

have included in this amendment, we could provide a very useful tool to New Mexico and to the Pecos River Basin. Stakeholders in the basin have shown they are willing to make tough decisions to avoid even tougher times in the future. The least we can do is try to provide creative ways to bring real resources to the table in support of those efforts. That is a reason I supported Senator REID's amendment.

I know my colleague expressed his dismay that I would agree to provide the option for New Mexico to participate in these programs. In my view, it would be foolhardy for our State not to have that option to participate. There is no mandate that we participate. There is no mandate in any of this legislation that any farmer or water user participate. But having the option to access these resources, in my view, makes a great deal of sense.

In sum, the amendment Senator REID proposed, and the Senate adopted, may prove to be a very effective tool in helping our constituents to deal with the serious water issues they now face. Moreover, the amendment addresses the problems identified by the Farm Bureau and other entities regarding the existing section 215.

First and foremost, there will be no Federal ownership of State-based water rights as part of the program. Second, the amendment is absolutely clear that the program will be implemented as a State program, and only implemented if the State chooses for it to be implemented. There will have to be complete compliance with the substantive and procedural requirements of State water law. Finally, although the State may choose to use its program to help alleviate endangered species conflicts, this is not the sole basis or the application of the program.

Other wildlife and habitat improvement programs are also allowable, and because any water acquisition will be done by the State, Federal actions are limited—something that should alleviate a significant number of the concerns I mentioned before.

I believe the statutory language protects the State's laws and prerogatives. I believe it protects the prerogatives and rights of individual water users. I believe it can be a very useful tool for my State of New Mexico. And if there are still problems with specific aspects of the language, I am certainly willing to consider working on modifications. But it is my strong impression that this is a program that could be of great benefit to many States in the West, and we should have the option to participate if the State so chooses.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that the prior order be amended to allow Senator LUGAR to speak on the McConnell amendment, and when he finishes, we would go into recess for the party conferences.

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

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in support of the McConnell amendment. For a very small reduction in the planned increases to price support and loan guarantee rates, two meaningful improvements to the Food Stamp Program become possible. A savings, of about \$500 million over 10 years, is created by reducing rates less than a cent per bushel or pound across all crops.

The application of this savings to the Food Stamp Program fulfills a bipartisan goal to further expand the standard deduction provision in the current Senate farm bill. In determining the amount of family income available for food purchases, all applicant households get the same standard deduction for basic living expenses. As my colleague, Senator MCCONNELL points out, the amount, \$134 per month, doesn't vary by family size and hasn't changed in value for a number of years. Since the size of the standard deduction affects eligibility and benefit decisions, current policy has resulted in an erosion of benefits.

There is both widespread and bipartisan support for making improvements in this policy area. The administration's new budget, the Senate Agriculture Committee bill, the House nutrition title, my own farm bill proposal, as well as legislation introduced last year by Senators KENNEDY, SPECTER, LEAHY, JEFFORDS, GRAHAM, CLINTON, DASCHLE, CHAFEE, and CORZINE all propose to tie the standard deduction to a percentage of the Federal poverty line.

Under the Senate farm bill, the standard deduction only reaches 9 percent of the poverty line, even when fully phased in. The Bush, Lugar and Kennedy-Specter proposals, in contrast, take the standard deduction to 10 percent of the poverty line over 10 years. The result is a small benefit increase. A food stamp family of four would get an additional \$6 per month compared to the current Senate bill.

The second food stamp improvement the McConnell amendment makes is to modestly expand benefit access among low-income disabled persons. Specifically, the amendment would raise the asset ceiling for low-income families with a disabled member from \$2,000 to \$3,000.

Three thousand dollars is the asset limit for families with an elderly member. Since both the elderly and disabled face limited opportunities to replace assets, it is reasonable to have the same ceiling apply. This provision reduces the need for low-income disabled persons to spend down savings before becoming eligible for food stamp benefits.

Voting for this amendment is a small gesture that makes a positive difference for many and takes a modest step toward repairing the impact of substantial budget cuts sustained by the Food Stamp Program in the mid-1990s.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m. today.

There being no objection, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, at 2:50 we will provide an opportunity for Members to offer amendments. Members have until 3 p.m. to offer their amendments or there will be no more amendments than those offered. I ask unanimous consent, regardless of what we are involved in, there be a period from 2:50 until 3 p.m. that Members have the opportunity to offer amendments if they so choose and we would lay amendments aside to allow Senators to offer their amendments.

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

The Senator from Wyoming.

AMENDMENT NO. 2846 TO AMENDMENT NO. 2471

Mr. ENZI. I ask unanimous consent to lay aside the current amendment and I send an amendment to the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 2846 to amendment numbered 2471.

Mr. ENZI. 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:

(Purpose: To authorize the President to establish a pilot emergency relief program under the Agricultural Trade Development and Assistance Act of 1954 to provide live lamb to Afghanistan)

On page 337, strike line 11 and insert the following:

**SEC. 309. PILOT EMERGENCY RELIEF PROGRAM TO PROVIDE LIVE LAMB TO AFGHANISTAN.**

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end the following:

**“SEC. 209. PILOT EMERGENCY RELIEF PROGRAM TO PROVIDE LIVE LAMB TO AFGHANISTAN.**

“(a) IN GENERAL.—The President may establish a pilot emergency relief program under this title to provide live lamb to Afghanistan on behalf of the people of the United States.

“(b) REPORT.—Not later than January 1, 2004, the Secretary shall submit to Congress a report that—

“(1)(A) evaluates the success of the program under subsection (a); or

“(B) if the program has not succeeded or has not been implemented, explains in detail why the program has not succeeded or has not been implemented; and

“(2) discusses the feasibility and desirability of providing assistance in the form of live animals.”.

Mr. ENZI. Mr. President, I will refrain from most of my debate until

later. I will give a brief explanation of what the bill does.

It is a pilot project to provide lamb to Afghanistan. Wyoming has the Air National Guard that has the capability of moving livestock from the United States to Afghanistan, and there are several other units in the United States. It provides the USDA, from among current funds, to purchase a pilot project in lamb and ship it by way of military transport to Afghanistan.

We have heard the story, give a person a fish, it will feed them for a day; teach a person to fish, it will feed them for a lifetime. This is in that category. This is the opportunity to build up their herds. They do not have much refrigeration. They can use the herd, grow the herd, and the production from the herd can be used for food, and it can be butchered at the time they need it, so there is no refrigeration problem.

We think it will solve a lot of problems. The amendment is wide open for how extensive the pilot project could be. It does call for a report in January of 2004 to explain whether it worked or did not work, whether it was implemented or not, and if it was not implemented, to explain why it was not implemented.

The idea is very simple. We should ship live lamb to Afghanistan not only to assist the numerous tribes in rebuilding their flocks of sheep, but to provide immediate protein to their diets.

My amendment would authorize the President to study the feasibility of sending live lamb to Afghanistan. My amendment requires the President to report to Congress on the feasibility of a pilot live lamb program. The report would include information on the cost and the logistics of the program. A favorable report could begin a series of shipments to Afghanistan, while an unfavorable report would lead us to re-evaluate how the program could succeed. Because this program only mandates a report, it is budget neutral.

The continued need for food in Afghanistan is great. We are all well-acquainted with the unique problems facing food aid to Afghanistan. The country's northern terrain is mountainous. Few roads traverse the area. The number of roads is even smaller when you consider that food, typically grain, is hauled in large trucks. These trucks require passable roads. Lastly, we have to consider the high altitude of Afghanistan. Much like my own State, winter in Afghanistan shuts down passage on all mountain roads. The only option is to consider moving food aid through the gentler southern landscape. After a brief glance at the countries on Afghanistan's southern border, we know that we couldn't depend on them as ports of entry to ship food aid to Afghanistan.

The idea to ship live lamb to Afghanistan originated when I was considering the great obstacles that prevented trucks from delivering food aid to the interior of Afghanistan. But, if

we couldn't move the food, why couldn't the food move itself? Live lamb was the natural answer.

Lamb has been a traditional part of the diet for the people of the region for many years and has no religious prohibitions. Once the lamb arrives at the edge or in the region, it can easily be distributed to the needy area on foot or by truck. Sheep are well known for their agility and ability to adapt to mountainous regions. Once the lambs are distributed, the families, themselves, can decide how and when to slaughter the lambs or even use the lambs to build up their family stock.

Now here in America, most parents wouldn't be comfortable slaughtering a lamb in the back yard. Most families in Afghanistan don't receive their meat on a styrofoam platter in Saran wrap from the grocery store. They are very comfortable slaughtering their own livestock for sustenance in very traditional ways.

In an effort to ensure this program would be handled correctly, I did give USAID, United States Agency for International Development, an opportunity to view an earlier version of the amendment that mandated the program. USAID raised a few concerns to the amendment. One concern is that lamb would not provide the same caloric value per dollar as grain. In response to this and other concerns, I scaled the amendment back to a study. I realize the importance of getting as many calories as possible across the ocean and to the Afghan people today, but my amendment looks ahead to the future. While we address the immediate needs of the Afghan people, we cannot ignore the fact that the people need long-term assistance.

Mr. President, this is a simple idea with a great possibility of benefits for the Afghan people. Congress, and all Americans, are working to assist the Afghan people in the development of a stronger and long-lasting stable government.

As we are all too aware, the people of Afghanistan have suffered over two decades of turmoil, nearly 4 years of drought, and the oppressive rule of the Taliban regime. Even before 2001, Afghanistan had the worst nutrition situation in the world and the highest maternal mortality rate. Nearly one-fifth of Afghans depend on humanitarian aid for survival. In the last year, the situation has gotten even worse.

I am pleased that the United States has been a staunch supporter of the Afghan people and a large contributor of humanitarian aid. In fact, since 1979 the United States has contributed more than \$1 billion in humanitarian assistance to the Afghan people. The United States has represented about two-thirds of the total contribution of the international community. I believe this amendment continues our history of providing aid where it is needed.

The uniqueness of sending live lamb could open the doors for other areas of aid as well. My amendment does not re-

quire the program to be carried out, nor does it put additional burdens on the budget, it simply calls for a study. The study of a program that could have an impact on so many people should be supported.

I know my colleagues are aware of the amounts of aid we are already sending to Afghanistan. I am aware that there remain some concerns about how we can send live lamb half-way around the world. I hope my colleagues will support this amendment in order to explore new strategies of providing a long-term aid to the people of Afghanistan.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2847 TO AMENDMENT NO. 2471

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2847 to amendment No. 2471.

Mr. WELLSTONE. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose. To insert in the environmental quality incentives program provisions relating to confined livestock feeding operations and insert a payment limitation)

Beginning on page 217, strike line 12 and all that follows through page 235, line 6 and insert the following:

(iii) REQUIREMENT.—A comprehensive nutrient management plan shall meet all Federal, State, and local water quality and public health goals and regulations, and in the case of a large confined livestock operation (as defined by the Secretary), shall include all necessary and essential land treatment practices and determined by the Secretary.

(3) ELIGIBLE LAND.—The term "eligible land" means agriculture land (including cropland, grassland, rangeland, pasture, private nonindustrial forest land and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

(4) INNOVATIVE TECHNOLOGY.—The term "innovative technology" means a new conservation technology that, as determined by the Secretary—

(A) maximizes environmental benefits;

(B) complements agricultural production; and

(C) may be adopted in a practical manner.

(5) LAND MANAGEMENT PRACTICE.—The term "land management practice" means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect from degradation, in the most cost-effective manner, water, soil, or related resource.

(6) **LIVESTOCK.**—The term “livestock” means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and other such animals as are determined by the Secretary.

(7) **MANAGED GRAZING.**—The term “managed grazing” means the application of 1 or more practices that involve the frequent rotation of animals on grazing land to—

- (A) enhance plant health;
- (B) limit soil erosion;
- (C) protect ground and surface water quality; or
- (D) benefit wildlife.

(8) **MAXIMIZE ENVIRONMENTAL BENEFITS PER DOLLAR EXPENDED.**—

(A) **IN GENERAL.**—The term “maximize environmental benefits per dollar expended” means to maximize environmental benefits to the extent the Secretary determines is practicable and appropriate, taking into account the amount of funding made available to carry out this chapter.

(B) **LIMITATION.**—The term “maximize environmental benefits per dollar expended” does not require the Secretary—

- (i) to require the adoption of the least cost practice or technical assistance; or
- (ii) to require the development of a plan under section 1240E as part of an application for payments or technical assistance.

(9) **PRACTICE.**—The term “practice” means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

(10) **PRODUCER.**—

(A) **IN GENERAL.**—The term “producer” means an owner, operator, landlord, tenant, or sharecropper that—

- (i) shares in the risk of producing any crop or livestock; and
- (ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

(B) **HYBRID SEED GROWERS.**—In determining whether a grower of hybrid seed is producer, the Secretary shall not take into consideration the existence of hybrid seed contract.

(11) **PROGRAM.**—The term “program” means the environmental quality incentives program comprised of sections 1240 through 1240J.

(12) **STRUCTURAL PRACTICE.**—The term “structural practice” means—

(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation; and

(B) the capping of abandoned wells on eligible land.

**SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—During each of the 2002 through 2006 fiscal years, the Secretary shall provide technical assistance, cost-share payments, and incentive payments to producers that enter into contracts with the Secretary under the program.

(2) **ELIGIBLE PRACTICES.**—

(A) **STRUCTURAL PRACTICES.**—A producer that implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

(B) **LANDS MANAGEMENT PRACTICES.**—A producer that performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

(C) **COMPREHENSIVE NUTRIENT MANAGEMENT PLANNING.**—A producer that develops a com-

prehensive nutrient management plan shall be eligible for any combination of technical assistance, incentive payments, and education.

(3) **EDUCATION.**—The Secretary may provide conservation education at national, State, and local levels consistent with the purposes of the program to—

- (A) any producer that is eligible for assistance under the program; or
- (B) any producer that is engaged in the production of an agricultural commodity.

(b) **APPLICATION AND TERM.**—With respect to practices implemented under this program—

(1) a contract between a producer and the Secretary may—

(A) apply to 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices; and

(B) have a term of not less than 3, or more than 10 years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract;

(2) a producer may not enter into more than 1 contract for structural practices involving livestock nutrient management during the period of fiscal years 2002 through 2006; and

(3) a producer that has an interest in more than 1 large confined livestock operation, as defined by the Secretary, may not enter into more than 1 contract for cost-share payments for a storage or treatment facility, or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by the large confined livestock feeding operation.

(c) **APPLICATION AND EVALUATION.**—

(1) **IN GENERAL.**—The Secretary shall establish an application and evaluation process for awarding technical assistance, cost share payments and incentive payments to a producer in exchange for the performance of 1 or more practices that maximize environmental benefits per dollar expended.

(2) **COMPARABLE ENVIRONMENTAL VALUE.**—

(A) **IN GENERAL.**—The Secretary shall establish a process for selecting applications for technical assistance, cost share payments, and incentive payments in any case in which there are numerous applications for assistance for practices that would provide substantially the same level of environmental benefits.

(B) **CRITERIA.**—The process under subparagraph (A) shall be based on—

(i) a reasonable estimate of the projected cost of the proposals described in the applications; and

(ii) the priorities established under the program, and other factors, that maximize environmental benefits per dollar expended.

(3) **CONSENT OF OWNER.**—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the consent of the owner of the land with respect to the offer.

(4) **BIDDING DOWN.**—If the Secretary determines that the environmental values of 2 or more applications for technical assistance, cost-share payments, or incentive payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program established under the program.

(d) **COST-SHARE PAYMENTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the cost-share payments provided to a producer proposing to implement 1 or more practices under the program shall be not more than 75 percent of the cost of the practice, as determined by the Secretary.

(2) **EXCEPTIONS.**—

(A) **LIMITED RESOURCE AND BEGINNING FARMERS.**—The Secretary may increase the

amount provided to a producer under paragraph (1) to not more than 90 percent if the producer is a limited resource or beginning farmer or rancher, as determined by the Secretary.

(B) **COST-SHARE ASSISTANCE FROM OTHER SOURCES.**—Except as provided in paragraph (3), any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under paragraph (1).

(3) **OTHER PAYMENTS.**—A producer shall not be eligible for cost-share payments for practices on eligible land under the program if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and the program.

(e) **INCENTIVE PAYMENTS.**—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

(f) **TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary shall allocate funding under the program for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year.

(2) **AMOUNT.**—The allocated amount may vary according to—

- (A) the type of expertise required;
- (B) the quantity of time involved; and
- (C) other factors as determined appropriate by the Secretary.

(3) **LIMITATION.**—Funding for technical assistance under the program shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

(4) **OTHER AUTHORITIES.**—The receipt of technical assistance under the program shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

(5) **INCENTIVE PAYMENTS FOR TECHNICAL ASSISTANCE.**—

(A) **IN GENERAL.**—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.

(B) **PURPOSE.**—The purpose of the payment shall be to provide a producer the option of obtaining technical assistance for developing any component of a comprehensive nutrient management plan from a certified provider.

(C) **PAYMENT.**—The incentive payment shall be—

(i) in addition to cost-share or incentive payments that a producer would otherwise receive for structural practices and land management practices;

(ii) used only to procure technical assistance from a certified provider that is necessary to develop any component of a comprehensive nutrient management plan; and

(iii) in an amount determined appropriate by the Secretary, taking into account—

(I) the extent and complexity of the technical assistance provided;

(II) the costs that the Secretary would have incurred in providing the technical assistance; and

(III) the costs incurred by the private provider in providing the technical assistance.

(D) **ELIGIBLE PRACTICES.**—The Secretary may determine, on a case by case basis, whether the development of a comprehensive nutrient management plan is eligible for an incentive payment under this paragraph.

(E) **CERTIFICATION BY SECRETARY.**—

(i) IN GENERAL.—Only persons that have been certified by the Secretary under section 1244(f)(3) shall be eligible to provide technical assistance under this subsection.

(ii) QUALITY ASSURANCE.—The Secretary shall ensure that certified providers are capable of providing technical assistance regarding comprehensive nutrient management in a manner that meets the specifications and guidelines of the Secretary and that meets the needs of producers under the program.

(F) ADVANCE PAYMENT.—On the determination of the Secretary that the proposed comprehensive nutrient management of a producer is eligible for an incentive payment, the producer may receive a partial advance of the incentive payment in order to procure the services of a certified provider.

(G) FINAL PAYMENT.—The final installment of the incentive payment shall be payable to a producer on presentation to the Secretary of documentation that is satisfactory to the Secretary and that demonstrates—

(i) completion of the technical assistance; and

(ii) the actual cost of the technical assistance.

