I rise to speak for 10 minutes on an issue that is very important to not just my State but really important to the country.

We know flooding is going on around the country. This is a picture from Arkansas, and clearly there are people all over the country or all over the South along the Mississippi River who are underwater. You can see the very end here; this little end is a lawn mower that is sticking up out of the water. The water is coming up to the bottom of the windowsill in this home over in east Arkansas. So we certainly send our prayers and any sort of assistance we can to people in my State, in Louisiana, Mississippi, other places, Missouri—obviously in Missouri they have had a lot of water up there—and Tennessee and other places that are really underwater right now.

What I want to talk about today, though, is not this flooding the country is experiencing right now but a flood in my State that happened 3 years ago. We had a situation 3 years ago where we had some flooding on the White River near a town called Mountain View, and FEMA paid out some money to flood victims there. It turns out some of that money was paid out wrongly.

I want to talk about that in just a minute, but let me start with June 1, 1865. In President Lincoln's Gettysburg Address, he described our government as a government of the people, by the people, and for the people. I like President Lincoln's description of our government, and I firmly believe our government was created by our citizens to protect our citizens. It is there for the benefit of our citizens. That is what I want to talk about today.

Many of you have heard me talk about FEMA's disaster assistance recoupment process, which, by the way, I am 100 percent for recoupment. Our Federal agencies make mistakes, and they send out things in error. There is some double-dipping. There is some lack of oversight. There are poor systems in place from time to time. There is some fraud, some dishonesty out there. I think the Federal Government owes it to the taxpayers to go out and recoup as much of that money as possible. I want to focus on one sliver of that, and even within that sliver, a very small piece of that small sliver; that is, FEMA's disaster assistance recoupment process.

I have a bill on this subject, and since the last time I have spoken about

this on the floor, we have taken our bill, we have been in the Homeland Security Committee, and it has been reworked and modified. Our staff and many other staffs on the committee worked on this late last week and over the weekend and early this week, and I think they spent over an hour with FEMA on the telephone to make sure they understand all of FEMA's processes and how this really works.

But the bottom line is, yesterday in Homeland Security, I was able to offer my new substitute bill, which was adopted in the committee, the substitute was adopted—the amendments were adopted to the bill. So we now have a new bill in terms of the text of the bill. The changes were negotiated. Again, we spent a lot of time talking to staff and Members from both sides of the aisle, both sides of the committee.

Basically what it does is very simple, and it is much simpler than what we were doing a week ago. It is very simple. What our bill does is it gives the FEMA Administrator the authority to waive disaster assistance recoupment efforts if three conditions are met. You have to meet all three conditions. First, the disaster assistance must have been distributed based solely on a FEMA error. So there can be no fault on the part of the person but solely on a FEMA error. Second, there cannot be any fraud or any misrepresentation on the part of the debtor. Third, the collection of the debt would be against equity and good conscience. And the reason we chose that phrase, "equity and good conscience," is not because we made it up but because that is the standard that is in current law. The Department of Defense uses that language when they talk about recoupment, the Social Security Administration uses that language, but also OPM has that language in their law as well. So this is not setting a precedent; this is basically applying other standards, recognized standards in the Federal Government, to FEMA.

The reason this is important is FEMA technically has discretion right now. FEMA can't tell us the statistics because they don't keep the statistics, but basically what we hear over and over from FEMA and other folks who are familiar with this process is that they cannot—or they are very reluctant to waive these debts. They feel they have a mandate to go recoup this money and collect this money, and that is what they do.

Quite frankly, in some circumstances what they will do is they will force someone to go through this appeal process, they will make a determination that maybe that person may have \$100 a month in disposable income, and they will basically take that \$100 a month from that person every month for, say, 5 years.

