response: ''Consistent with your request, the Department will review the proposed changes, consider all public comments, and weigh the costs and benefits to the taxpayers and the Department of Defense before these new procedures are implemented.''

Mr. President, if I may paraphrase the letter, it says the committee requests a delay, and Mr. Hamre is just complying. I am happy to report that some of the delay may, in fact, be necessary.

Mr. Hamre provides an important piece of new information in the second paragraph of his letter. He says that the Defense Federal Acquisition Regulation Supplement—and we call that DFARS for short—cannot be issued until January 1998 due to ''statutory administrative actions.'' The DFARS is a key element in the new policy. But the DFARS cannot meet the timetable prescribed under the July 22 agreement that I've referred to.

There are some new procedures under current law. These are spelled out in Public Law 106–121, the Contract With America Advancement Act of 1996.

Unfortunately, no one who put the July agreement together knew anything about the new rules. So if Mr. Hamre says that he needs more time to get the DFARS ready, I can buy that and admit that extra time is needed.

But the final paragraph of his letter gives me heartburn. It makes me nervous. I quote from the final sentence: The new policy, ''which were scheduled to be implemented on October 1, 1997,'' is ''being delayed until January 1998, pending further review and evaluation of the proposed changes.''

Now, that wording bothers me for several reasons. It could be a big loophole to ask for more time so that effectively there is no implementation of the agreement because January 1998 is not as specific as January 1, 1998, and January 1998 ''pending further review'' opens the door for yet more delay. It suggests that January 1998 may not be, in fact, a deadline. It may be passed by, depending on the outcome of the new review. The wording to me is very ambiguous.

The inspector general's letter—remember, the inspector general is to keep all these people over at the Defense Department honest and keep them abiding by the law—the IG's letter that I referred to and have printed in the RECORD suggests that Mr. Hamre really wanted an open-ended deferral. That is where the game playing may be going on. He may have wanted an indefinite delay. Luckily, the IG put her foot down and said no, that was not possible, that would not be abiding by the agreement, that would not be abiding by the law.

This is what she said:

> At a minimum, we believe that Mr. Hamre should establish a revised implementation date no later than January 1, 1998.

The inspector general wants an unconditional deadline of January 1, 1998—''with no pending further review'' language.

Mr. President, I can understand why the Department of Defense needs more time to jump through new regulatory hoops. But why does the policy itself need further review? More study is the oldest bureaucratic trick in the book—always delay, delay, delay, never make a decision, never make the changes that you don't want to make.

As far as this policy is concerned, this policy has been studied to death. The inspector general and the Pentagon bureaucrats have been wrestling with it since 1991. Isn't it about time to get to the bottom line? There have been countless papers, countless meetings, countless letters, and countless agreements, including the one of July 22. I was a party to that, and I don't want to be hoodwinked by my colleagues. I don't want to be hoodwinked by Mr. Hamre, who was there at that meeting and said he would get this job done.

Every possible issue has been addressed. Every point and counterpoint has been weighed and reweighed. There is nothing else to weigh. It gets down to the bottom line, Mr. President, that the law of the land is the law of the land and the law that the current policy violates. In other words, what we are trying to get straightened around is section 1301 of title 31 of the U.S. Code, and this was enacted on March 3, 1809—this law that says that you can't spend money without the approval of the Congress of the United States, and it's a felony to do it. It has to be abided by or the power of the purse of the Congress means zilch.

So, Mr. President, that was in 1809, 200 years ago. It's a law that has withstood the test of time, and it seems that DOD needs to get on the stick and obey the law once and for all. But, most importantly, as far as this Senator is personally concerned, at that July 22 meeting there was an agreement, and I expect people who want you to believe they are honest to keep their word.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

MAIL ORDER HOUSES AND SALES TAX

Mr. BUMPERS. Mr. President, this morning, I was reading the New York Times and came across an article truly exhilarating to me. It dealt with a matter that the Presiding Officer is all too familiar with, too. A number of large States are in the process of negotiating an agreement with some of the biggest mail order houses in the country, under which those mail order houses will, in the future, pay sales tax on merchandise they send into States that have either a use tax or a sales tax.

It was in the 1992 Quill decision the Supreme Court ruled that Congress could authorize the States to require collection of sales and use taxes by mail order houses shipping goods across State lines. But Congress would have to make that decision formally by legislation.

So I sponsored such legislation because I was a former small town merchant—I practiced law, I ran cattle, I had a small hardware retail and appliance store, and I even owned a cemetery one time, Mr. President. I did anything I could do to make money. Even back in those days, a lot of people ordered things from catalogs. I resented it. I was on Main Street collecting sales taxes, paying a corporate franchise tax to the city, paying all the taxes that make a decent place to live, and I was being competed against by people from other States who paid nothing.

In 1994, and again in 1995, I introduced legislation to authorize the mandated collection of interstate sales taxes. I got a vote on it and, of course, didn't get nearly enough to pass. Everybody got up and wept and wailed and said, ''This is another tax, all you tax and spenders.'' As I say, I did it because I am a former retailer and I resented having to compete against people who did not have to collect a sales tax, which gave them a big competitive advantage on big-ticket items like refrigerators, television sets, and so on. So I admit I came into the debate because of my personal experience. But I also felt very strongly that equity was on my side.