(g) MODIFICATION OR TERMINATION OF CONTRACTS.—

(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

(A) the producer agrees to the modification or termination; and

(B) the Secretary determines that the modification or termination is in the public interest.

(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

#### SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

(a) IN GENERAL.—In evaluating applications for technical assistance, cost-share payments, and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

(1) maximize environmental benefits per dollar expended; and

(2)(A) address national conservation priorities, including—

(i) meeting Federal, State, and local environmental purposes focused on protecting air and water quality, including assistance to production systems and practices that avoid subjecting an operation to Federal, State, or local environmental regulatory systems;

(ii) applications from livestock producers using managed grazing systems and other pasture and forage based systems;

(iii) comprehensive nutrient management;

(iv) water quality, particularly in impaired watersheds;

(v) soil erosion;

(vi) air quality; or

(vii) pesticide and herbicide management or reduction;

(B) are provided in conservation priority areas established under section 1230(c);

(C) are provided in special projects under section 1243(f)(4) with respect to which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes; or

(D) an innovative technology in connection with a structural practice or land management practice.

#### SEC. 1240D. DUTIES OF PRODUCERS.

(a) To receive technical assistance, cost-share payments, or incentive payments under the program, a producer shall agree—

(1) to implement an environmental quality incentives program plan that describes con-

servation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of the program;

(3) on the violation of a term or condition of the contract at any time the producer has control of the land—

(A) if the Secretary determines that the violation warrants termination of the contract—

(i) to forfeit all rights to receive payments under the contract; and

(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate;

(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under the program, as determined by the Secretary;

(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program;

(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan; and

(7) to submit a list of all confined livestock feeding operations wholly or partially owned or operated by the applicant.

#### SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

(a) IN GENERAL.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the program, a producer of a livestock or agricultural operation shall submit to the Secretary for approval a plan of operations that specifies practices covered under the program, and is based on such terms and conditions, as the Secretary considers necessary to carry out the program, including a description of the practices to be implemented and the purposes to be met by the implementation of the plan, and in the case of confined livestock feeding operations, development and implementation of a comprehensive nutrient management plan, and in the case of confined livestock feeding operations, development and implementation of a comprehensive nutrient management plan.

(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program and comparable conservation programs.

#### SEC. 1240F. DUTIES OF THE SECRETARY.

(a) To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

(1) providing technical assistance in developing and implementing the plan;

(2) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

(3) providing the producer with information, education, and training to aid in implementation of the plan; and

(4) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

#### SEC. 1240G. LIMITATION ON PAYMENTS.

(a) IN GENERAL.—Subject to subsection (b), the total amount of cost-share and incentive payments paid to a producer under this chapter shall not exceed—

(1) \$30,000 for any fiscal year, regardless of whether the producer has more than 1 contract under this chapter for the fiscal year;

(2) \$90,000 for a contract with a term of 3 years;

(3) \$120,000 for a contract with a term of 4 years; or

(4) \$150,000 for a contract with a term of more than 4 years.

(b) ATTRIBUTION.—An individual or entity shall not receive, directly or indirectly, total payments from a single or multiple contracts this chapter that exceed \$30,000 for any fiscal year.

(c) EXCEPTION TO ANNUAL LIMIT.—The Secretary may exceed the limitation on the annual amount of a payment to a producer under subsection (a)(1) if the Secretary determines that a larger payment is—

(1) essential to accomplish the land management practice or structural practice for which the payment is made to the producer; and

(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter.

(d) VERIFICATION.—The Secretary shall identify individuals and entities that are eligible for a payment under the program using social security numbers and taxpayer identification numbers, respectively.

Mr. WELLSTONE. This amendment is a modified version of the amendment I offered last week to reform the EQIP program. The central argument against my amendment last week had to do with a size limitation. What this amendment does is speak to some of the concerns of my colleagues, but it still is very much a reform amendment.

No. 1, it would lower the payment limits from \$50,000 per year to \$30,000 per year with the EQIP program. Right now, it is only \$10,000 a year. This is very consistent with the vote last week on payment limitations.

No. 2, it would prevent producers with an interest in more than one large CAFO from receiving more than one EQIP contract. This is the whole idea of conglomerates owning many of these CAFOs and receiving multiple subsidies. Again, we want to try to get support to our midsize producers, our family farmers.

No. 3, it would require producers receiving the EQIP funds to have a comprehensive nutrient management plan, environmental plan.

These are simple measures that I think make the EQIP program have more, if you will, policy integrity. I think it is very consistent with what we have been doing with the farm bill. The last amendment I introduced was a close vote. I think there are now Senators who will support this amendment.

We have the support of, among different organizations, the National Farmers Union, the Environmental Working Group, the Land Stewardship Project, Center for Rural Affairs, the Natural Resources Defense Council, Sustainable Agriculture Coalition, U.S. PIRG, and Campaign for Family Farms and the Environment.

I think this is a good reform amendment, and I will wait for further debate on the amendment, but I wanted to lay it down now. I ask unanimous consent the amendment be temporarily laid aside.

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

AMENDMENT NO. 2848 TO AMENDMENT NO. 2471

Mr. LUGAR. Mr. President, I send an amendment to the desk on behalf of Senator PHIL GRAMM of Texas. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment by number.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. GRAMM, proposes an amendment numbered 2848 to amendment No. 2471.

The amendment is as follows:

(Purpose: To repeal the Hass Avocado Promotion, Research, and Information Act of 2000)

At the appropriate place insert the following:

(1) Title XII of H.R. 5426 of the 106th Congress, as introduced on October 6, 2000 and as enacted by Public Law 106-387 is hereby repealed.

Mr. LUGAR. The purpose of this amendment is to repeal the Hass Avocado Promotion Research and Information Act of 2000.

I ask unanimous consent that this amendment be set aside so I may offer another amendment on behalf of Senator PHIL GRAMM of Texas.

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

AMENDMENT NO. 2849 TO AMENDMENT NO. 2471

Mr. LUGAR. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. GRAMM, proposes amendment numbered 2849 to amendment No. 2471.

Mr. LUGAR. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide equity and fairness for the promotion of imported Hass avocados)

At the appropriate place insert the following:

Section 1205 of the Hass Avocado Promotion, Research, and Information Act (contained in H.R. 5426 of the 106th Congress, as introduced on October 6, 2000 and as enacted by Public Law 106-387) is amended—

(1) in paragraph (b)(2) by striking subparagraph (A) and inserting in lieu thereof—

“(A) IN GENERAL.—The order shall provide that the Secretary shall appoint the members of the Board, and any alternates, from among domestic producers and importers of Hass avocados subject to assessments under the order to reflect the proportion of domestic production and imports supplying the United States market, which shall be based on the Secretary’s determination of the average volume of domestic production of Hass avocados proportionate to the average vol-

ume of imports of Hass avocados in the United States over the previous three years.”;

(2) in paragraph (b)(2)(B) by striking “under subparagraph (A)(iii) on the basis of the amount of assessments collected from producers and importers over the immediately preceding three-year period” and inserting “under subparagraph (A)”;

(3) in paragraph (h)(1)(C)(iii) by striking everything in the first sentence following “by the importer” and inserting in lieu thereof “to the respective importers association, or if there is no such association to the Board, within such time period after the retail sale of such avocados in the United States (not to exceed 60 days after the end of the month in which the sale took place) as is specified for domestically produced avocados.”; and

(4) in paragraph (9) by inserting at the end the following:

“(D) All importers of avocados from a country associated with an importers association based on country-of-origin activities shall be required to be members of such importers association, and membership in such importers association shall be open to any foreign avocado exporter or grower who elects to voluntarily join.”

Mr. LUGAR. Mr. President, the purpose of this amendment is to provide equity and fairness for the promotion of imported Hass avocados.

I am introducing the amendments at this time in recognition of the fact that we have a deadline of 3 p.m. for introduction of all amendments. At some point, it is certainly possible that Senator GRAMM will come to the floor and argue in behalf of his amendments, and others may do so also.

For the moment, I ask the amendment be laid aside, and I suggest the absence of a quorum.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

AMENDMENT NO. 2850 TO AMENDMENT NO. 2471

Mr. LUGAR. Mr. President, on behalf of Senator KYL and Senator NICKLES, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Indiana [Mr. LUGAR], for Mr. KYL, for himself and Mr. NICKLES, proposes an amendment numbered 2850 to amendment No. 2471.

Mr. LUGAR. I ask unanimous consent the 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:

**SEC. . SENSE OF THE SENATE ON PERMANENT REPEAL OF ESTATE TAXES.**

(a) FINDINGS.—

(1) The Economic Growth and Tax Relief Reconciliation Act of 2001 provided substantial relief from federal estate and gift taxes

beginning this year and repealed the federal estate tax for one year beginning on January 1, 2010, and

(2) The Economic Growth and Tax Relief Reconciliation Act of 2001 contains a “sunset” provision that reinstates the federal estate tax at its 2001 level beginning on January 1, 2011.

(3) SENSE OF THE SENATE.—Therefore, it is the Sense of the Senate that the repeal of the estate tax should be made permanent by eliminating the sunset provision’s applicability to the estate tax.

Mr. LUGAR. Mr. President, I ask the amendment be laid aside, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, I further ask unanimous consent that it be in order for me to make my remarks seated at my desk.

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

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 2822 TO AMENDMENT NO. 2471

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2822 to amendment No. 2471.

Mr. HELMS. 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:

(Purpose: To exclude birds, rats of the genus *Rattus*, and mice of the genus *Mus* from the definition of animal under the Animal Welfare Act)

On page 945, strike lines 6 and 7 and insert the following:

**SEC. 1024. DEFINITION OF ANIMAL UNDER THE ANIMAL WELFARE ACT.**

Section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)) is amended by striking “excludes horses not used for research purposes and” and inserting the following: “excludes birds, rats of the genus *Rattus*, and mice of the genus *Mus* bred for use in research, horses not used for research purposes, and”.

**SEC. 1025. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.**

Mr. HELMS. Mr. President, my amendment will clarify once and for all any question about rats, mice and birds used for medical research under the Animal Welfare Act. Approval of this amendment will make sure that none of the important research community will be delayed, made more expensive, or be otherwise compromised by regulatory shenanigans on the part of the U.S. Department of Agriculture.

Specifically, this amendment will follow Congressional intent by excluding rats, mice and birds from the definition of “animal” under the Animal

Welfare Act. This has been the established practice of USDA during the more than 30 years that the Animal Welfare Act has been the law of the land during which time scientists and researchers have developed extensive protocols based on current regulatory procedures based on that Act.

So, the medical research community was astonished the U.S. Department of Agriculture, weary and browbeat into submission by numerous lawsuits and petitions by the so-called "animal rights" crowd, gave notice of its intent to add rats, mice, and birds under the regulatory umbrella. I hasten to add that 90 percent of the mice, rats, and birds used in animal research are already being regulated by the NIH Office of Laboratory Animal Welfare and the Food and Drug Administration.

But that is not enough for the professional activists who delight in creating mischievous controversies like this. The problem, however, is that their mischief-making in this case has serious real-life complications for the life-saving research in laboratories all over America. The paperwork burden alone is extraordinary: If USDA is allowed to move forward with their new rules, it is estimated that the additional reporting requirements and paperwork will cost the researchers up to \$280 million annually.

So instead of searching for cures for breast cancer, cystic fibrosis, heart disease, and diabetes, USDA will force researchers out of the laboratory to spend their time filling out countless forms for yet another federal regulator. This unnecessary paperwork will simply demonstrate what the federal government already knows: that animal researchers already treat research animals in a professional and humane manner.

A rodent could do a lot worse than live out its life span in research facilities. I was surprised to learn from the Wall Street Journal that more than 10 times as many rodents are raised and sold as food for reptiles than are used by the medical research community. But nobody raises a point about that. I wonder if anyone in the Chamber has ever seen a hungry python eat a mouse. If you have, then you know it is not a pretty picture for the mouse. Isn't it far better for the mouse to be fed and watered in a clean laboratory than to end up as a tiny bulge being digested inside an enormous snake?

I suspect Mrs. Helms would have a word or two for me if I forgot to phone the exterminator upon finding evidence that a mouse has taken up residence in our basement. Alas, extermination remains the fate every year of hundreds of thousands of rodents that have not found the relative safety of a research laboratory.

It is anything but a joking matter when regulatory heavy-handedness prevents researchers who are working diligently to find cures for deadly diseases. Consider the following recent medical discoveries in which humane animal research has played a role:

Breast cancer researchers learned recently that laboratory rats that are fed high-fiber diets develop significantly fewer breast tumors than rats receiving little or no fiber.

Asthma researchers recently used transgenic mice to isolate a specific gene that plays a key role in causing human asthma, and have now developed an animal model to test new asthma treatments.

Scientists are aggressively studying rats to learn more about recovery of motor skills after spinal cord injuries, and are already reporting advances in knowledge about the relationship between motor functions and the nerve cells that send signals to motor neurons.

There are dozens of other such examples of the medical advances made as a result of animal research, and I feel a sense of outrage, personally, that a Federal agency would now try to make it more difficult to accomplish this important work that will benefit humanity.

So, Mr. President, I hope the Senate will resist the extremism of activists and deliver a richly deserved rebuke to the methods of these people who are protesting so mightily. It is time to definitively settle this matter, to end the debate, and to approve the pending amendment, thereby allowing scientists to return to the laboratory without the specter of burdensome new Federal regulations to hamstring their research.

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

The PRESIDING OFFICER. Is there a sufficient second?

At this time there is not a sufficient second.

Mr. HELMS. Mr. President, thank you very much. I understand that the request for the yeas and nays will be made in my absence by the managers of the bill and others. I have been assured, I assume, we will have a rollcall vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2851 TO AMENDMENT NO. 2471

Mr. LUGAR. Mr. President, on behalf of Senator DOMENICI, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. DOMENICI, proposes an amendment numbered 2851 to amendment No. 2471.

Mr. LUGAR. 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:

(Purpose: To require the Secretary of Agriculture to make payments to producers)

Strike section 132 and insert the following:  
**SEC. 132. NATIONAL DAIRY PROGRAM.**

The Federal Agriculture Improvement and Reform Act of 1996 (as amended by section

772(b) of Public Law 107-76) is amended by inserting after section 141 (7 U.S.C. 7251) the following:

**"SEC. 142. NATIONAL DAIRY PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) DAIRY FARM.—

"(A) IN GENERAL.—The term 'dairy farm' means a dairy farm that is—

"(i) located within the United States;

"(ii) permitted under a license issued by State or local agency or the Secretary—

"(I) to market milk for human consumption; or

"(II) to process milk into products for human consumption; and

"(iii) operated by producers that commercially market milk during the payment period.

"(B) EXCLUSION.—The term 'dairy farm' does not include a farm that is operated by a successor to a producer.

"(2) ELIGIBLE PRODUCTION.—The term 'eligible production' means the quantity of milk that is produced and marketed on a dairy farm.

"(3) PAYMENT PERIOD.—The term 'payment period' means—

"(A) the period beginning on December 1,

2001, and ending on September 30, 2002; and

"(B) each of fiscal years 2003 through 2005.

"(4) PRODUCER.—The term 'producer' means the individual or entity that is the holder of the license described in paragraph (1)(A)(ii) for the dairy farm.

"(b) PROGRAM.—The Secretary shall make payments to producers.

"(c) AMOUNT.—Subject to subsection (h), payments to producers on a dairy farm under this section shall be calculated by multiplying—

"(1) the eligible production during the payment period; by

"(2) the payment rate.

"(d) PAYMENT RATE.—

"(1) IN GENERAL.—Subject to paragraph (2), the payment rate for a payment under this subsection shall be equal to \$0.315 per hundredweight.

"(2) ADJUSTMENT.—The Secretary may adjust the payment rate under paragraph (1) with respect to the last fiscal year of the payment period if the Secretary determines that there are insufficient funds made available under subsection (h) to carry out this section for that fiscal year.

"(e) APPLICATION FOR PAYMENT.—To be eligible for a payment for a payment period under this section, the producers on a dairy farm shall submit an application to the Secretary in such manner as is prescribed by the Secretary.

"(f) TIMING OF PAYMENTS.—Payments under this section shall be made on an annual basis.

"(g) ADJUSTMENTS.—The Secretary may provide for the adjustment of eligible production of a dairy farm under this section if the production of milk on the dairy farm has been adversely affected by (as determined by the Secretary)—

"(1) damaging weather or a related condition;

"(2) a criminal act of a person other than the producers on the dairy farm; or

"(3) any other act or event beyond the control of the producers on the dairy farm.

"(h) FUNDING.—The Secretary shall use not more than \$2,000,000,000 of funds of the Commodity Credit Corporation to carry out this section."

Mr. LUGAR. Mr. President, Senator DOMENICI proposes a different formula for dairy payments. I will discuss the issue for a few minutes before laying the amendment aside for further debate.

Some in the Senate have decided to provide \$2 billion in payments to dairy farmers over the next 5 years. However, there is considerable disparity in the way these payments will be distributed under the Daschle substitute.

The Daschle substitute establishes different payment rates, different target prices, and different payments for a handful of States.

The Daschle substitute would provide 25 percent of the producer payments to producers in States that account for only 18 percent of our Nation's milk.

There is no sound policy reason for this disparity.

Senator DOMENICI has asked that we look specifically at New Mexico. Under the current proposal, New Mexico would average about 6 cents per hundredweight on milk, while producers in Maine would average almost 90 cents.

A 1,000-cow herd in New Mexico would receive from zero, in a low market scenario, to \$22,000. If this same farm were located in New York, for example, these numbers could be far higher.

Dairy farmers work in a national market. Dairy farmers not only sell products nationally, but they buy supplies and services nationally.

Dairy farmers from all over the country go to an auction in Indiana to buy heifers for their herds. Under the pending bill, a farmer from Pennsylvania will be able to pay more for heifers than a farmer from Indiana because of the Federal Government has given the Pennsylvania farmer a financial advantage in this transaction.

Senator DOMENICI proposes that we distribute this \$2 billion in an equitable manner under a program that is national in scope. Under his amendment, every dairy producer, regardless of where their milk, is treated the same.

Under his proposal, producers in 36 States will receive more than what they would receive under the Daschle substitute.

The amendment is relatively simple. It would provide producers with one annual payment over the next 5 years.

Defining a target price and payment rate would also be difficult under the Daschle procedures. Prices are announced for different classes for different regions using different tests.

To simplify payments, the Domenici amendment proposes to level out the payment with one rate, paid annually on all of a producer's milk. Estimates show 31.5 cents would cover all of the milk nationwide. The \$2 billion cap would force the Secretary to adjust in the final year to make sure the amount is not exceeded.

A fixed payment is not only more cost effective to administer, but it will provide predictability in a volatile price market. Producers will be able to plan. If it is already a "good year," producers can set the payment aside for future years that may not be so good or pay down debt to better weather future economic storms.