In the case in Arkansas I want to talk about here in just a moment, the people supposedly owe back, according to FEMA, \$27,000. So if they did that and they took all of their disposable in-

come—let's just say it is \$100, and we don't know what it is because we do not know all of the facts. They are in the process of going through the process, but we don't know all of the facts. I am not trying to get in their personal financial information. But the bottom line is, let's say it is \$100 a month, the disposable income. These folks are on Social Security, so you know it is not going to be a whole lot more than that, if that. But for 5 years, FEMA taxes all of their disposable income. At the end of 5 years, FEMA has collected \$6,000 on a \$27,000 debt. I mean, are we really getting what we want out of this? Are we trying to squeeze blood out of a turnip?

I have been working on this legislation for 2 months. All we are trying to do is give FEMA clearly in the statute some discretion to let them make decisions, again, when equity and good conscience would dictate that there ought to be a waiver. And it is not that hard.

I know that right now in the Congress—and this is a good thing—people are very money-conscious. That is good. We are pinching pennies. That is good. We are trying to recover every Federal dollar we can. That is good. I know the Presiding Officer right now has been leading the charge on that, and that is good, and we applaud her. We are cheering for her to continue to do that. We want her to do that. We want that for the government. But one of the things our government should do in dealing with its citizens is consider the equity and consider doing things in good conscience.

I want to talk about the situation here in Arkansas. I want to talk about one family who has received one of these letters from FEMA. There are not very many. We don't know the exact number, but we know there are not very many who will fall under this statute we are trying to address.

But in this one family, they are in their seventies. They are on Social Security. They bought or built this home—I am not sure which—years and years ago on the White River near Mountain View. When they purchased the home, they bought flood insurance. They knew they were on a river. They knew it might flood. It is a river, for crying out loud. It is in Arkansas. It rains a lot from time to time. They knew it might flood, so they bought flood insurance.

Well, after so many years, the flood insurance company said: We are not going to do any more flood insurance. We are not even offering that line anymore.

They went to Lloyd's of London and they bought flood insurance. They went overseas to buy flood insurance so they would have protection. They carried that for a number of years. Finally, Lloyd's of London said: We are not doing flood insurance anymore.

So then they tried to buy flood insurance through the National Flood Insurance Program. They could not do that because the county where they reside

had not passed an ordinance that FEMA had approved. Now, I don't know why they had not, haven't gotten into the merits of that, but the bottom line is that FEMA knew this county did not pass this ordinance. They knew it. They had to know it because FEMA keeps it all by ZIP Code. They keep it all by county. They keep it all by flood zone maps. They knew this. Nonetheless, they show up at her house a day or two after the disaster, they take photos, they give her the paperwork, and they assure this couple—they assure them—that they are entitled to this money, and they walk them through the process. The people did it. They got \$27,000 from FEMA in this individual assistance money. Those people took every dime of it and put it back in their home—every dime, put it back in their home. They played by the rules from the very beginning to the very end.

Then, 3 years later—3 years later—FEMA writes them a letter and says: Oh, by the way, we made a mistake. We should have never given you that money in the first place because your county had not passed this ordinance. So you owe us \$27,000. You have 30 days to pay it back or you are going to face penalties and interest.

Well, again, this couple is in their seventies. They are on Social Security. They don't have much else. They have their home. That is about it. This could ruin them financially—probably will ruin them financially. I do not know how in the world they would ever pay this, anywhere close to the \$27,000. But nonetheless FEMA says: Look, our hands are tied. We have to pursue this. We have to squeeze everything we can get out of these folks.

My view is that this was completely FEMA's mistake. That is why I opened with the quote that we are supposed to be a government of the people, by the people, and for the people. This doesn't sound as if FEMA is acting like that type of government right now. FEMA has caused these people harm. Our government should never harm its own people—should never harm its own people—but that is exactly what they have done here. Because of FEMA's incompetence back 3 years ago, they are harming these people.

These people, 3 years ago, had they known they were not eligible, had they known they shouldn't apply for this, had they known FEMA shouldn't have given them this money, would have taken a different course. They would have made decisions based on the circumstances they had at the time. Who knows if they can ever pay this money back. Who knows if they can ever borrow any money. Who knows how this is going to work out.

I feel as if, if we gave FEMA the discretion in this particular case, you would see a different result; you would see FEMA say: OK, we will waive this entirely, and we are just not going to pursue you because it was all our fault.