I never will forget the distinguished junior Senator from Utah, in a Small Business Committee hearing one day, making a point, after having heard several mail order catalog executives talk about how this was going to be a terrible burden on them and some of them would go broke, and it was an impossible administrative nightmare to collect taxes for 50 different States and a lot more jurisdictions than that because cities and counties also have sales taxes. I will never forget the little lecture that the Senator from Utah delivered, describing his own personal experiences, and that it had not been a burden for his company. I will always be grateful to the Senator for having helped out so magnificently that morning.

Now, Mr. President, annual catalog sales are approximately $210 billion. Now, there are a few good citizens like Home Shopping Network who collect sales taxes on everything they sell. But most do not collect the taxes except when their physical presence creates a nexus with the State which requires that collection activity.

Let me explain that requirement. If a mail order firm has a physical presence in a State, the State may require that firm to collect sales taxes on the goods it sells in the State. If a company has a presence, for example, in the State of Arkansas and sells something through their mail order catalog to an Arkansan, the physical presence of that shop in Arkansas requires them to collect sales tax on any mail order sales to the

Arkansas resident. But if they do not have a presence in Arkansas, they can send all the merchandise they want to into the State and not collect a dime in sales tax.

It is also unfair to the State and local governments which bear increased burdens because of mail order activity. For example, every year million of tons of catalogs go into the municipal landfills of this country, and State and local governments must pay for that. I think much of that comes to my house every year, frankly. Here it is, getting close to Christmas, and every night when I go home, I can't open my front door because there are so many catalogs behind it. But yet mail order companies pay virtually nothing to help States dispose of those millions of tons of waste.

So, Mr. President, I have always felt that this was terribly unfair to Main Street merchants in America. There is not a great incentive to avoid taxes on small ticket items, but on big ticket items there is a huge incentive. A few States, like Wisconsin and Maine, have put a provision in their State income tax return for taxpayers to list the value of merchandise purchased through mail order. Last year, Wisconsin collected $1.3 million from that provision. But there is no telling what the State should have collected had all mail order sales taxes been collected. The $1.3 million came from people who were honest and voluntarily put on their State tax return what they purchased by mail order catalog and paid the sales tax on it. But there is no way the States can enforce an effective sales tax collection system on mail order goods. Forty-five States impose sales taxes on mail order purchases, but they have no effective way to collect it.

Sometimes the States do collect the taxes on big-ticket items, however, and then the customer gets a rude awakening. I remember the story of a family in Florida which went up to North Carolina and bought some $25,000 worth of furniture because that company in North Carolina had advertised no sales tax. The family furnished their entire house all with new furniture, loaded it onto a van, and took it back. And, lo and behold, they were stopped at the Florida border and had sales tax assessed against them. The tax came to several hundred dollars, and it was a rude shock to that couple. There are a number of illustrations like that.

But I do not want to take up too much of the Senate's time on this issue. All I want to say is that when mail order companies fail to collect sales taxes on their sales, it is unfair for the Main Street companies who do collect such taxes. It is not right for some to do it and the rest to be exempt. Now this agreement, which will reportedly be announced tomorrow between the largest States and the largest mail order houses, is a giant step in the right direction. I do not want to say anything tonight that would in the least hinder those people negotiating that agreement from finishing it. On the contrary, I applaud them, I thank them for doing what is right.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. COATS. Mr. President, after some modifications and consultation with the minority leader we are ready to once again ask this unanimous-consent request as modified.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, November 7.

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

UNANIMOUS-CONSENT REQUEST

Mr. COATS. Mr. President, on Friday, at the hour of 9:30, I further ask that, immediately following the prayer, the routine requests through the morning hour be granted.

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COATS. Mr. President, I once again suggest the absence of a quorum. There seems to be some confusion here.

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.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 334, 336, 340, 385, 387, 388, 389 through 391, 393 through 409, 411, 414 through 426, except for 419. I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF LABOR

Patricia Watkins Lattimore, of the District of Columbia, to be an Assistant Secretary of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Jeannette C. Takamura, of Hawaii, to be Assistant Secretary for Aging, Department of Health and Human Services.

DEPARTMENT OF LABOR

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

DEPARTMENT OF COMMERCE

F. Amanda DeBusk, of Maryland, to be an Assistant Secretary of Commerce.

R. Roger Majak, of Virginia, to be Assistant Secretary of Commerce.

David L. Aaron, of New York, to be Under Secretary of Commerce for International Trade.

DEPARTMENT OF STATE

Julia Taft, of the District of Columbia, to be an Assistant Secretary of State.

Phyllis E. Oakley, of Louisiana, to be an Assistant Secretary of State.

Mary Mel French, of the District of Columbia, to be Chief of Protocol, and to have the rank of Ambassador during her tenure of service.

Lange Schermerhorn, of New Jersey, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Brenda Schoonover, of Maryland, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

Kathryn Walt Hall, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria.

Edward M. Gabriel, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morrocco.

Joseph A. Presel, of Rhode Island, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uzbekistan.

Richard Frank Celeste, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

Shaun Edward Donnelly, of Indiana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Edward S. Walker, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Stanley Tuemler Escudero, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Daniel Fried, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.