On behalf of Senator DOMENICI, I urge my colleagues to carefully consider the ramifications for dairy farmers in their States and to vote in favor of the Domenici amendment.

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

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

AMENDMENT NO. 2832, AS MODIFIED, TO  
AMENDMENT NO. 2471

Mr. MILLER. Mr. President, I lay an amendment on the desk with modification.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. MILLER], for himself and Mr. CLELAND, proposes an amendment numbered 2832, as modified, to amendment No. 2471.

The amendment, as modified, is as follows:

(Purpose: To modify the sections providing marketing assistance loans and quality improvement for peanuts)

On page 112, after line 25, insert the following:

"(6) LOAN SERVICING AGENT.—If approved by a majority of historical peanut producers in a State voting in a referendum conducted by the Secretary, as a condition of the Secretary's approval of an entity to serve as a loan servicing agent or to handle or store peanuts for producers that receive any marketing loan benefits in the State, the entity shall agree to provide adequate storage (if available) and handling of peanuts at the commercial rate to other approved loan servicing agents and marketing associations.

On page 116, strike lines 6 through 15 and insert the following:

"(h) AREA MARKETING ASSOCIATION COSTS.—If approved by a majority of historical peanut producers in a State voting in a referendum conducted by the Secretary, the Secretary shall include in a marketing assistance loan made to an area marketing association in a marketing area in the State, at the option of the marketing association, such costs as the area marketing association may reasonably incur in carrying out the responsibilities, operations, and activities of the association and Commodity Credit Corporation under this section.

"(i) DEFINITION OF COMMINGLE.—In this section and section 158H, the term 'commingle', with respect to peanuts, means—

"(1) the mixing of peanuts produced on different farms by the same or different producers; or

"(2) the mixing of peanuts pledged for marketing assistance loans with peanuts that are not pledged for marketing assistance loans, to facilitate storage.

"SEC. 158H. QUALITY IMPROVEMENT.

"(a) OFFICIAL INSPECTION.—

"(1) IN GENERAL.—All peanuts placed under a marketing assistance loan under section 158G or otherwise sold or marketed shall be officially inspected and graded by a Federal or State inspector.

"(2) ACCOUNTING FOR COMMINGLED PEANUTS.—If approved by a majority of historical peanut producers in a State voting in a

referendum conducted by the Secretary, all peanuts stored commingled with peanuts covered by a marketing assistance loan in the State shall be graded and exchanged on a dollar value basis, unless the Secretary determines that the beneficial interest in the peanuts covered by the marketing assistance loan have been transferred to other parties prior to demand for delivery.

Mr. MILLER. Mr. President, I ask unanimous consent that Senator HELMS be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, the cosponsor will be added.

Mr. MILLER. Thank you, Mr. President.

Mr. President, this is an amendment that we believe will help ease the transition from the peanut quota system to the new market-oriented program.

This amendment would increase the compensation for quota holders from 10 cents per pound to 11 cents per pound.

This amendment that we offer today—the Cleland-Miller-Helms amendment—will go a long way to help citizens in more than 15 States make the transition to the new peanut program.

I may be back later, Mr. President, if further debate is needed on this amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I applaud the Senators from Georgia for their advocacy on behalf of some of the people who sent them here: those who are growers of peanuts. I tell you, the two Senators from Georgia—Senator CLELAND and Senator MILLER—have been very determined advocates on behalf of the farmers they represent.

I just hope the people back home realize how much energy and effort the two Senators have expended to secure what is needed to help their people.

Senator MILLER, who is a very respected member of the Senate Agriculture Committee, and Senator CLELAND, who had a distinguished record of service in Washington before he ever came to the Senate and is respected on both sides of the aisle, have made very clear how important this is to their constituents.

I salute them for their vigorous efforts.

Mr. President, I rose to speak on another matter, and that is the fundamental challenge we face with this farm bill.

I see in the press repeated indications that farm assistance is no longer needed. Nothing could be further from the truth.

What these media critics seem to fail to realize is that our people are faced with major competition in the world.

Our major competitors are the Europeans. They are providing over \$300 an acre of support per year to their producers. We provide \$38. We are being outgunned nearly 10 to 1. On export support, the Europeans account for 84 percent of all the world's export subsidy; we account for 3 percent. They are outgunning us nearly 30 to 1.

The fundamental question before this country is whether or not we are going to fight for our people, whether or not we are going to give them a fair, fighting chance.

I thank the Chair.

The PRESIDING OFFICER. The hour of 2:50 having arrived, debate on the current amendment is suspended to allow other amendments to be called up.

The Senator from Vermont.

AMENDMENT NO. 2834 TO AMENDMENT NO. 2471

Mr. LEAHY. Mr. President, I ask that it be in order to offer amendment No. 2834 which I believe is at the desk.

The PRESIDING OFFICER (Mr. MILLER). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2834 to amendment No. 2471.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LEAHY. Mr. President, I rise today to offer an amendment to authorize the establishment of a new voluntary organic research and promotion program. Just over a year ago we finalized the National Organic Program Rule. As this rule is implemented, it will provide assurance to the American public that the organic food they buy is subject to strict and consistent regulation. In addition, this rule will assist organic producers who want to export their products and will ensure that imported organic agricultural commodities meet standards on par with those of the United States.

In the decade that this rule was under development, the organic industry has experienced tremendous growth rates of more than 20 percent annually—it was estimated that in 2001 sales topped \$9 billion.

As this industry continues to develop, it is important to adapt existing programs to support and enhance organic agriculture, as well as provide equitable benefits to organic producers. Currently, organic farmers are required to pay into existing mandatory research and promotion programs for various commodities. Many organic farmers object to this because they believe insufficient checkoff program funds are devoted to promoting or assisting in the development of organic agriculture. While they would prefer to be exempt from those assessments entirely, my amendment offers a viable and fair alternative.

My amendment authorizes a new voluntary organic research and promotion checkoff program, which will only be established if it is proposed and approved by a majority of certified organic producers and handlers.

What distinguishes this from existing checkoff programs is that any assess-

ments under the order would be voluntary, not mandatory—individual farmers will have the flexibility to opt-in or opt-out of this research and promotion program.

To avoid double taxation, producers who choose to contribute to the organic order would be entitled to a credit against assessments under another order—which is similar to the credit producers are entitled to under existing checkoff programs if they contribute to a state or regional order covering the same commodity.

Additional provisions in the amendment address concerns raised about existing checkoff programs—representatives on the board must reflect both the regional distribution and differing scales of organic production and, at least once every four years, a referendum on the continuance of the order must be held.

I urge my colleagues to vote in favor of this amendment, which simply gives organic farmers the opportunity to choose how their research and promotion dollars are spent.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The Leahy amendment.

AMENDMENT NO. 2852 TO AMENDMENT NO. 2471

Mr. HARKIN. Mr. President, I ask unanimous consent that that amendment be set aside so I may offer two other amendments. The first amendment I send to the desk on behalf of Senator KERRY and Senator SNOWE.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. KERRY, for himself and Ms. SNOWE, proposes an amendment numbered 2852 to amendment No. 2471.

Mr. HARKIN. 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:

(Purpose: To provide emergency disaster assistance for the commercial fishery failure with respect to Northeast multispecies fisheries)

At the appropriate place, insert the following:

**SEC. . COMMERCIAL FISHERIES FAILURE.**

(a) IN GENERAL.—In addition to amounts appropriated or otherwise made available by this Act, there are appropriated to the Department of Agriculture \$10,000,000 for fiscal year 2002, which shall be transferred to the Commodity Credit Corporation to provide, in consultation with the Secretary of Commerce, emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1) with respect to Northeast multispecies fisheries.

(b) PROGRAM REQUIREMENTS.—Amounts made available under this section shall be used to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery that—

(1) is certified by the Secretary of Commerce to be consistent with section 312(b) of

the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)); and

(2) permanently revokes multispecies limited access fishing permits so as to obtain the maximum sustained reduction in fishing capability at the least cost and in the minimum period of time and to prevent the replacement of fishing capacity removed by the program.

(c) APPLICATION OF INTERIM FINAL RULE.—The program shall be carried out in accordance with the Interim Final Rule under part 648 of title 50, Code of Federal Regulations, or any corresponding regulation or rule promulgated thereunder.

(d) SUNSET.—The authority provided by subsection (a) shall terminate 1 year after the date of enactment of this Act and no amount may be made available under this section thereafter.

AMENDMENT NO. 2853 TO AMENDMENT NO. 2471

Mr. HARKIN. Mr. President, I send to the desk an amendment to S. 1731 on my own behalf.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2853 to amendment No. 2471.

Mr. HARKIN. 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:

(Purpose: To modify the limits on the types of communities in which Rural Business Investment Companies may invest)

At the appropriate place, add the following:

Amend Section 602 by adding after the word "concern" at the end of subsection 384I(c)(3)(C) the words "and not more than 10 percent of the investments shall be made in an area containing a city of over 100,000 in the last decennial Census and the Census Bureau defined urbanized area containing or adjacent to that city".

Mr. HARKIN. As I understand the floor situation—I will consult with my ranking member—with the hour of 3 rapidly approaching, under the unanimous consent agreement previously entered into, all amendments to the pending S. 1731 have to be offered prior to 3 o'clock this afternoon.

Mr. LEAHY. I respond to my colleague that that is our understanding. Hopefully, this colloquy will serve as an announcement to all of our colleagues who may be listening to the debate, wherever they may be, that they should proceed rapidly to the floor. Three o'clock is the cutoff time for the introduction of amendments. On our side of the aisle, we have attempted to make that known in many ways. I am hopeful that at least no one will be under any other illusion. At 3, we will have an opportunity to survey the amendments that have in fact been placed before us to try to determine, as I understand, either time agreements or the ability to accept on both sides of the aisle some of these amendments.

I see, having said that, the distinguished Senator from Oklahoma has arrived just in time.

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. CLELAND. 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. INHOFE. Mr. President, will the Senator yield for a moment?

Mr. CLELAND. I am glad to yield.

Mr. INHOFE. I only have 3 minutes to get under the deadline to offer an amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2825 TO AMENDMENT NO. 2471

Mr. INHOFE. Mr. President, I call up amendment No. 2825 to S. 1731 and ask for its immediate consideration.

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

Mr. INHOFE. Mr. President, let me explain the amendment very briefly. I apologize to the Senator from Georgia.

All this does is take the peanut program, which is a dramatically changed program, and delay its implementation for a period of 1 year. Here is the problem we have. If we don't do that, we will have the farmers not knowing, when they go to the bank, what kind of program is going to be adopted right in the middle of their planting season. By doing this, I am sure you will be accommodating the farmers as well as saving some money in this particular year on this bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2825 to amendment No. 2471.

Mr. INHOFE. 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:

(Purpose: To require the Secretary of Agriculture to provide marketing assistance loans and loan deficiency payments for each of the 2003 through 2007 crop of peanuts)

On page 111, lines 14 and 15, strike "2002 through 2006" and insert "2003 through 2007".

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. If I may continue, I would like to recognize the hard work of my colleague, Senator MILLER, for his amazing transition to an agriculture policy wizard in less than 2 years. His hard work in the Agriculture Committee on this farm bill is a testament to his dedication to Georgia.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I have need to interrupt the distinguished Senator. We are under this limit in this final 10 minutes to offer amendments. If I may have his forbearance, I would like to offer an amendment at this point.

Mr. CLELAND. Very well.

AMENDMENT NO. 2854 TO AMENDMENT NO. 2471

Mr. LUGAR. Mr. President, on behalf of Senator MCCONNELL, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. MCCONNELL, proposes an amendment numbered 2854 to amendment No. 2471.

Mr. LUGAR. 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:

(Purpose: To conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes)

On page 984, line 2, strike the period at the end and insert a period and the following:

**SEC. 10 BEAR PROTECTION.**

(a) SHORT TITLE.—This section may be cited as the "Bear Protection Act of 2002".

(b) FINDINGS.—Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(2)(A) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and

(B) the Parties to CITES adopted a resolution in 1997 (Conf. 10.8) urging the Parties to take immediate action to demonstrably reduce the illegal trade in bear parts;

(3)(A) thousands of bears in Asia are cruelly confined in small cages to be milked for their bile; and

(B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

(4) Federal and State undercover operations have revealed that American bears have been poached for their viscera;

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and

(6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

(c) PURPOSE.—The purpose of this section is to ensure the long-term viability of the world's 8 bear species by—

(1) prohibiting interstate and international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera;

(2) encouraging bilateral and multilateral efforts to eliminate such trade; and

(3) ensuring that adequate Federal legislation exists with respect to domestic trade in bear viscera and products containing, or la-

beled or advertised as containing, bear viscera.

(d) DEFINITIONS.—In this section:

(1) BEAR VISCERA.—The term "bear viscera" means the body fluids or internal organs, including the gallbladder and its contents but not including the blood or brains, of a species of bear.

(2) CITES.—The term "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(3) IMPORT.—The term "import" means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, regardless of whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) PERSON.—The term "person" means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State or political subdivision of a State; or

(iii) any foreign government; and

(C) any other entity subject to the jurisdiction of the United States.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(7) TRANSPORT.—The term "transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

(e) PROHIBITED ACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person shall not—

(A) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(B) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(2) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in subsection (d)(4)(B) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(A) is solely for the purpose of enforcing laws relating to the protection of wildlife; and

(B) is authorized by a valid permit issued under Appendix I or II of CITES, in any case in which such a permit is required under CITES.

(f) PENALTIES AND ENFORCEMENT.—

(1) CRIMINAL PENALTIES.—A person that knowingly violates subsection (e) shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(2) CIVIL PENALTIES.—

(A) AMOUNT.—A person that knowingly violates subsection (e) may be assessed a civil penalty by the Secretary of not more than \$25,000 for each violation.

(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be

assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(3) SEIZURE AND FORFEITURE.—Any bear viscera or any product, item, or substance imported, exported, sold, bartered, attempted to be imported, exported, sold, or bartered, offered for sale or barter, purchased, possessed, transported, delivered, or received in violation of this subsection (including any regulation issued under this subsection) shall be seized and forfeited to the United States.

(4) REGULATIONS.—After consultation with the Secretary of the Treasury and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this subsection.

(5) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this subsection in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(6) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this subsection shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

(g) DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.—In order to seek to establish coordinated efforts with other countries to protect bears, the Secretary shall continue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to CITES; and

(2) the appropriate representatives of countries that are not parties to CITES and that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera.

(h) CERTAIN RIGHTS NOT AFFECTED.—Except as provided in subsection (e), nothing in this section affects—

(1) the regulation by any State of the bear population of the State; or

(2) any hunting of bears that is lawful under applicable State law (including regulations).

Mr. LEAHY. Mr. President, I ask unanimous consent the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is ordered.

The Senator from Georgia.

AMENDMENT NO. 2832

Mr. CLELAND. Mr. President, I am fortunate to hold the seat of one of this Chamber's giants, Senator Richard B. Russell. Senator Russell understood the importance of strong agriculture policy and he once observed: "when we strengthen American agriculture, we strengthen America." The failure of the Senate to complete a farm bill in 2001 was very disappointment to me. But the good news is that I believe we will pass a strong farm bill this week.

One of the hottest issues in the farm bill for Georgia is the change in the current peanut program. Because there are not enough votes to sustain the quota program in Congress and because trade agreements have weakened quotas, I reluctantly agree with my colleagues that the system will be changed.

I visited south Georgia this past weekend where the debate over the ending the quota program is big news.

The proposed peanut program that originated in the House, bases the new program on acres determined by peanut producers, rather than by the landowning quota-holders. This shift in the peanut program, from the landowner to the producer, has caused a split among neighbors in south Georgia not seen in many years. Despite this split, I think we should make note of a fact that Senator MILLER has mentioned more than once on this floor: The anti-peanut program forces have not been out in force this year. You may know that in 1996, the peanut program survived in the Senate by only three votes.

I have concerns about small quota-owners, such as widows, veterans, and minority farmers who depend on quotas for their income. They should not be forgotten in the rush for a new farm bill. For that reason, I offer this amendment with Senator MILLER to increase the quota buyout to 12 cents a pound, each year, for 5 years. This is up from the House buyout of 10 cents per pound and will help ease the transition for thousands of retired peanut farmers who invested in peanut quota as, in effect, their pension plan.

I will work to keep the Senate level of support for producers which is \$400 million over the House bill for marketing loan rates and countercyclical payments. Also, the Senate farm bill contains language that I have sponsored for years to label the country-of-origin for peanuts. Because consumers should know where their peanuts are grown.

All in all I believe we will pass a strong farm bill that makes sense and substantial progress in meeting the needs of family farmers and our rural communities.

I yield the floor.

Mr. REID. Mr. President, I have spoken to both Senator LUGAR and Senator HARKIN, the two managers of the bill. It has been cleared. I ask unanimous consent that at 3:05 p.m. today, the Senate resume consideration of the Feinstein amendment No. 2829; that the time until 3:35, a half hour, be equally divided and controlled by Senators FEINSTEIN and BREAUX, or their designees; that at 3:35, Senator BREAUX be recognized to offer a motion to table, and that no second-degree amendment be in order prior to the vote in relation to the amendment.

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

AMENDMENT NO. 2855 TO AMENDMENT NO. 2842

Mr. LUGAR. Mr. President, on behalf of Senator KYL, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. KYL, proposes an amendment numbered 2855.

The amendment is as follows:

(Purpose: To ensure that the water conservation program is implemented in accordance with all applicable laws)

On page 8, line 19, insert the following:

“(12) IMPLEMENTATION.—In carrying out the program, the Secretary shall—

“(A) ensure, to the maximum extent practicable, that the program does not undermine the implementation of any law in effect as of the date of enactment of this chapter that concerns the transfer or acquisition of water or water rights on a permanent basis;

“(B) implement the program in accordance with the purposes of such laws described in subparagraph (A) as are applicable; and

“(C) comply with—

“(i) all interstate compacts, court decrees, and Federal or State laws (including regulations) that may affect water or water rights; and

“(ii) all procedural and substantive State water law.

On page 8, line 19, strike “(12)” and insert “(13)”.

On page 9, line 16, strike “(13)” and insert “(14)”.

On page 17, line 20, insert the following:

“(1) IN GENERAL.—Nothing in this section—

On page 17, line 21, strike “(1)” and insert “(A)”.

On page 17, line 22, strike “(2)” and insert “(B)”.

On page 18, line 1, strike “(3)” and insert “(C)”.

On page 18, line 5, strike “(4)” and insert “(D)”.