I think FEMA clearly needs to have discretion in the statute. Again, if you

look at their regs, look at some of their law, look at their practices, they do technically on paper have this discretion, but apparently they are very reluctant to use it, and their inspector general is really pressuring them to collect every dime they can. So FEMA feels as if their hands are tied.

Let me say a couple more words about this. I have asked the Homeland Security Committee to allow us to reconsider this in the committee. There was a little bit of an odd circumstance in the committee yesterday. We had the votes, but some of the Senators who were there and for this either had to leave or were on the way when we voted, and we ended up not having enough to pass it. If everyone was there, we would have passed this. Now we are asking them to reconsider, that we be allowed to bring this back up on the next markup, which I think is going to be next week. We would like to do that. We think it is a matter of fairness.

The reason I am asking this and I am so insistent on this is because this is not limited to my State. I am not just trying to help a few people in the State of Arkansas. I think there are very few in number here in my State. But what is happening around the country is—I saw it today. There were two stories; I believe one was from Tennessee, one was from Mississippi. The same thing is happening in those States. People are starting to get these letters from FEMA. What is going to happen is all of my colleagues are going to start coming to the Homeland Security Committee, and they are going to say: Do something about this. We have these hardship cases in our State that need to be addressed.

Trust me on this, this is going to happen for most people in this Chamber in their home States because FEMA has a backlog of 165,000 of these cases. They have only gone through a little over 5,000 of them to send these back—process these and send these letters out. They have 165,000. They have done about 5,000, and they have 160,000 to go. You can bet your bottom dollar most Senators in this Chamber will have people in their home States who need a little equity, a little grace, and need to have their government stop beating up on them.

Again, I feel very strongly that, in this particular case, FEMA has done these people harm. They have put them in a very dangerous position financially. They gave them some money, and now they are trying to jerk the rug out from under them and take it back. I think that is unfair. I think that once these cases—and there will not be many of them; there may be a couple hundred around the country—but once people get into these cases, they are going to want FEMA to clearly have this discretion. The first numbers we ran—it was only about three-tenths of 1 percent, but now probably it may be a little higher, but we don't know because FEMA doesn't keep accurate statistics.

One last thing on FEMA. I feel like FEMA has fixed this for the present time and going forward. When Director Fugate came in, this is one of the many cleanups he had to do from the previous FEMA administration. I think they have done that, and they have better systems in place. I think their competence level has gone up in the last couple years. I don't agree with him on everything, but I think he has done a pretty good job. We have asked questions of him before the committee. He took over an agency that was in distress, and he is trying. Generally, he has done a great job, and he thinks he has fixed this. As far as I know, he has. I think they have their act together much more than they did back then.

My point is, hopefully, we will not see these kinds of cases come from the flooding we are seeing right now. These are legacy cases from the previous FEMA administration.

I thank my colleagues for being aware of this. I ask my colleagues on the Homeland Security Committee to allow us to bring this back up, put this back on the markup, and let's get it out of the committee.

One of the great things about Homeland Security is that very seldom do we have party-line votes in that committee. That committee is very non-partisan. The chairman and the ranking member insist on that. When we sit in that committee, we actually sit around the table, Democrat, Republican, Democrat, Republican. It is a great committee to serve on. I love being on that committee. I hope my colleagues on the committee and also in the Chamber will encourage us to move this through the committee next week and try to get this done to help a lot of people around the country.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KIRK. Madam President, I ask unanimous consent to be recognized as in morning business.

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

#### NAVY OPERATIONS OFF THE COAST OF SOMALIA

Mr. KIRK. Madam President, I rise to commend the work of our Navy operating off the coast of Somalia.

Over the weekend, the USS *Stephen W. Groves* encountered a pirate mothership, a captured Taiwanese fishing vessel, the *Jih Chun Tsai*. The pirates aboard exchanged fire with the *Stephen W. Groves*. Once the firefight ended, a boarding party found that the Taiwanese captain had been murdered along with three pirates. The crew of