On page 18, line 7, insert the following:

“(2) IMPLEMENTATION.—In carrying out the program, the Secretary shall—

“(A) ensure, to the maximum extent practicable, that the program does not undermine the implementation of any law in effect as of the date of enactment of this chapter that concerns the transfer or acquisition of water or water rights on a permanent basis;

“(B) implement the program in accordance with the purposes of such laws described in subparagraph (A) as are applicable; and

“(C) comply with—

“(i) all interstate compacts, court decrees, and Federal or State laws (including regulations) that may affect water or water rights; and

“(ii) all procedural and substantive State water law.

Mr. HARKIN. Reserving the right to object, Mr. President, I will not object, but there comes a point where we say 3 p.m.—well, is it 3 p.m. or 3:02 or 3:05? I hope we don't have a rush of amendments on either side coming in.

Mr. LUGAR. Mr. President, I appreciate the comment of my colleague. He is correct, obviously. I hope there may be some dispensation in that this request arrived a few seconds after the 3 p.m. time. We have been attempting to accommodate Senators.

I ask unanimous consent that the Kyl amendment be laid aside.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, because of some confusion, I ask unanimous consent that Senator FEINSTEIN's time start at 3:10 instead of 3:05.

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

Mr. REID. It will go until 3:40. She gets 15 minutes and Senator BREAUX gets 15 minutes.

AMENDMENT NO. 2829

Mrs. FEINSTEIN. I thank Senator REID, and I thank Senators HARKIN and LUGAR as well.

On Friday, I offered an amendment to the sugar program, which really is a minor amendment, with one exception. It seems anything that has anything to do with the sugar program is frozen and can't be changed. As I noted 6 years ago when I came here, the sugar program works to the great detriment of America's domestic sugar refineries.

The largest of those domestic sugar refineries happens to be in California. It is C&H Sugar. C&H got most of its sugar from Hawaii, and they used to have ads as I grew up: C&H pure cane sugar from Hawaii. It is a plant that can employ about 1,300 people. It can refine about 800,000 pounds of sugar. It is a union plant. It is the only source of employment, the major source of employment, in a small town in the East Bay known as Crockett. You drive over the Carquinez Bridge and you see this big old plant, and that is from where this wonderful sugar comes.

The problem has been, year after year, C&H cannot buy enough sugar to refine. Why? Because the allotments in the sugar program were more than two decades ago. They do not adequately reflect who is buying and who is selling sugar at the time.

The amendment I have offered would simply reallocate the unfilled portion of a country's quota when that country does not fulfill its quota. That is all it does. This is less than 3 percent of the sugar. About 3 percent of the sugar on the world market that is provided for in the allocation quota does not get allocated. So on a first-come-first-served basis, a company that wanted to buy sugar would be able to because the unused allocation of one country would go to another country that is exporting sugar, and on a first-come-first-served basis the refineries of our country would have an opportunity to buy their sugar.

This amendment is supported by C&H Sugar; Colonial Sugar Gramercy, LA; Savannah Foods in Port Wentworth, GA; and Imperial Sugar in Sugar Land, TX.

I ask unanimous consent that two letters be printed in the RECORD in support of the amendment, one from the Coalition for Sugar Reform and the other from Citizens Against Government Waste.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COALITION FOR SUGAR REFORM,  
Washington, DC, February 6, 2002.

DEAR SENATOR: On behalf of the Coalition for Sugar Reform, I urge you to vote for an

amendment that Sen. Dianne Feinstein will offer to ensure that when the United States announces an import quota for sugar, we actually import all that quota.

Each year, a few countries fail to fully utilize, or fill, their quotas to sell sugar to the United States. Generally, these amounts go unused: Because of the highly restrictive import policy that the United States maintains for sugar, other sugar-producing countries have no opportunity to satisfy the unmet market need represented by the unfilled quota. The Feinstein amendment will require that by June 1 each year, any unused quota be reallocated among qualified supplying countries on a first-come, first-served basis.

This amendment does not increase import quotas. It merely says that when we announce an import quota, we will allow the full amount of that quota to be imported.

This amendment honors our multilateral trade commitments by allowing the full import quota to enter the United States. By setting an example of more efficient and transparent TRQ administration, the amendment advances explicit trade policy goals of the United States. Please support and vote for the Feinstein amendment.

Sincerely,

LAWRENCE T. GRAHAM,  
Steering Committee Coordinator.

COUNCIL FOR CITIZENS  
AGAINST GOVERNMENT WASTE,  
Washington, DC, February 11, 2002.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC

DEAR SENATOR FEINSTEIN: On behalf of the more than one million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I am writing to inform you of our support for your amendment to S. 1731, the Farm Bill, which would ensure that when the United States announces an import quota for sugar, all of that quota will actually be imported.

When countries fail to fully utilize their quotas to sell sugar to the United States, those quotas usually end up being unused. Other sugar-producing countries have no opportunity to satisfy the unmet market need represented by the unfilled quota, as a result of the highly restricted import policy that the United States maintains for sugar.

It is our understanding that your amendment will require that by June 1 of each year, any unused quota be reallocated among qualified supplying countries on a first-come first-served basis. While we also understand that your amendment does not increase import quotas, it will at least ensure that the full amount of the quota be imported.

Although CCAGW would still prefer the complete elimination of the archaic sugar program, we believe your amendment will at least provide for modest improvement of one of its glaring deficiencies. Thus, CCAGW will consider a vote on your amendment in the 2002 Congressional Ratings.

Sincerely,

TOM SCHATZ,  
President.

Mrs. FEINSTEIN. The fact of the matter is, this has been done. The Secretary can do this. As a matter of fact, in 1995 I implored Secretary Glickman to do just this, and he did it. The problem, I say to those opposed to this amendment, is that every year you have to go and lobby; every year you have to try to see that this company and others similar to it are able to get enough sugar. That is not right. Sugar programs should not operate this way.

While ago, we asked GAO to take a look at the sugar program. The GAO came up with exactly what we are proposing today. Let me read a couple of things. Some of the 40 designated countries have been provided an export allocation when they no longer export sugar. According to the GAO, on average, from 1993 to 1998, 10 out of the 40 countries were net importers of sugar. These countries are not exporting sugar because clearly they are importing sugar.

Some countries have similar allocations under the quota despite dramatically different levels of sugar exports. For example, Brazil and the Philippines are both allowed to export around 14 percent of the total quota, but Brazil exports 21 times more sugar than the Philippines worldwide.

In my view, it is unacceptable that sugar quota allocations have not been revised for two decades, despite dramatic changes in the ability of many countries to produce and export sugar.

Is there a way to update the sugar export amounts allowed into the United States without adversely impacting domestic growers? I believe there is, and the amendment I have offered would provide this change.

Incidentally, I would like the RECORD to reflect that Senator GREGG is a cosponsor of this amendment, if I may.

The United States has imported on average, as I said, about 3 percent less sugar than the quota allowed from 1996 through 1998 because some countries did not fill their allocations.

Now the question was asked in the caucus today by the distinguished Senator from Louisiana, What would happen to price if this amendment were passed?

Let me again quote the GAO:

USTR's current process for allocating the sugar tariff-rate quota does not ensure that all of the sugar allowed under the quota reaches the U.S. market.

The current allocation has resulted in fewer sugar imports than allowed under the tariff-rate quota. From 1996 through 1998, US raw sugar imports averaged about 75,000 tons less annually than the amount USDA allowed USTR to allocate under the tariff-rate quota.

The final quote from the GAO is this:

Because the shortfalls in the tariff-rate quota reduced US sugar supplies by less than 1 percent, they had a minimal effect on the domestic price of sugar.

So what I am saying is you can have a system that allows domestic refineries to buy sugar that they need from countries that are not using their allocated quota, and this will have a very slight, if any, mark on the domestic price of sugar. What is dreadfully unfair is to have a situation where domestic refineries, hiring men and women who live in this country, that want to refine sugar are prevented from doing so by a bill where the allocations and the quotas have not been revised in two decades.

So I am asking the Senate to please permit this small change in the sugar program.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana for 5 minutes.

Mr. BREAUX. Mr. President, let me assure my colleagues who might be listening to this rather arcane and complicated debate, I have the utmost respect for the Senator from California to the point of disagreeing with her on the fact that this is a minor amendment. I think that nothing my colleague from California does is minor. It is always a major effort, and she is to be commended for what she is attempting to do for one refinery in California.

I point out that over the last 10 years, in my own State of Louisiana, we have lost 24 sugar mills. We did not try to change the sugar program to accommodate each one of those mills but, rather, tried to work in a cooperative fashion to have a national program.

The Senator is absolutely correct that about 40 countries around the world have allocations to be able to export approximately 1.25 million tons of sugar into the United States to make sure we have enough sugar for domestic consumption. If a country does not use all of their allocation, it can be reallocated by the Secretary. It does not have to be. The Secretary makes a determination on what amount of sugar we need to fulfill the mandates of the program. If we do need more sugar, and countries have not used their allocation, the Secretary can give to a country an additional allocation.

The difference at this point between what the Senator from California wants to do and the existing program is that they have to reallocate it and bring it into the United States under the terms of the program. It cannot be said to one country that they are going to be the only country in the world that is going to be able to bring sugar in to the United States with an allocation that does not comply with the terms of the sugar program. All of the 40 countries that send sugar to the United States have to come in under the terms of the program, and that is at a price that equals about 18 cents a pound. If there is 50 pounds of unallocated sugar and it is said to any country in the world, come in and bid for the right to send that sugar to the United States, they can bid the price down to a point that would have a substantial effect on the market.

This amendment, if it went into effect, and large amounts of sugar were brought in outside of the program, could ultimately result in a large cost to the taxpayer. If it drives down the average price of sugar below the market loan rate, sugar will be forfeited to the Federal Government and taxpayers will be picking up sugar—because the price has gone below the marketing loan—at about 18 cents a pound.

I don't think I have any problem giving the Secretary the right to reallocate sugar, which they now have when there is a shortfall, but not to do it outside of the program. Not to say to all of the countries that participate, you have to do it one way, but other countries, when we reallocate, you can do it without having to meet the terms of the loan itself. The Department does not have to reallocate; they do it if there is a need for the sugar.

The amendment of the Senator from California mandates they reallocate, although it is not required in order to meet our domestic needs. In addition, she would mandate they allow it come in outside the program.

We cannot design a national program for one refinery. I point out the refineries that make sugar are very divided on this issue. For those who do support our amendment, there is an equal number or more who do not. The Domino Sugar refinery in New York opposes it; the Domino refinery in Brooklyn, NY, opposes it; the Domino refinery in Baltimore, MD, opposes it, as well as the refinery in Chalmette, LA.

The problem is there is a national program. The reason one refinery in one State does not have enough sugar is because their principal market has been Hawaii. As the Senator has correctly said, Hawaii is moving out of the sugar program. They have reduced their production of sugar, and that refinery does not find itself with a sufficient amount of sugar. But you cannot redesign the entire national program for one particular refinery and say we are going to let sugar come in to this one refinery outside of the program, with no price protection whatever, and put the entire program in jeopardy, with potential costs to the U.S. taxpayers. If it has the effect of driving the price below the loan level, sugar will be forfeited.

It is very important to note that the program is operated at no cost to the taxpayer. We have no forfeited sugar. We do not want to be in a position of forfeiting sugar. If this amendment were to pass and we mandated that the Secretary reallocate sugar imported into this country outside the program, which is what it does, on a first-come-first-served basis, would not have to meet the terms of the program. So a company could bid and bring in sugar at 5 cents a pound if they wanted to dump in this market. That is what the amendment allows.

I don't mind having it come in under the terms of the program, but to allow sugar to come in and be reallocated outside the terms of the program with regard to price potentially destroys the program and would be at a cost to the American taxpayer.

At the appropriate time, I will offer a motion to table the amendment. I am happy to yield to the Senator.

Mrs. FEINSTEIN. I thank the Senator. Our intent in drafting the amendment was that the sugar that comes in is within the program, not outside the

program. But only 40 countries now covered by the program are eligible to participate. If there is an inadvertent error, we will be happy to correct it.

The intent is that it be within the program. Then, from a country that is in the program but is not using its allocation, and sold on a first-come-first-served basis, so if the price is going to be changed, there will not be a buyer for the sugar.

Mr. BREAUX. Let me respond to the Senator. When she uses the term "comes in on a first-come-first-served basis," that is a legal term, a term of art that clearly indicates that it can come in out of the program at a price below the market loan level of 18 cents a pound.

That is the No. 2 problem with the amendment. It would come in outside the terms of the program. It can come in at a price much lower than the 18-cent loan level, which runs the risk of reducing the price of sugar throughout the United States. That is the No. 1 problem.

The second problem is that it mandates it be done. In the past it has always been at the discretion of the Secretary. As the Senator has said, the Secretaries in the past, when they saw a need, have, in fact, allowed it to be reallocated. They can still continue to do that, but it can only be done within the terms of the program.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask the distinguished Senator a question. Would the Senator support the amendment if we amended it to make it clear, in simple English, that the proposal is within the confines of the existing sugar program?

Mr. BREAUX. I respond to the Senator's question by saying that the two things I have a problem with, and I think most of the people who support the program have a problem with, are, No. 1, it is mandatory. The second point is that it would allow on a first-come-first-served basis the sugar to come to the country outside of the program at a price below the loan level.

If that part were corrected, I am fine, but I cannot support it being mandatory. We ought to have the flexibility to allow it, and it has to be brought in under the terms of the program.

Mrs. FEINSTEIN. Provided we could produce those amendments, would the Senator then support that?

Mr. BREAUX. I think more work certainly needs to be done. I think certainly an appropriate and proper discussion—and I have had this discussion with the distinguished chairman—could be during the conference.

I make very clear the two problems I have: No. 1, it is mandatory on the reallocation; and No. 2, that allocation could allow the sugar to come in outside the program, the sugar program at below the marketing loan level which I think would destroy the program. Those are the two concerns that I think most Members have.

Mrs. FEINSTEIN. Mr. President, is it appropriate to set aside this amendment to see if we cannot work out some language with Senator BREAUX?

The PRESIDING OFFICER. It will take unanimous consent to vitiate the current agreement.

Mrs. FEINSTEIN. Senator BREAUX mentioned two things which were our intent, in any event, that would cause him to withdraw his disapproval of the language. I ask it be set aside for a few moments or we suggest the absence of a quorum to work out the differences and add the necessary words.

Mr. BREAUX. I cannot control this, but I am certainly willing to work with the Senator from California. I have stated the two problems.

I am always willing to talk to see if we can work something out.

Mr. REID. The vote is not scheduled for 12 minutes. How about 12 minutes?

Mrs. FEINSTEIN. I take it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, for the information of Senators, Senators FEINSTEIN and BREAUX are in the process of working on their amendment. It will not, at a later time, require a vote. It will be worked out in some other manner. So Members should be notified there will not be a vote on this amendment. It was scheduled, as you know, for 3:40 this afternoon. We have been in a quorum call since then, anticipating there would be a vote. There will not be a vote on the Breaux motion to table the Feinstein amendment.

I also announce that I have spoken to the two managers, Senator LUGAR and Senator HARKIN.

The PRESIDING OFFICER. Is the Senator asking for unanimous consent to vitiate that agreement?

Mr. REID. You took the words right out of my mouth.

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

Mr. REID. Mr. President, I also indicate that Senators HARKIN and LUGAR are in the process, with their staffs, of working through these amendments. We have, I think, 18 amendments. There are a number of them, I have been told, that will be accepted. We expect to have a unanimous consent agreement in the immediate future to handle about six of these amendments.

Mr. President, I ask unanimous consent that the Senate consider the amendments proposed to S. 1731 in the order in which they were offered, beginning with the Santorum amendment No. 2542, as modified, and ending with the Wellstone amendment No. 2847; that there be a time limitation of 20 minutes for debate with respect to each

amendment, with the time equally divided and controlled in the usual form; that any second-degree amendments be accorded the same time limitations as the first-degree amendment—Mr. President, first of all, I ask unanimous consent that the unanimous consent proposal I just made be withdrawn. I will offer another one.

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

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider the amendments proposed to S. 1731 in the order in which they were offered, beginning with the Santorum amendment No. 2542, as modified, and ending with the Wellstone amendment No. 2847; that there be a time limitation of 20 minutes for debate with respect to each amendment, with the time equally divided and controlled in the usual form; that if there is a second-degree amendment offered, the first-degree amendment be laid aside.

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

Mr. REID. Mr. President, I further ask unanimous consent that it be in order for the managers to have a stacked sequence of votes beginning at a time agreed upon by the managers and the leaders or their designees.

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

Mr. REID. I state, Mr. President, as I did earlier, we are trying to work out an agreement to work through the rest of these amendments so that there will be definite times on them. We are in the process of doing that now.

Mr. President, I ask unanimous consent—Senator ENZI is not in the Chamber—that Senator WELLSTONE, who is in the Chamber, be allowed to begin his 20 minutes at this time.

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

The Senator from Minnesota.

#### AMENDMENT NO. 2847

Mr. WELLSTONE. Mr. President, I am going to start speaking on the amendment. We may or may not make one change.

This amendment is a modified version of an amendment I offered last week. It is a reform amendment to the EQIP program.

The argument against the amendment I offered last week—which I think was an important amendment for our independent producers and an important amendment for the environment—was that the size limitation meant that midsized farmers could not expand. I actually thought that an operation with over 5,000 hogs was a pretty large operation in the first place.

But what I am going to do this time is make some changes, which will, hopefully, give us the vote to go over the top.

What this amendment does is comparable to what we have done with crop assistance in the commodity program. Now we have a reasonable payment limit. What we have is a payment limit with the commodity program and, in

addition, restrictions on multiple payments and compliance with environmental laws. This amendment would have a reasonable payment limit on EQIP funds. It would restrict producers from receiving multiple EQIP payments. In other words, right now these conglomerates own multiple CAFOs and then get government money for each one of them. It becomes a subsidy in inverse relation to need. And this amendment would require that producers who receive EQIP funds have an environmental plan.

At the moment, the direction in which this amendment goes is as follows: It would lower the payment limits from \$50,000 per year to \$30,000 per year. Right now, the limit is \$10,000. Some farmers don't do multiple-year contracts.

My point is, just as we had payment limits on an earlier vote with the Dorgan amendment, it seems to me we ought to also have payment limits with the EQIP program, if this environmental program is to have the policy integrity, and if we are not to be giving these payments to some of the largest operations that don't need them.

Secondly, it prevents producers with an interest in more than one large CAFO from receiving more than one EQIP contract, which makes all the sense in the world from the point of view of reform. And, again, we are talking about an amendment that has some payment limitation.

Finally, it requires the producers receiving the EQIP funds to have a comprehensive nutrient management plan which is an environmental plan.

It is a reform amendment. I think we have done a lot of good work on this bill. The vote earlier today on the packer ownership amendment was extremely important. We passed the crop payment limitation by a 66-to-31 vote, which was an historic vote.

If my colleagues are in support of payment limitations, they should support this amendment. This amendment puts some reasonable payment limitations back into the Environmental Quality Incentive Program. Current law caps it at \$10,000 per year. The underlying legislation increases the cap to \$50,000 a year. That is a fivefold increase.

This amendment recognizes the problem we have with the environmental pollution that comes from these large livestock operations, but it places a reasonable payment limit on the program: \$30,000 per year up to \$150,000 over 5 years.

If we don't put some reasonable payment limits on the program, the flow of benefits is going to be just as we have seen with the commodities: huge payments to huge producers; in this case large livestock conglomerates that over the years have been squeezing independent producers out of existence.

That is what this amendment is all about. Again, let me be crystal clear. This amendment now deals with the argument that some colleagues made

that it is not going to let the midsize operations expand. This amendment is consistent with what we have done on payment limits. It is a reform amendment. This amendment plugs a big loophole with multiple CAFOs which is a huge problem when these conglomerates buy up a lot of these confinement operations and then get a subsidy for each one of them.

Finally, this amendment calls for a sound environmental plan, which makes all the sense in world, a comprehensive nutrient management plan. It is a modest amendment. It is a good reform amendment. It is a good environmental amendment. Frankly, it is a good amendment for our independent producers.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. JOHNSON). Who yields time?

The Senator from Iowa.

Mr. HARKIN. Mr. President, I don't know who controls any time on the opposite side. We have examined the amendment on this side and, quite frankly, I think the Senator from Minnesota has made constructive changes to the EQIP program, which I think will inure to the benefit of our livestock producers all over America. On this side, we are prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond to the distinguished Senator. I personally favor the amendment. I will ask for 3 more minutes for the hotline on our side to ascertain whether all of us are in agreement. I am hopeful that is the case. If I may have the indulgence of Senators, I will ask for a quorum call for about 3 minutes of time. It would be my hope we could accept the amendment at that point.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I wonder if I could say a couple of words while we are waiting. That moves us right along.

Before the Senator from Iowa leaves, let me say this for the record: I hope there will be support. I certainly would be pleased to not have a recorded vote. I know we are trying to move things along. I ask the Senator from Iowa in a bit of a colloquy here for his support in conference committee to keep this in because my experience has been all too often, when there is not a recorded vote and there is a voice vote, then the amendments get tossed aside. I know my colleague supports this amendment. I certainly ask for his support as the chair in the conference committee.

I assume when he nods his head, it means yes.

Mr. HARKIN. I say to my friend from Minnesota, my neighbor to the north, he is a very valuable member of our committee. When this bill is done and I go on to conference, it is my intention as chair to fight for all of the amendments that we in the Senate have adopted on this bill because it will be the Senate's position.

Certainly in this area on the EQIP program, I believe the Senator's amendment improves what we have done in the underlying bill, and certainly I will do everything I can to make sure we keep those provisions.

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I will stay here and wait patiently for our 3-minute limit, and my colleagues can let me know.

Mr. HARKIN. Mr. President, how much time remains on the Wellstone amendment?

The PRESIDING OFFICER. There are 2½ minutes that remain to the proponents; 8 minutes remain in opposition.

Mr. HARKIN. Mr. President, I ask unanimous consent to reserve the remainder of the time, the 2 minutes and the 8 minutes, and now proceed to recognize Senator ENZI who had two amendments offered which are going to be accepted on this side. I don't know if the Senator wanted any time at all, but to move the process along, I see the Senator from Wyoming is on the floor.

I ask unanimous consent that the remainder of the time be reserved and that we now go to the two Enzi amendments. I ask unanimous consent if we could just take 5 minutes on the Enzi amendment and then return to the Wellstone amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming.

AMENDMENT NO. 2843

Mr. ENZI. Mr. President, I thank everybody who has been working with me on these two very important issues. One of them is an accounting issue. That is to do with an authorization to have some drought assistance for livestock. We have had a livestock assistance program. It has been kind of a last-minute, put-it-on-the-budget effort every year. But the amount of money that gets spent on it every year is a very consistent amount, a good amount. It calls for us to recognize that upfront, provide for it upfront, and give our ranchers some assurance that they are going to have some help.

This morning we passed a very important measure, and that actually provides for last year's drought assistance for livestock payments. People have been through last year's drought. They know they were already heard. One of the fascinating things about this is, it doesn't pay them for their losses. It pays them so they can buy a

little feed so they can keep their base stock alive until they can produce again and have a crop. I know that Wyoming's portion of that turns out to be about \$15 million. That comes to about \$8,000 per rancher, and \$8,000 doesn't even buy much feed. But it will get some people through the winter. So I appreciate the concern of everybody and their willingness to accept it.

AMENDMENT NO. 2846

Mr. President, the other amendment, of course, is a pet pilot project which will put lamb in Afghanistan and will solve a problem there. It is so small a project that it can be nonexistent. I know the Department of Agriculture will look at it, and I think it will be one of the things that will solve some problems for people who grow lambs in the West and will build up a herd in Afghanistan so they can be self-sufficient. It is the old story—and I have heard a variation—give a man a fish and feed him for a day; teach a man to fish and he will buy an ugly hat.

I yield the floor.

Mr. HARKIN. Mr. President, we have examined both amendments on this side. They are valuable additions to the farm bill. I think they both have tremendous merit to them. We are pleased to accept them on this side.

AMENDMENT NO. 2847

Mr. LUGAR. Mr. President, let me, first of all, make an announcement before I comment on the amendments of the Senator. There has been an objection on our side to having a voice vote on the Wellstone amendment. Therefore, we will need to have a rollcall vote. Because of the thoughtfulness of the Senator from Iowa, there will be some further time to debate the amendment. I believe there are 8 minutes for the opposition. For all those listening to the debate, if there is opposition to the Wellstone amendment, that time remains. At the end of that time, the Wellstone amendment will be in the stack for votes and disposition after the unanimous consent on the other amendments has been run through, which is to simply say we are going to have a vote, a rollcall, and it will come at the end of the stack that the Senator from Nevada offered a while back.

Mr. WELLSTONE. Will the Senator yield for a question? I missed the first part. There is now a call for a rollcall vote?

Mr. LUGAR. That is correct.

Mr. WELLSTONE. 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.

AMENDMENT NOS. 2846 AND 2843

Mr. LUGAR. Mr. President, I will return now to the amendments of the Senator from Wyoming. I had an opportunity to visit with the Senator and to appreciate the depth of his understanding and research with regard to both of these amendments. On our side,

we are pleased to accept them and, hopefully, we will have a unanimous vote.

The PRESIDING OFFICER. Without objection, amendment No. 2843 is pending.

Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2843) was agreed to.

Mr. HARKIN. I move to reconsider that vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2846

The PRESIDING OFFICER. Without objection, amendment No. 2846 is now pending.

The question is on agreeing to the amendment.

The amendment (No. 2846) was agreed to.

Mr. HARKIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that following the statement of the Senator from Indiana, there be no amendments in order prior to the vote on the Wellstone amendment No. 2847.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. LUGAR. Mr. President, I suggest the absence of a quorum, with the time being charged to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. WELLSTONE. Mr. President, if other Senators are coming down with amendments, I will stop speaking. Otherwise, I will take about 5 minutes now if we have the time.

Mr. REID. We are on the Senator's time anyway.

Mr. WELLSTONE. I ask unanimous consent for 5 minutes as in morning business.

Mr. LUGAR. Reserving the right to object, the Senator from Wyoming has arrived and may wish to speak on the Wellstone amendment. How much time remains?

The PRESIDING OFFICER. Six minutes in opposition.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me be very clear that we made a modification from the original amendment to deal with some of the problems my colleagues had about expansion. We are doing two things: Lowering the payment limits from \$50,000 per year to \$30,000 per year, though it can be \$30,000

per year over 5 years. This is consistent with the vote we have made on payment limitations. There is no reason for Government subsidies going to the largest of the largest. Second is to prevent producers with an interest in more than one large CAFO to receive multiple EQIP contracts. This is consistent as a reform amendment. Why should conglomerates get payments for multiple CAFOs?

Finally, making sure there is a comprehensive management plan which goes to the producers, which is good, sound environmental practice. As I said, this has the support of a lot of farm organizations and many environmental organizations. It is a good reform vote. I hope we will get a majority vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, let me make a couple of comments. I have been very involved in this program over time. The Senator brought it up before. It seems to me there are some issues here about which we ought to talk. We didn't talk about it at all in committee, EQIP, in my view, and I think pretty much under the law, is designed to give technical assistance to do good for the environment. They are not tied to nutrients particularly or to any particular kind of action. They ought to be available to people who want take some action, whether it is changing a ditch to make it more workable for the environment, or whatever.

Constantly we keep trying to limit it to certain sizes and you have to report the number of animals that you own. That is not part of the proposition. This idea of nuance was an idea that came up in the Clinton administration. It was never put in as a rule, and now we are going to put it into law. It seems to me that it is an unnecessary amount of detail and is singly trying to target certain areas when really the opportunity is broad.

I was out in my home this weekend and was talking about this—in fact, I guess it was in Denver at the Cattle-men's—and people said: We need more money for EQIP, but we do not want to have more and more rules where every time we try to do something we invite EPA to be here on top of us, and all these other things.

I feel fairly strongly about it. However, I do recognize we need to move forward, and I withdraw my objection.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator for his cooperation. I am saying that when you put up a facility there has to be a plan of what you are going to do with the waste. That is all I am really saying.

If I heard the Senator from Wyoming correctly, he is not objecting. Are we still going to go forward with a re-

corded vote or not? I will do it either way, but it sounds as if we could move forward.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. My understanding is that a recorded vote would occur at the expiration of the time of this amendment and the expiration of the time of whatever amendments that were in the original unanimous consent request. In other words, a list of, I think, four amendments needed to be disposed of. So after we have completed work on all of those, there would then be rollcall votes therefore required, and this would be one of those instances.

Mr. THOMAS. Mr. President, is it possible to ask unanimous consent that the rollcall vote on this issue be vitiated?

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

Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 2847.

The amendment (No. 2847) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2845

The PRESIDING OFFICER. Under the previous order, the McConnell amendment No. 2845 is now pending.

Mr. LUGAR. I suggest the absence of a quorum, with the time being charged to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, it is my understanding that we are now on the McConnell amendment, No. 2845. Is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, I ask unanimous consent that Senator HARKIN be allowed to offer a second-degree amendment to amendment No. 2845; that the time between now and 5 o'clock be equally divided between Senator HARKIN and Senator MCCONNELL or their designees, and that at 5:45 we vote on the Harkin second-degree amendment and that at 5 o'clock this matter be set aside.

I would say for the information of all Senators, there is a leadership meeting at 5 o'clock. I think it is bicameral. I don't know what it is; I am not attending. We will stay here on the floor and try to work out some other things during that 45-minute period.

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

Mr. HARKIN. To make it clear, we are going to debate now for about 20

minutes on my substitute and the underlying McConnell amendment. That will be set aside. The vote will then occur on my second-degree amendment at 5:45.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. There may be intervening business between now and then, but there will be no votes until 5:45; is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2856 TO AMENDMENT NO. 2845

Mr. HARKIN. Mr. President, I have a second-degree amendment. I send it to the desk and ask for its immediate consideration.

The senior assistant bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2856 to amendment No. 2845.

Mr. HARKIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

[The text of the amendment is printed in today's RECORD under "Amendments Submitted."]

Mr. HARKIN. Mr. President, please clarify, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. HARKIN. Mr. President, what we have in front of us is the McConnell amendment, which reduces loan rates by less than a quarter of a percent. He takes that money and basically puts it into nutrition programs.

Frankly, my history in both the House and Senate in the Agriculture Committee for 27 years is one of very strong support for nutrition programs.

Let's look at the record. The House of Representatives, in their farm bill, has \$3.6 billion over baseline for nutrition programs for 10 years—\$3.6 billion. The Senate bill, as we reported it from committee, had \$6.2 billion, almost twice as much for nutrition programs over the same period of time.

Due to certain amendments that have been offered and agreed to already on the Senate floor, the amount of money for nutrition now in the pending farm bill is \$8.4 billion. That is well over twice what the House has. Could it be more? Yes. We could always do more, of course. But we have tried to keep a well-balanced bill. I submit we have done a lot to address the underlying concerns of accessibility, of assets—of a lot of things—for people who need food stamps and other nutrition programs.

The McConnell amendment, if you divide it all up, would put about \$49 million a year additional into a program that already is spending \$20 billion a year. Now, \$49 million is a lot of money, but compared to \$20 billion? I submit this will have almost no effect on the underlying nutrition programs. Really, the way I see this amendment, it is an attempt to take some more money out of commodity programs by

reducing the loan rate, which is important as an income support for farmers in my part of the country and, in fact, all over America.

What my amendment does is it says: OK, if you are going to nick the loan rates by a quarter of a percent, let's then leave it as an income support for farmers—one way or the other.

Last Saturday in Denver, CO, President Bush said one of the things he wanted to see in a farm bill was farm savings accounts. He said that. I think the distinguished ranking member has proposed this in the past. Senator GRASSLEY, my colleague from Iowa, has supported this proposal in the past. Others have supported farm savings accounts. We plan to propose a pilot program in the underlying manager's amendment. It provides \$36 million for a pilot program. It is not very much, but at least it was there to try to test the idea to see if it was acceptable and see if it would work. Some said that is not enough money.

My second-degree amendment basically says we will take the less than quarter percent cut out of loan rates, but we will take that money, which is about \$510 million, and we will put that into the farm savings account as a pilot program in 10 States. With that much money, perhaps we could really find out whether or not this program would work.

The President said he has wanted it. Other people have been supporting it. I have some reservations about the idea, but there are plenty of people on the other side of the aisle, and the President, who have supported this idea. So in the spirit of bipartisanship I would like to include this pilot program so we can all find out exactly how it works and give the USDA some time to work out the details.

Again, the President has requested this program. The pilot program will include 10 States. It will run from 2003 to 2006. To make the program viable, we will ramp up funding to \$200 million by 2006.

The pilot program allows the farmer to set up a savings account. The Secretary of Agriculture will then match the producer's contribution. A producer's contribution is limited to \$5,000 a year. The farmer can then withdraw from the account when his farm income from that year is less than 90 percent of his farm income averaged over the last 5 years.

Again, we have a strong nutrition title here. We have gone from \$3.6 billion in the House to \$8.4 billion here. But if we want to have the farm savings accounts, then Senators will have a choice. We have already done a lot for nutrition. I take a back seat to no one in my support for strong nutrition programs. But if the will is to nick the loan rates a little bit—and I guess this is what this is all about—at least let's leave it with some income support for farmers. I am willing to give the benefit of the doubt to my friends on the other side of the aisle. Let's try this

farm savings account. Let's see how it works. Maybe I will be proven wrong. I don't know that it will work, but it is probably worth a try. And I know the President wants it.

The President keeps saying he wants bipartisanship. This is bipartisanship. I reach out a hand to those on the other side of the aisle and say fine, let's try the farm savings accounts.

Let me point out one other thing. I mentioned the House had \$3.6 billion in nutrition. We are at \$8.4 billion. President Bush, in the budget he sent down, has \$4.2 billion increases for nutrition programs over the next 10 years. So, as I said, I think we can be proud of what we have done for nutrition in the Senate bill.

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

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. The underlying McConnell amendment which would be wiped out by the second-degree Harkin amendment is for the benefit of disabled people and working families with children. It would simply allocate \$50 million over the next 10 years, per year, and pay for it with a thirteen-hundredths-of-1-percent lowering of loan rates, a thirteen-hundredths-of-1-percent reduction in loan rates over 10 years, which is a minuscule reduction in loan rates, to benefit the disabled and working families with children.

That is what the underlying amendment is about. I had hoped the Senator from Iowa, the chairman of the committee, would accept this amendment. It seems to me it is pretty simple. There is not a farmer in America who is going to notice a thirteen-hundredths-of-1-percent reduction in loan rates over 10 years. No farmer is going to recognize that. But a lot of disabled people and working families will recognize the \$16-a-month difference that it will make for them.

On this amendment, I speak not only for myself but I speak for the following groups: The Children's Defense Fund, the Kentucky Task Force on Hunger, the Center on Budget and Policy

Priorities, the National Council of La Raza, the Food Research and Action Center, America's Second Harvest, Bread for the World, and the Western Regional Antihunger Coalition, which includes the Food Bank of Alaska, the Association of Arizona Food Banks, the California Food Policy Advocates, the California Association of Food Banks, the Idaho Community Action Network, the Montana Food Network, Montana Hunger Coalition, the Oregon Hunger Relief Tax Force, the Oregon Food Bank, the Utahns Against Hunger, the Children's Alliance of Washington, the Washington Association of Churches, and the Washington Food Coalition.

All of these groups are interested in helping provide sustenance for the disabled and working families with children. And the only sacrifice that the McConnell amendment envisions farmers making is a thirteen-hundredths-of-

1-percent reduction in loan rates over 10 years.

I don't think there is a need to further explain the underlying amendment. I had hoped Senator HARKIN would accept it. Since he has not chosen to do that, I hope the Harkin second-degree amendment will be defeated and that the underlying amendment supported by all of these groups interested in feeding hungry people and disabled people will be agreed to.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield myself 2 minutes in support of the McConnell amendment.

The distinguished Senator from Kentucky has stated the case well. In earlier debates, both of us pointed out that the McConnell amendment is essential to bringing justice to all Americans who are recipients of food stamps—in this case, among those who are most vulnerable in our society. It does so at a minimal change with regard to payments to farmers. I suspect most farmers recognize that and would commend the intent.

In fairness, my distinguished colleague, the chairman of our committee, does not argue about the intent. Indeed, the Senate bill is much more generous than the House bill in regard to nutrition programs and food stamps in particular and is much more generous than administration proposals. At the same time, we have spent the time in committee attempting to explore equity. This seems to me to be an amendment that rounds this out, and that brings completion to our argument in a very satisfying way.

The savings account idea is a good one, but to introduce it at this point seems to me to be inappropriate. I am most hopeful that Senators who support the McConnell amendment will think through, once again, an opportunity that we have in a humane way to help those who are vulnerable in our society through satisfying nutrition programs.

I thank the Chair. I yield the floor.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes twenty-two seconds.

Mr. HARKIN. Mr. President, frankly, I think it is quite appropriate. We plan to propose a pilot program in the manager's amendment. This just expands it.

I am trying to do something that reaches across the aisle in a bipartisan atmosphere, something that friends on the other side of the aisle and the President have called for in doing something about these farm savings accounts. I don't really know whether they will work or not, but I am willing to let them try to put some money in the pilot program.

On the other hand, on nutrition programs, there is \$49 million a year. Every dollar helps. When you are

spending \$20 billion a year and say we are going to put in another \$49 million, you could look at it and say that doesn't do much. The Senator from Kentucky says we are not taking much out of farmers. You are not taking much out of farmers but you are not doing much to help poor people, either.

If you are going to do that—if you are going to nick the farmers a little bit—rather than holding out false hopes to poor people that somehow you are really going to boost nutrition programs, which you really aren't with this amendment, then at least try to do something that might be meaningful to help farm income in the future.

Quite frankly, \$50 million used in the farm savings accounts could be the underpinnings to help farm income in the future. That could be meaningful. But \$49 million, or \$50 million, on \$20 billion for food stamps is, as I said, holding out false hopes to poor people that somehow you have done something.

I suggest to my friend from Kentucky that perhaps he might want to tell the President not to send the budget down here that has \$4.2 billion in increases in nutrition programs when we are already at \$8.4 billion. I had hoped the President would have sent down a budget that said, no, we need to put more money in nutrition, and we need \$8 billion or \$10 billion, as the ranking member was trying to do in committee with \$10 billion more for nutrition.

On the other hand, that amount of money going into farm savings accounts could be quite significant to a number of farmers.

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

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. How much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. McCONNELL. Mr. President, I will not need to use the whole 5 minutes. Let me restate what this is about. This is about working families with children and disabled people who are eligible for food stamps. It has been suggested by my friend and colleague from Iowa that the amount involved for those people would not be noticed. I would respectfully suggest that \$16 a month for a family of four will be noticed and that the loss of thirteen-hundredths of 1 percent on the loan rate will not be noticed by the farmers.

This is an amendment that ought to be approved. As I said earlier, it is supported by a vast array of groups led by the Children's Defense Fund that believes it is necessary to bring this program up to the level that it ought to achieve when looking into the future.

I hope that the Harkin second-degree amendment will be defeated and that the underlying McConnell amendment, supported by the Children's Defense Fund and an array of different organizations, which I listed a few moments ago, will be approved.

Again, this is about \$16 a month for working families with children and the disabled, paid for by a thirteen-hundredths of 1 percent reduction in loan rates.

I think this is a tradeoff that every farmer in America would understand. I consider myself a friend of farmers as well. I will bet there is not a farmer in Kentucky who wouldn't think this is an appropriate step to take.

Is the Senator from Iowa out of time?

The PRESIDING OFFICER. The Senator from Iowa has 18 seconds remaining.

Mr. McCONNELL. Mr. President, I am happy to yield back my time if the Senator from Iowa wants to yield back his 18 seconds.

Mr. HARKIN. I yield the remainder of my time.

Mr. McCONNELL. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Indiana.

#### AMENDMENT NO. 2822

Mr. LUGAR. Mr. President, let me ask the distinguished chairman of our committee for his attention to the Helms amendment No. 2822 dealing with animal welfare. I wanted to inquire of the Senator with regard to the Helms amendment No. 2822 on animal welfare. It is my understanding that on both sides of the aisle we are prepared to accept that amendment.

Mr. HARKIN. It is a good amendment.

Mr. LUGAR. Will the Chair turn our attention to the Helms amendment No. 2822 and proceed with the regular order with that amendment?

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

The amendment (No. 2822) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

#### AMENDMENT NO. 2829

Mr. REID. Mr. President, I ask unanimous consent the Senate now turn to amendment No. 2829.

The PRESIDING OFFICER. Without objection, the amendment is now the pending question.

Mr. REID. Mr. President, Senators BREAUX and FEINSTEIN have worked on this amendment now for the past hour or thereabouts.

#### AMENDMENT NO. 2829, AS MODIFIED

On their behalf, I send a modification to the desk and ask unanimous consent the amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

Strike the period at the end of section 143 and insert a period and the following:

**SEC. 144. REALLOCATION OF SUGAR QUOTA.**

Subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following:

**"PART VIII—REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS**

**"SEC. 360. REALLOCATING CERTAIN SUGAR QUOTAS.**

"(a) IN GENERAL.—Notwithstanding any other provision of law, on or after June 1 of each year, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that fiscal year, and may reallocate the unused quota for that fiscal year among qualified supplying countries.

"(b) DEFINITIONS.—In this section:

"(1) QUALIFIED SUPPLYING COUNTRY.—The term 'qualified supplying country' means one of the following 40 foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

Argentina  
Australia  
Barbados  
Belize  
Bolivia  
Brazil  
Colombia  
Congo  
Costa Rica  
Dominican Republic  
Ecuador  
El Salvador  
Fiji  
Gabon  
Guatemala  
Guyana  
Haiti  
Honduras  
India  
Ivory Coast  
Jamaica  
Madagascar  
Malawi  
Mauritius  
Mexico  
Mozambique  
Nicaragua  
Panama  
Papua New Guinea  
Paraguay  
Peru  
Philippines  
St. Kitts and Nevis  
South Africa  
Swaziland  
Taiwan  
Thailand  
Trinidad-Tobago  
Uruguay  
Zimbabwe.

"(2) CANE SUGAR.—The term 'cane sugar' has the same meaning as the term has under part VII."

The PRESIDING OFFICER. Is there further debate on the amendment, as modified?

If not, the time is yielded back. The question is on agreeing to amendment No. 2829, as modified.

The amendment (No. 2829), as modified, was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2854

Mr. LUGAR. Mr. President, I ask unanimous consent the Senate now turn to the McConnell amendment No. 2854.

The PRESIDING OFFICER. Without objection, the amendment is now the pending question.

Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2854.

The amendment (No. 2854) was agreed to.

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senate is not in a quorum call; is that right?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2855

Mr. REID. Mr. President, I ask unanimous consent the Senate now turn to amendment No. 2855, Senator KYL's amendment.

The PRESIDING OFFICER. Without objection, the amendment is now the pending question.

AMENDMENT NO. 2855, AS MODIFIED

Mr. REID. Mr. President, I send a modification to the desk, which has been signed off on by Senator KYL, Senator LUGAR, and Senator HARKIN. I ask unanimous consent the amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 9, between lines 11 and 12, insert the following:

"(12) IMPLEMENTATION.—In carrying out this subsection, the Secretary shall comply with—

"(A) all interstate compacts, court decrees, and Federal and State laws (including regulations) that may affect water or water rights; and

"(B) all procedural and substantive State water law.

On page 10, line 1, strike "(13)" and insert "(14)".

On page 11, line 9, strike "(14)" and insert "(15)".

On page 10, line 14, strike "(15)" and insert "(16)".

On page 10, line 22, strike "(16)" and insert "(17)".

On page 20, between lines 10 and 11, insert the following:

"(j) IMPLEMENTATION.—In carrying out this section, the Secretary shall comply with—

"(1) all interstate compacts, court decrees, and Federal and State laws (including regulations) that may affect water or water rights; and

"(2) all procedural and substantive State water law.

On page 20, line 11, strike "(j)" and insert "(k)".

On page 20, line 22, strike "(k)" and insert "(l)".

On page 21, line 4, strike "(l)" and insert "(m)".

On page 21, line 9, strike "(m)" and insert "(n)".

On page 21, line 12, strike "(n)" and insert "(o)".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2855, as modified.

The amendment (No. 2855), as modified, was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2542, AS FURTHER MODIFIED

Mr. LUGAR. Mr. President, I ask the that Chair consider an amendment by the Senator from Pennsylvania, Mr. SANTORUM, No. 2542.

The PRESIDING OFFICER. The amendment is now pending. Is there further debate?

Mr. LUGAR. I ask clarification from the Chair. On the copy of the amendment I am looking at, it identifies it as amendment No. 2639. Can the Chair help illuminate?

The PRESIDING OFFICER. As soon as the Chair has been illuminated, the Chair will illuminate.

Mr. LUGAR. I thank the Chair.

The PRESIDING OFFICER. The pending amendment No. 2542 was modified with the text of the amendment the Senator has just referenced.

Mr. HARKIN. It has been modified.

The PRESIDING OFFICER. The Senator is correct. It has been modified.

Mr. LUGAR. I thank the Chair for that information. I ask that the Chair proceed to consideration of the amendment.

The PRESIDING OFFICER. The Chair is momentarily in doubt.

The pending question is amendment No. 2542 as previously modified and with the proposed modification that is now at the desk.

Is there objection to the second modification?

Without objection, the amendment is further modified.

The amendment, as further modified, is as follows:

Beginning on page 2, strike line 11 and all that follows through page 4, line 21, and insert the following:

"(C) for the socialization of dogs intended for sale as pets with other dogs and people, through compliance with a performance standard developed by the Secretary based on the recommendations of veterinarians and animal welfare and behavior experts that—

"(i) identifies actions that dealers and inspectors shall take to ensure adequate socialization; and

"(ii) identifies a set of behavioral measures that inspectors shall use to evaluate adequate socialization; and

"(D) for addressing the initiation and frequency of breeding of female dogs so that a female dog is not—

"(i) bred before the female dog has reached at least 1 year of age; and

"(ii) whelped more frequently than 3 times in any 24-month period."

(b) SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.—Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended—

(1) by striking "SEC. 19. (a) If the Secretary" and inserting the following:

**"SEC. 19. SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.**

**"(a) SUSPENSION OR REVOCATION OF LICENSE.—**

**"(1) IN GENERAL.—**If the Secretary";

**(2) in subsection (a)—**

(A) in paragraph (1) (as designated by paragraph (1)), by striking "if such violation" and all that follows and inserting "if the Secretary determines that 1 or more violations have occurred."; and

**(B) by adding at the end the following:**

**"(2) LICENSE REVOCATION.—**If the Secretary finds that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12, has committed a serious violation (as determined by the Secretary) of any rule, regulation, or standard governing the humane handling, transportation, veterinary care, housing, breeding, socialization, feeding, watering, or other humane treatment of dogs under section 12 or 13 on 3 or more separate inspections within any 8-year period, the Secretary shall—

**"(A) suspend the license of the person for 21 days; and**

**"(B) after providing notice and a hearing not more than 30 days after the third violation is noted on an inspection report, revoke the license of the person unless the Secretary makes a written finding that revocation is unwarranted because of extraordinary extenuating circumstances."**

Mr. SANTORUM. Mr. President this amendment is a continuation of my interest in the protection and humane treatment of animals, specifically, dogs and puppies. This amendment will crack down on breeders who do not abide by existing requirements for the humane treatment and care of dogs bred for the pet trade. It will also fill some gaps in the law that involve important humane concerns.

There has been extensive coverage of the improper care, abuse, and mistreatment common at "puppy mills" across America. Unsuspecting consumers who purchase these puppies find out that they have latent physical and behavioral problems because of the poor care they received in the important early stage of their lives. This can lead to safety concerns, tremendous expense and heartbreak for families. And for the dogs, it often means they end up taken to shelters where they must be euthanized because they're too aggressive or sickly to be adopted.

My amendment enjoys the support of national animal protection organizations, such as the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals, ASPCA, as well as 861 humane organizations, shelters, and animals control associations. I ask unanimous consent that a listing of these organizations, by State, be printed to the RECORD. Also let the RECORD reflect that my own State of Pennsylvania has 14 organizations on this list ranging from the Western Pennsylvania Westie Rescue Committee, the Humane Society of Lackawanna County and the York County SPCA.

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

(See Exhibit 1.)

Mr. SANTORUM. There are at least 3,000 commercial dog breeding facilities licensed to operate by the United States Department of Agriculture. These facilities are required to comply with the rules and regulations of the Animal Welfare Act, AWA, that sets forth minimal standards for humane handling and treatment. Inspections, to oversee compliance with AWA standards, are performed by the USDA.

There are serious inadequacies with the current system that demand our attention and our action. One problem has been insufficient resources for the USDA to perform timely and routine inspections. Second, inspectors have too few tools to make the assessment of proper care that they must. I have worked for several years on strategies to solve these problems through congressional and agency action.

I was very pleased to be joined last year by one-third of my Senate colleagues in seeking an increased appropriation for USDA to enforce the Animal Welfare Act. USDA has approximately 80 inspectors to inspect nearly 10,000 USDA federally-licensed facilities involving millions of animals. Increases in USDA's enforcement budget will certainly help the agency fulfill its responsibility to ensure compliance with the AWA.

Counting Fiscal Year 2002, Congress has appropriated an additional \$13 million since 1999 to enable USDA to track down more unlicensed facilities, conduct more inspections, and improve follow-up enforcement efforts.

And while Congress is making progress addressing the AWA budget shortfall, it is also important to address gaps in the law to better protect dogs and consumers.

That is why I introduced the Puppy Protection Act, along with my colleague Senator DURBIN, to address these additional areas requiring our attention.

Today's amendment is based on that bill, S. 1478, which we introduced on October 1, 2001. The Puppy Protection Act, and our amendment today, will make three very important and needed changes to the Animal Welfare Act's oversight of commercial dog breeding operations.

First, legislation addresses the need for breeding females to be given time to recover between litters and to be protected from breeding in their first year of life.

Second, it requires that dogs receive adequate interaction with other dogs and with people to help prevent behavioral problems in the future.

Third, it encourages swift and strong enforcement against repeat offenders by creating a "three strikes and you're out" system for chronic violators.

The science is clear that dogs who are raised without adequate contact with other dogs and with people are likely to have behavioral problems throughout their lives.

This amendment recognizes the critical importance of the early weeks of a

dog's life. The Animal Welfare Act does currently recognize this need.

Our amendment also addresses the issue of breeding and its correlation to an animal's welfare. Sometimes a life of intensive breeding can begin at 6 months of age, well before a dog is mature enough to mother a litter of puppies and still remain healthy.

Relentless overbreeding can cause severe nutritional deficiencies and impairs a dog's immune system, leading to increased risk of infections, illness and organ failure.

These concerns go to the heart of humane treatment, and are as appropriate for Congress to address as other areas already covered by the AWA, such as adequate veterinary care, food, water, sanitation, ventilation, and shelter from harsh weather.

Finally, our amendment addresses the problem of commercial dog breeders who repeatedly violate the requirements of the Animal Welfare Act, but continue to operate.

This carefully-crafted provision will help USDA take action against the genuinely bad actors while allowing for the rights of all individuals in the breeding business. I am deeply concerned about small business and the protection of private property rights, so I have worked with many interested parties to ensure this provision strikes the right balance.

When families decide to buy or adopt a dog, they are taking in a new family member. When they find, after weeks or months of sharing their home with this dog, that their pet has behavioral problems or some latent disease, they often do everything in their power to help their dog with veterinarian care or behavioral training.

Unfortunately, dogs that are maltreated early in life and that have been denied the early contacts that allow them to form solid bonds with people and other animals, may bite or lash out. Families that face these problems will often go to great lengths, and spare no expense, to find a cure for a problem that could easily have been prevented.

Our legislation should not be controversial. It is about protecting animals from mistreatment. It is about preventing heartbreak and loss to families. And it is about doing what is responsible.

Please support the Santorum-Durbin amendment for puppy protection.

#### EXHIBIT 1

#### ENDORSEMENT LIST FOR PUPPY PROTECTION ACT

(861 Endorsements—Updated 11/27/01)

#### ARKANSAS

Anchorage Animal Control  
Gastineau Humane Society (Juneau)  
Sitka Animal Shelter (Sitka)

#### ALABAMA

The Animal Shelter (Anniston)  
Barbour County Humane Society Inc. (Eufaula)  
BJC Animal Control Services, Inc. (Birmingham)  
Central Alabama Animal Shelter (Selma)

Circle of Friends (Montrose)  
 City of Irondale Animal Control (Irondale)  
 DeKalb County SPCA (Fort Payne)  
 Greater Birmingham Humane Society  
 Humane Society of Elmore County (Wetumpka)  
 Humane Society of Etowah County (Gadsden)  
 Humane Society of Chilton County (Clanton)  
 Humane Society of Pike County (Troy)  
 Mobile SPCA (Mobile)  
 Monroe County Humane Society (Monroeville)  
 Montgomery Humane Society (Montgomery)  
 St. Clair Animal Shelter (Pell City)  
 Tuscaloosa Metro Animal Shelter (Tuscaloosa)  
 Walker County Humane Society (Jasper)

## ARIZONA

Berryville Animal Care and Control (Berryville)  
 Hot Springs Village Animal Welfare League (HPV)  
 Paragould Animal Welfare Society (Paragould)  
 Sherwood Animal Services (Sherwood)

## ARIZONA

Animal Defense League of Arizona (Tucson)  
 Arizona Animal Welfare League (Phoenix)  
 Coconino Humane Association (Flagstaff)  
 Hacienda De Los Milagros, Inc. (Chino Valley)  
 Holbrook Police Department (Holbrook)  
 Humane Society of Sedona (Sedona)  
 Humane Society of Southern Arizona (Tucson)  
 Long Lake Animal Shelter/Fort Mojave Ranger Department (Mohave Valley)  
 Payson Humane Society, Inc. (Payson)

## CALIFORNIA

Actors and Others for Animal (North Hollywood)  
 All for Animals (Santa Barbara)  
 Animal Friends of the Valley/LEAF (Lake Elsinore)  
 Animal Protection Institute (Sacramento)  
 Animal Care Services Division, City of Sacramento (Sacramento)  
 Animal Place (Vacaville)  
 Antioch Animal Services (Antioch)  
 Association of Veterinarians for Animal Rights (Davis)  
 Benicia/Vallejo Humane Society (Vallejo)  
 Berkeley Animal Care Services (Berkeley)  
 California Animal Care (Pam Desert)  
 California Animal Defense and Anti-Vivisection League, Inc. (Carson)  
 City of Perris Animal Control (Perris)  
 City of Sacramento Animal Care Services Division (Sacramento)  
 City of Santa Barbara Police Department—Animal Control (Santa Barbara)  
 Contra Costa Humane Society (Pleasant Hill)  
 Costa Mesa Animal Control (Costa Mesa)  
 Desert Hot Springs Animal Control (Desert Hot Springs)  
 Divsiion (Santa Barbara)  
 Dog Obedience Club of Torrance, CA (Torrance)  
 Earth Island Institute (San Francisco)  
 Eileen Hawthorne Fund Inc. (Fort Bragg)  
 Escondido Humane Society (Escondido)  
 Friends for Pets Foundation (Sun Valley)  
 Friends of the Fairmont Animal Shelter (San Leandro)  
 Friends of Solano County (Fairfield)  
 Haven Humane Society, Inc. (Redding)  
 The Healdsburg Animal Shelter (Healdsburg)  
 Helen Woodward Animal Center (Rancho Santa Fe)  
 Hollister Animal Shelter (Hollister)

Humane Education Network (Menlo Park)  
 Humane Society of Imperial County (El Centre)  
 Humane Society of Tuolumne County (Jamestown)  
 Kings SPCA (Hanford)  
 Lake Tahoe Humane Society/SPCA (South Lake Tahoe)  
 Lawndale Municipal Services, Animal Control Division (Lawndale)  
 The Marin Humane Society (Novato)  
 Orange County People for Animals (Irvine)  
 Orange County SPCA (Huntington Beach)  
 Pasadena Humane Society and SPCA (Pasadena)  
 Pet Adoption League (Grass Valley)  
 Petaluma Animal Services (Petaluma)  
 Placer County Animal Services (Auburn)  
 Placer County Animal Services (Kings Beach/Tahoe Vista)  
 Pleasanton Police Department—Animal Services (Pleasanton)  
 Rancho Coastal Humane Society (Leucadia)  
 Reedley Police Department (Reedley)  
 Retired Greyhound Rescue (Yuba City)  
 Sacramento County Animal Care and Regulation (Sacramento)  
 Sacramento SPCA (Sacramento)  
 Santa Cruz SPCA (Santa Cruz)  
 Seal Beach Animal Care Center (Seal Beach)  
 Siskiyou County Animal Control (Yreka)  
 Solano County Animal Control (Fairfield)  
 Southeast Area Animal Control Authority (Downey)  
 Spay Neuter Associates (Ben Lomond)  
 The SPCA of Monterey County (Monterey)  
 Stanislaus County Animal Services (Modesto)  
 State Humane Association of California (Sacramento)  
 Town and Country Humane Society (Orland)  
 Town of Truckee Animal Control (Truckee)  
 Tracy Animal Shelter (Tracy)  
 Tri-City Animal Shelter (Fremont)  
 Tulare County Animal Control Shelter (Visalia)  
 United Animal Nations/Emergency Rescue Service (Santa Barbara)  
 Valley Humane Society (Pleasanton)  
 Woods Humane Society (San Luis Obispo)  
 Yuba Sutter SPCA (Yuba City)  
 Yucaipa Animal Placement Society (Yucaipa)

## COLORADO

Adams County Animal Control (Commerce City)  
 Barnwater Cats Rescue Organization (Denver)  
 Cat Care Society (Lakewood)  
 Cherry Hills Village Animal Control (Cherry Hills Village)  
 Delta County Humane Society (Delta)  
 Denver Animal Control and Shelter (Denver)  
 The Dreampower Foundation/P.A.A.L.S. (Castle Rock)  
 Dumb Friends League (Denver)  
 Good Samaritan Pet Center (Denver)  
 Humane Society of Boulder Valley (Boulder)  
 Intermountain Humane Society (Conifer)  
 Larimer Humane Society (Fort Collins)  
 Lone Rock Veterinary Clinic (Bailey)  
 Longmont Humane Society (Longmont)  
 Montrose Animal Protection Agency (Montrose)  
 Rangely Animal Shelter (Rangely)  
 Rocky Mountain Animal Defense (Boulder)  
 Table Mountain Animal Center (Golden)  
 Thornton Animal Control (Thornton)

## CONNECTICUT

Animal Welfare Associates, Inc. (Stamford)  
 Connecticut Humane Society (Newington)

Enfield Police Department-Animal Control (Enfield)  
 Forgotten Felines, Inc. (Clinton)  
 The Greater New Haven Cat Project, Inc. (New Haven)  
 Hamilton Sundstrand (West Locks)  
 Kitty Angels of Connecticut (Coventry)  
 Meriden Humane Society (Meriden)  
 Milford Animal Control (Milford)  
 Per Animal Welfare Society (PAWS) (Norwalk)  
 Quinebaug Valley Animal Welfare Service (Dayville)  
 Valley Shore Animal Welfare League (Westbrook)

## DELAWARE

Delaware SPCA (Georgetown)  
 Delaware SPCA (Stanton)

## FLORIDA

Alachua County Humane Society (Gainesville)  
 Animal Rights Foundation of Florida (Pompano Beach)  
 Animal Welfare League of Charlotte County (Port Charlotte)  
 Arni Foundation (Daytona Beach)  
 Baker County Animal Control (Macclenny)  
 Central Brevard Humane Society-Central (Cocoa)  
 Central Brevard Humane Society-South (Melbourne)  
 Citizens for Humane Animal Treatment (Crawfordville)  
 Clay County Animal Control (Green Cove Springs)  
 Coral Springs Humane Unit (Coral Springs)  
 First Coast Humane Society/Nassau County Animal Control (Yulee)  
 Flayler County Humane Society (Palm Coast)  
 Halifax Humane Society (Daytona Beach)  
 Humane Society of Broward County (Fort Lauderdale)  
 Humane Society of Collier County, Inc. (Naples)  
 Humane Society of Lake County (Eustis)  
 Humane Society of Lee County, Inc. (Fort Myers)  
 Humane Society of Manatee County (Bradenton)  
 Humane Society of North Pinellas (Clearwater)  
 Humane Society of St. Lucie County (Fort Pierce)  
 Humane Society of Tampa Bay (Tampa)  
 Humane Society of the Treasure Coast, Inc. (Palm City)  
 Jacksonville Humane Society  
 Jefferson County Humane Society (Monticello)  
 Lake City Animal Shelter (Lake City)  
 Leon County Humane Society (Tallahassee)  
 Marion County Animal Center (Ocala)  
 Okaloosa County Animal Services (Fort Walton Beach)  
 Panhandle Animal Welfare Society (Fort Walton Beach)  
 Play Acres, Inc. (Wildwood)  
 Prayer Alliance for Animals (Jupiter)  
 Putnam County Humane Society (Hollister)  
 Safe Animal Shelter of Orange Park (Orange Park)  
 Safe Harbor Animal Rescue and Clinic (Juniper)  
 South Lake Animal League, Inc. (Clermont)  
 Southeast Volusia Humane Society (New Smyrna Beach)  
 SPCA of Hernando County, Inc. (Brooksville)  
 SPCA of Pinellas County (Largo)  
 SPCA of West Pasco (New Port Richey)  
 Suncoast Basset Rescue, Inc. (Gainesville)  
 Suwannee County Humane Society (Live Oak)

Volusia County Animal Services (Daytona)  
Wings of Mercy Animal Rescue (Panama  
County Beach)

## GEORGIA

Animal Rescue Foundation, Inc.  
(Milledgeville)  
Atlanta Humane Society and SPCA, Inc.  
(Atlanta)  
Basset Hound Rescue of Georgia, Inc. (Kennesaw)  
Big Canoe Animal Rescue (Big Canoe)  
Catoosa County Animal Control (Ringgold)  
Charles Smithgall Humane Society, Inc.  
(Cleveland)  
Cherokee County Humane Society (Woodstock)  
Clayton County Humane Society  
(Jonesboro)  
Collie Rescue of Metro Atlanta, Inc. (Atlanta)  
Coweta County Animal Control Department  
(Newman)  
Crawfordville Shelter (Crawfordville)  
Douglas County Humane Society  
(Douglasville)  
Dublin-Laurens Humane Association (Dublin)  
Fayette County Animal Shelter (Fayetteville)  
Fitzgerald-Ben Hill Humane Society (Fitzgerald)  
Forsyth County Humane Society  
(Cumming)  
Georgia Labrador Rescue (Canton)  
Glynn County Animal Services (Brunswick)  
Golden Retriever Rescue of Atlanta  
(Peachtree City)  
The Good Shepard Humane Society  
(Sharpsburg)  
Homeward Bound Pet Rescue, Inc. (Ellijay)  
Humane Services of Middle Georgia  
(Macon)  
Humane Society of Camden County  
(Kingsland)  
Humane Society of Griffin-Spalding County  
(Experiment)  
Humane Society's Mountain Shelter  
(Blairsville)  
Humane Society of Moultrie-Colquitt  
County (Moultrie)  
Humane Society of Northwest Georgia  
(Dalton)  
Lookout Mountain Animal Resources, Inc.  
(Menlo)  
Lowndes County Animal Welfare (Valdosta)  
Okefenokee Humane Society (Waycross)  
Pet Partners of Habersham, Inc. (Cornelia)  
Pound Puppies N Kittens (Oxford)  
Rescuing Animals in Need, Inc. (Buford)  
Rockdale County Animal Care and Control  
(Conyers)  
Small Dog Rescue/Adoption (Cumming)  
Society of Human Friends of Georgia, Inc.  
(Lawrenceville)  
Toccoa-Stephens County Animal Shelter  
(Tocco)  
Town of Chester (Chester)  
Vidalia Animal Control (Vidalia)  
Washington-Wilkes Animal Shelter (Washington)

## HAWAII

Hawaii Island Humane Society (Kailua-Kona)  
Hawaii Island Humane Society (Keaau)  
Hawaiian Humane Society (Honolulu)  
Hauai Humane Society (Lihue)  
The Maui Humane Society (Puunene)  
West Hawaii Humane Society (Kailua-Kona)

## IOWA

Animal Control (Creston)  
Animal Lifeline of Iowa, Inc. (Carlisle)  
Animal Protection Society of Iowa (Des Moines)

Animal Rescue League of Iowa (Des Moines)  
Appanoose County Animal Lifeline, Inc.  
(Centerville)  
Boone Area Humane Society (Boone)  
Cedar Bend Humane Society (Waterloo)  
Cedar Rapids Animal Control (Ely)  
Cedar Valley Humane Society (Cedar Rapids)  
City of Atlantic Animal Shelter (Atlantic)  
Creston Animal Rescue Effort (Creston)  
Friends of the Animals of Jasper County  
(Newton)  
Humane Society of Northwest Iowa (Milford)  
Humane Society of Scott County (Davenport)  
Iowa City Animal Car and Control (Iowa City)  
Iowa Federation of Humane Societies (Des Moines)  
Jasper County Animal Rescue League and Humane Society (Newton)  
Keokuk Humane Society (Keokuk)  
Montgomery County Animal Rescue (Red Oak)  
Muscatine Humane Society (Muscatine)  
Northeast Iowa People for Animal Welfare (Decorah)  
Raccoon Valley Humane Society (Adel)  
Siouxland Humane Society (Sioux City)  
Solution to Over-Population of Pets (Burlington)  
Spay Neuter Assistance for Pets (SNAP) (Muscatine)  
Vinton Animal Shelter (Vinton)

## IDAHO

Animal Ark (Grangeville)  
Animal Shelter of Wood River Valley  
(Hailey)  
Bannock Humane Society (Pocatello)  
Ferret haven Shelter/Rescue of Boise, Inc.  
(Boise)  
Humane Society of the Palouse (Moscow)  
Idaho Humane Society (Boise)  
Kootenai Humane Society (Hayden)  
Pocatello Animal Control (Pocatello)  
Second Chance Animal Shelter (Payette)  
Twin Falls Humane Society (Twin Falls)

## ILLINOIS

Alton Area Animal Aid Association (Godfrey)  
Anderson Animal Shelter (South Elgin)  
The Anti-Cruelty Society (Chicago)  
Chicago Animal Care and Control (Chicago)  
Community Animal Rescue Effort (Evans-ton)  
Cook County Department of Animal and Rabies Control (Bridgeview)  
Friends Forever Humane Society (Freeport)  
Hindsdale Humane Society (Hindsdale)  
Homes for Endangered and Lost Pets (St. Charles)  
Humane Society of Winnebago County  
(Rockford)  
Illinois Federation of Humane Society (Urbana)  
Illinois Humane Political Action Committee (Mahomet)  
Kankakee County Humane Society (Kankalee)  
Metro East Humane Society (Edwardsville)  
Naperville Animal Control (Naperville)  
Peoria Animal Welfare Shelter (Peoria)  
Peoria Humane Society (Peoria)  
PetEd Humane Education (Hinsdale)  
Quincy Humane Society (Quincy)  
South Suburban Humane Society (Chicago Heights)  
Tazewell Animal Protective Society (Pekin)  
West Suburban Humane Society (Downers Grove)  
Winnebago County Animal Services (Rockford)

## INDIANA

Allen County SPCA (Fort Wayne)  
Cass County Humane Society (Logansport)  
Dubois County Humane Society (Jasper)  
Elkhart City Police Department-Animal Control Division (Elkhart)  
Fort Wayne Animal Care and Control (Ft. Wayne)  
Greene County Humane Society (Linton)  
Greenfields, Hancock County Animal Control (Greenfield)  
Hammond Animal Control (Hammond)  
Hendricks County Humane Society (Brownsburg)  
Home for Friendless Animals Inc. (Indianapolis)  
Humane Society Calumet Area, Inc. (Munster)  
Humane Society of Elkhart County (Elkhart)  
Humane Society for Hamilton County (Noblesville)  
Humane Society of Hobart (Hobart)  
Humane Society of Indianapolis (Indianapolis)  
Humane Society of Perry County (Tell City)  
Johnson County Animal Shelter (Franklin)  
La Porte County Animal Control (La Porte)  
Madison County SPCA and Humane Society, Inc. (Anderson)  
Martin County Humane Society (Loogootee)  
Michiana Humane Society (Michigan City)  
Monroe County Humane Association (Bloomington)  
Morgan County Humane Society (Martinsville)  
New Albany/Floyd County Animal Shelter/Control (New Albany)  
Owen County Humane Society (Spencer)  
Salem Department of Animal Control (Salem)  
Scott County Animal Control and Humane Investigations (Scottsburg)  
Sellersburg Animal Control (Sellersburg)  
Shelbyville/Shelby County Animal Shelter (Shelbyville)  
South Bend Animal Care and Control (South Bend)  
St. Joseph County Humane Society (Mishawaka)  
Starke County Humane Society (North Judson)  
Steuben County Humane Society, Inc. (Angola)  
Tippecanoe County Humane Society (Lafayette)  
Vanderburgh Humane Society, Inc. (Evansville)  
Wells County Humane Society, Inc. (Bluffton)

## KANSAS

Animal Heaven (Merriam)  
Arma Animal Shelter (Arma)  
Caring Hands Humane Society (Newton)  
Chanute Animal Control Department (Chanute)  
City of Kinsley Animal Shelter (Kinsley)  
Finney County Humane Society (Garden City)  
Ford County Humane Society (Dodge City)  
Heart of America Humane Society (Overland Park)  
Hutchinson Humane Society (Hutchinson)  
Kansas Humane Society of Wichita (Wichita)  
Lawrence Humane Society (Lawrence)  
Leavenworth Animal Society (Leavenworth)  
Medicine Lodge Animal Shelter (Medicine Lodge)  
Neosho County Sheriff's Office (Erie)  
Salina Animal Shelter (Salina)  
S.E.K. Humane Society (Pittsburg)  
Southeast Kansas Humane Society (Pittsburg)

## KENTUCKY

Boone County Animal Control (Burlington)  
 Friends of the Shelter/SPCA Kentucky (Florence)  
 Humane Society of Nelson County (Bardstown)  
 Jefferson County Animal Control and Protection (Louisville)  
 Kentucky Coalition for Animal Protection, Inc. (Lexington)  
 Lexington Humane Society (Lexington)  
 Marion County Humane Society Inc. (Lebanon)  
 McCracken County Humane Society, Inc. (Paducah)  
 Muhlenberg County Humane Society (Greenville)  
 Woodford Humane Society (Versailles)

## LOUISIANA

Calcasieu Parish Animal Control and Protection Department (Lake Charles)  
 Cat Haven, Inc. (Baton Rouge)  
 City of Bossier Animal Control (Bossier City)  
 Coalition of Louisiana Advocates (Pineville)  
 Don't Be Cruel Sanctuary (Albany)  
 East Baton Rouge Parish Animal Control Center (Baton Rouge)  
 Humane Society Adoption Center (Monroe)  
 Iberia Humane Society (New Iberia)  
 Jefferson Parish Animal Shelters (Jefferson)  
 Jefferson SPCA (Jefferson)  
 League in Support of Animals (New Orleans)  
 Louisiana SPCA (New Orleans)  
 Natchitoches Humane Animal Shelter (Natchitoches)  
 Spay Mart, Inc. (New Orleans)  
 St. Bernard Parish Animal Control (Chalmette)  
 St. Charles Humane Society (Destrehan)  
 St. Tammany Humane Society (Covington)

## MASSACHUSETTS

Alliance for Animals (Boston)  
 Animal Shelter Inc. (Sterling)  
 Baypath Humane Society of Hopkinton, Inc. (Hopkinton)  
 The Buddy Dog Humane Society, Inc. (Sudbury)  
 CEASE (Somerville)  
 Faces Inc. Dog Rescue and Adoption (West Springfield)  
 Faxon Animal Rescue League (Fall River)  
 Lowell Humane Society (Lowell)  
 MSPCA (Boston)  
 New England Animal Action, Inc. (Amherst)  
 North Attleboro Animal Control/Shelter (N. Attleboro)  
 North Shore Feline Rescue (Middleton)  
 South Shore Humane Society, Inc. (Braintree)

## MARYLAND

Animal Advocates of Howard County (Ellicott City)  
 Bethany Centennial Animal Hospital (Ellicott City)  
 Caroline County Humane Society (Ridgely)  
 Charles County Animal Control Services (La Plata)  
 Harford County Animal Control (Bel Air)  
 Humane Society of Baltimore County (Reistertown)  
 Humane Society of Carroll County, Inc. (Westminister)  
 The Humane Society of Charles County (Waldorf)  
 The Humane Society of Dorchester County, Inc. (Cambridge)  
 The Humane Society of Harford County (Fallston)  
 Humane Society of Southern Maryland (Temple Hills)  
 Humane Society of Washington County (Maugansville)

Labrador Retriever Rescue, Inc. (Clinton)  
 Prince George's County Animal Welfare League (Forestville)  
 Shady Spring Kennels and Camp for Dogs (Woodbine)  
 St. Mary's Animal Welfare League, Inc. (Hollywood)

## MAINE

The Ark Animal Shelter (Cherryfield)  
 Boothbay Region Humane Society (Boothbay Harbor)  
 Bucksport Animal Shelter (Bucksport)  
 Greater Androscoggin Humane Society (Auburn)  
 Houlton Humane Society (Houlton)  
 Humane Society-Waterville Area (Waterville)  
 Kennebec Valley Humane Society (Augusta)  
 Maine Friends of Animals (Falmouth)  
 Penobscot Valley Humane Society (Lincoln)

## MICHIGAN

Adopt-A-Pet (Allegan)  
 Animal Placement Bureau (Lansing)  
 Capital Area Humane Society (Lansing)  
 The Cat Connection (Berkley)  
 Concern for Criters (Battle Creek)  
 Friends for Felines Inc. (Lansing)  
 Grosse Pointe Animal Adoption Society (Grosse Pointe Farms)  
 Humane Society of Bay County, Inc. (Bay City)  
 Humane Society of Huron Valley (Ann Arbor)  
 Humane Society of Kent County (Walker)  
 Humane Society of Southwest Michigan (Benton Harbor)  
 Inkster Animal Control (Inkster)  
 Iosco County Animal Control (Taws City)  
 Kalamazoo Humane Society  
 Lenawee Humane Society (Adrian)  
 Menominee Animal Shelter (Menominee)  
 Michigan Animal Adoption Network (Livonia)  
 Michigan Animal Rescue League (Pontiac)  
 Michigan Humane Society (Westland)  
 Michigan Humane Society (Rochester Hills)  
 Midland County Animal Control (Midland)  
 Mid-Michigan Animal Welfare League (Standish)  
 Ottawa Shores Humane Society (West Olive)  
 Pet Connection Humane Society (Reed City)  
 Roscommon County Animal Shelter (Roscommon)  
 The Safe Harbor Haven Inc./Rottweiler Hope (Grand Ledge)  
 St. Clair Shores Emergency Dispatchers (St. Clair Shores)  
 St. Joseph County Animal Control (Centreville)  
 WAG Animal Rescue (Wyandotte)  
 Wonderful Humane Society (Cadillac)

## MINNESOTA

Almost Home Shelter (Mora)  
 Animal Allies Humane Society (Duluth)  
 Beltrami Humane Society (Bemidji)  
 Bernese Mountain Dog Club of the Greater Twin Cities (St. Paul)  
 Brown County Humane Society (New Ulm)  
 Carver-Scott Humane Society (Chaska)  
 Clearwater County Humane Society (Bagley)  
 Doberman Rescue Minnesota (Prior Lake)  
 Friends of Animal Humane Society of Carlton County, Inc. (Cloquet)  
 Hibbing Animal Shelter (Hibbing)  
 Humane Society of Otter Tail County (Fergus Falls)  
 Humane Society of Polk County, Inc. (Crookston)  
 The Humane Society of Wright County (Buffalo)

Isanti County Humane Society (Cambridge)  
 Minnesota Valley Humane Society (Burnsville)  
 Second Chance Animal Rescue (White Bear Lake)  
 Waseca County Humane Society (Waseca)

## MISSOURI

Afton Veterinary Clinic (St. Louis)  
 The Alliance for the Welfare of Animals (Springfield)  
 Animal House Veterinary Hospital (Arnold)  
 Animal Protective Association of Missouri (St. Louis)  
 Audrain Humane Society (Mexico)  
 Boonville Animal Control Shelter (Boonville)  
 Callaway Hills Animal Shelter (New Bloomfield)  
 Caruthersville Humane Society (Caruthersville)  
 Columbia Lowndes Humane Society (Columbus)  
 Dent County Animal Welfare Society (Salem)  
 Dogwood Animal Shelter (Camdenton)  
 Humane Society of Missouri (St. Louis)  
 Humane Society of the Ozarks (Farmington)  
 Humane Society of Southeast Missouri (Cape Girardeau)  
 Jefferson County Animal Control (Barnhart)  
 Lebanon Humane Society (Lebanon)  
 Lee's Summit Municipal Animal Shelter (Lee's Summit)  
 Marshall Animal Shelter (Marshall)  
 Northeast Missouri Humane Society (Hannibal)  
 Olde Towne Fenton Veterinary Hospital (Fenton)  
 Open Door Animal Sanctuary (House Springs)  
 Pound Pals (St. Louis)  
 Saline Animal League (Marshall)  
 Sikeston Bootheel Humane Society (Sikeston)  
 St. Charles Humane Society (St. Charles)  
 St. Joseph Animal Control and rescue (St. Joseph)  
 St. Louis Animal Rights Team (St. Louis)  
 St. Peters Animal Control (St. Peters)  
 Wayside Waifs (Kansas City)

## MISSISSIPPI

Cedarhill Animal Sanctuary, Inc. (Cal-edonia)  
 Forest County Humane Society (Hattiesburg)  
 Humane Society of South Mississippi (Gulfport)  
 Mississippi Animal Rescue League (Jackson)

## MONTANA

Anaconda Police Department-Animal Control  
 Animal Welfare League of Montana (Billings)  
 Bitter Root Humane Association (Hamilton)  
 Bright Eyes Care and Rehab Center, Inc. (Choteau)  
 Humane Society of Cascade County (Great Falls)  
 Humane Society of Park County (Livingston)  
 Mission Valley Animal Shelter (Polson)  
 Montana Spay/Neuter Taskforce (Victor)  
 Missoula Humane Society (Missoula)  
 PAWHs (Deerlodge)

## NORTH CAROLINA

Animal Protection Society of Orange County (Chapel Hill)  
 Carolina Animal Protection Society of Onslow county, Inc. (Jacksonville)  
 Carteret County Humane Society, Inc. (Morehead City)

Charlotte/Mecklenburg Animal Control Bureau (Charlotte)  
 Forsyth County Animal Control (Winston-Salem)  
 Henderson County Humane Society (Hendersonville)  
 Humane Society of Rowan County (Salisbury)  
 Justice For Animals, Inc. (Raleigh)  
 Moore Humane Society (Southern Pines)  
 North Carolina Animal/Rabies Control Association (Raleigh)  
 SPCA of Wake County (Garner)  
 Wake County Animal Control (Raleigh)  
 Watauga Humane Society (Blowing Rock)

## NORTH DAKOTA

Central Dakota Humane Society (Mandan)  
 James River Humane Society (Jamestown)  
 Souris Valley Humane Society (Minot)

## NEBRASKA

Animal Rescue Society, Inc. (Lincoln)  
 Capital Humane Society (Lincoln)  
 Care Seekers (Omaha)  
 Central Nebraska Humane Society (Grand Island)  
 Coalition for Animal Protection, Inc. (Omaha)  
 Dodge County Humane Society (Fremont)  
 Hearts United for Animals (Auburn)  
 McCook Humane Society (McCook)  
 Nebraska Border Collie Rescue (Bellevue)  
 Nebraska Humane Society (Omaha)  
 Panhandle Humane Society (Scottsbluff)  
 White Rose Sanctuary (Gordon)

## NEW HAMPSHIRE

Animal Rescue League of New Hampshire (Bedford)  
 Cocheco Valley Humane Society (Dover)  
 Collage (Nashua)  
 Concord-Merrimack County SPCA (Concord)  
 Conway Area Humane Society (Center Conway)  
 Greater Derry Humane Society, Inc. (East Derry)  
 Humane Society of Greater Nashua (Nashua)  
 Manchester Animal Shelter (Manchester)  
 Monadnock Humane Society (W. Swanzey)  
 New Hampshire Animal Rights League, Inc. (Concord)  
 The New Hampshire Doberman Rescue League, Inc. (Rochester)  
 New Hampshire Humane Society (Laconia)  
 New Hampshire SPCA (Stratham)  
 Salem Animal Rescue League (North Salem)  
 Solutions to Overpopulation of Pets, Inc. (Concord)  
 Sullivan County Humane Society (Claremont)  
 White Mountain Animal League (Franconia)

## NEW JERSEY

Animal Welfare Federation of New Jersey (Montclair)  
 Associated Humane Societies (Newark)  
 Cumberland County SPCA (Vineland)  
 Humane Society of Atlantic County (Atlantic County)  
 Hunterdon County SPCA (Milford)  
 Monmouth County SPCA (Eatontown)  
 Parsippany Animal Shelter (Parsippany)  
 Paws for a Cause (Brick)

## NEW MEXICO

Animal Aid Association of Cibola County (Milan)  
 Cimarron Police Animal Control (Cimarron)  
 Deming/Luna County Humane Society (Deming)  
 Dona Ana County Humane Society (Las Cruces)  
 Homeless Animal Rescue Team, Inc. (Los Lunas)

Peoples' Anti-Cruelty Association (Albuquerque)  
 Rio Grand Animal Humane Association, Inc. (Los Lunas)  
 Roswell Humane Society (Roswell)  
 San Juan Animal League (Farmington)  
 Santa Fe Animal Shelter and Humane Society

## NEVADA

Carson/Eagle Valley Humane Society (Carson City)  
 Nevada Humane Society (Sparks)

## NEW YORK

Animal Rights Advocates of Western New York (Amherst)  
 The Caring Corps, Inc. (New York)  
 Chautauqua County Humane Society (Jamestown)  
 Chenango County SPCA (Norwich)  
 Columbia-Greene Humane Society (Hudson)  
 Elmore SPCA (Peru)  
 Finger Lakes SPCA of Central New York (Auburn)  
 The Fund for Animals (New York)  
 Humane Society of Rome (Rome)  
 New York State Animal Control Association (Oswego)  
 New York State Humane Association (Kingston)  
 People for Animal Rights, Inc. (Syracuse)  
 SPCA of Catt County (Olean)  
 St. Francis Animal Shelter, Inc. (Buffalo)

## OHIO

Angles for Animals (Greenford)  
 Animal Adoption Foundation (Hamilton)  
 Animal Charity (Youngstown)  
 Animal Control of Brook Park (Brook Park)  
 Animal Control-City of Middleburg Heights (Middleburg Heights)  
 Animal Protection Guild (Canton)  
 Animal Protective League (Cleveland)  
 The Animal Shelter Society, Inc. (Zanesville)  
 Alter Pet Inc. (Sharon Center)  
 Ashtabula County Humane Society (Jefferson)  
 Athens County Humane Society (Athens)  
 Belmont County Animal Shelter (St. Clairsville)  
 Brown County Animal Shelter (Georgetown)  
 Canine Therapy Companions (Wooster)  
 Capital Area Humane Society (Hilliard)  
 Carroll County Humane Society (Carrollton)  
 City of Cleveland Dog Kennels (Cleveland)  
 Crawford County Humane Society (Bucyrus)  
 Darke County Animal Shelter (Greenville)  
 Erie County Dog Pound (Sandusky)  
 Euclid Animal Shelter (Euclid)  
 Gallia County Animal Welfare League (Gallipolis)  
 Harrison County Dog Warden (Codiz)  
 Hearts and Paws (Canal Fulton)  
 Henry County Humane Society (Napoleon)  
 Humane Association of Butler County (Trenton)  
 Humane Association of Warren County (Lebanon)  
 Humane Society of Delaware County (Delaware)  
 Humane Society of Erie County (Sandusky)  
 Humane Society of Greater Dayton (Dayton)  
 Humane Society of Guernsey County (Cambridge)  
 Humane Society of the Ohio Valley (Marietta)  
 The Humane Society of Ottawa County (Port Clinton)  
 Humane Society of Preble County (Eaton)  
 Humane Society of Sandusky County (Fremont)

Lake County Dog Shelter (Painesville)  
 Lake County Humane Society, Inc. (Mentor)  
 Marion County Humane Society (Marion)  
 Maumee Valley Save-A-Pet (Waterville)  
 Medina County Animal Shelter (Medina)  
 Miami County Animal Shelter (Troy)  
 Monroe County Humane Society (Woodsfield)  
 Montgomery County Animal Shelter (Dayton)  
 Morrow County Humane Society (Mt. Gilead)  
 North Central Ohio Nature Preservation League (Mansfield)  
 North Coast Humane Society (Cleveland)  
 Ohio County Dog Wardens' Association (Delaware)  
 Ohioans for Animal Rights (Eastlake)  
 PAWS (Middletown)  
 Paws and Prayers Per Rescue (Akron)  
 Pet Birth Control Clinics (Cleveland)  
 Pet-Guards Shelter (Cuyahoga Falls)  
 Portage County Animal Protective League (Ravenna)  
 Portage County Dog Warden (Ravenna)  
 Rescue, Rehabilitation and Release Wildlife Center (New Philadelphia)  
 Sandusky County Dog Warden (Fremont)  
 The Scratching Post (Cincinnati)  
 Society for the Improvement of Conditions for Stray Animals (Kettering)  
 SPCA Cincinnati (Cincinnati)  
 Stark County Humane Society (Louisville)  
 Their Caretakers (DeGraff)  
 Toledo Area Humane Society (Maumee)  
 Tuscarawas County Dog Pound (New Philadelphia)  
 Wayne County Humane Society (Wooster)  
 Wester Reserve Humane Society (Euclid)  
 Wood County Humane Society (Bowling Green)  
 Wyandot County Humane Society, Inc. (Sandusky)

## OKLAHOMA

Animal Aid of Tulsa, Inc. (Tulsa)  
 Enid SPCA (Enid)  
 Home at Last Organization (Tulsa)  
 Humane Society of Cherokee County (Tahlequah)  
 Oklahoma Humane Federation (Oklahoma City)  
 Partners for Animal Welfare Society (McAlester)  
 PAWS (Muskogee)  
 Petfinders Animal Welfare Society, Inc. (Moore)  
 Promoting Animal Welfare Society, Inc. (Muskogee)  
 Stephens County Humane Society (Duncan)  
 Volunteers for Animal Welfare, Inc. (Oklahoma City)

## OREGON

Hood River County Sheriff's Department (Hood River)  
 Humane Society of Allen County (Lima)  
 Humane Society of Central Oregon (Bend)  
 Humane Society of Willamette Valley (Salem)  
 Jackson County Animal Shelter (Phoenix)  
 Lakeview Police Department (Lakeview)  
 Multnomah County Animal Control (Troutdale)  
 Oregon Humane Society (Portland)  
 South Coast Humane Society (Brookings)  
 Wallowa County Humane Society (Enterprise)

## PENNSYLVANIA

Antietam Humane Society, Inc. (Waynesboro)  
 Beaver County Humane Society (Monaca)  
 Bradford County Humane Society (Ulster)  
 Chester County SPCA (West Chester)  
 Cumberland Valley Animal Shelter (Chambersburg)

- Humane Society at Lackawanna County (Clarks Summit)  
 Lehigh Valley Animal Rights Coalition (Allentown)  
 The Pennsylvania SPCA (Philadelphia)  
 The Pennsylvania SPCA (Stroudsburg)  
 Ruth Stein Memorial SPCA (Pottsville)  
 SPCA of Luzerne County (Wilkes Barre)  
 Western Pennsylvania Westie Rescue Committee (New Castle)  
 Women's Humane Society (Bensalem)  
 York County SPCA (Thomasville)
- RHODE ISLAND  
 Animal Rescue League of SRI (Wakefield)  
 Potter League for Animals (Newport)  
 Providence Animal Control Center (Providence)  
 Warren Animal Shelter (Warren)
- SOUTH CAROLINA  
 The Animal Mission (Columbia)  
 Animal Protection League of South Carolina (Hopkins)  
 Beaufort County Animal Shelter and Control (Beaufort)  
 Blue Ridge Animal Fund (Travelers Rest)  
 City of Aiken Animal Control (Aiken)  
 Columbia Animal Shelter (Columbia)  
 Concerned Citizens for Animals (Simpsonville)  
 Grand Strand Humane Society (Myrtle Beach)  
 The Greenville Humane Society (Greenville)  
 Hanahan Animal Control Office/Animal Shelter (Hanahan)  
 Hilton Head Humane Association (Hilton Head Island)  
 Humane Society of Marion County (Marion)  
 Humane Society of the Midlands (Columbia)  
 The Humane Society of North Myrtle Beach (North Myrtle Beach)  
 Kershaw County Humane Society (Camden)  
 Lancaster County Animal Control (Kershaw)  
 Lexington Animal Services (Lexington)  
 Nutritional Medicine Center (North Charleston)  
 South Carolina Animal Care and Control Association (Columbia)  
 The Spay/Neuter Association, Inc. (Columbia)  
 St. Francis Humane Society (Georgetown)  
 Walter Crowe Animal Shelter (Camden)
- SOUTH DAKOTA  
 Aberdeen Area Humane Society (Aberdeen)  
 Beadle County Humane Society (Huron)  
 Humane Society of the Black Hills (Rapid City)
- TENNESSEE  
 Animal Protection Association (Memphis)  
 Companion Animal Support Services (Nashville)  
 Fayette County Animal Rescue (Rossville)  
 Greenville-Greene County Humane Society (Greenville)  
 Hardin County Humane Society (Savannah)  
 Hickman Humane Society (Centerville)  
 Humane Society of Cumberland County (Crossville)  
 Humane Society of Dickson County (Dickson)  
 Humane Society of Dover-Stewart County (Dover)  
 Nashville Humane Association (Nashville)  
 North Central Tennessee Spay and Neuter (West Lafayette)  
 Tennessee Humane Association (Knoxville)
- TEXAS  
 Animal Adoption Center (Garland)  
 Animal Connection of Texas (Dallas)  
 Animal Defense League (San Antonio)  
 Animal Shelter and Adoption Center of Galveston Island, Inc. (Galveston)  
 Affordable Companion Animal Neutering (Austin)  
 Canyon Lake Animal Shelter Society (Canyon Lake)  
 Central Texas SPCA (Cedar Park)  
 Citizens for Animal Protection (Houston)  
 City of Brownsville-Animal Control (Brownsville)  
 City of Hurst Animal Services (Hurst)  
 City Nacogdoches Animal Shelter (Houston)  
 City of West University Place (Houston)  
 Doggiemom Rescue (Dallas)  
 Find-A-Pet (Dallas)  
 Guadalupe County Humane Society (Sequin)  
 Harker Heights Animal Control (Harker Heights)  
 Homeless Pet Placement League (Houston)  
 H.O.R.S.E.S. in Texas (Chico)  
 Houston Dachshund Rescue (Spring)  
 Houston Humane Society (Houston)  
 Houston SPCA (Houston)  
 Humane Society of El Paso (El Paso)  
 Humane Society of Greater Dallas (Dallas)  
 Humane Society of Harlingen (Harlingen)  
 Humane Society of Montgomery County (Conroe)  
 Humane Society of Navarro County (Corsicana)  
 Humane Society of North Texas (Fort Worth)  
 Humane Society of Tom Green County (San Angelo)  
 Jasper Animal Rescue (Jasper)  
 Lubbock Animal Services (Lubbock)  
 Metroport Humane Society (Roanoke)  
 North Central Texas Animal Shelter Coalition (Fort Worth)  
 Operation Kindness Animal Shelter (Carrollton)  
 Paws Shelter for Animals (Kyle)  
 SPCA of Texas (Dallas)  
 Texas Federation of Humane Society (Austin)  
 Waco Humane Society and Animal Shelter (Waco)
- VIRGINIA  
 Animal Assistance League (Chesapeake)  
 Animal Welfare League of Alexandria (Alexandria)  
 Caring for Creatures (Palmyra)  
 Charlottesville-Albemarle SPCA (Charlottesville)  
 Danville Area Humane Society (Danville)  
 For the Love of Animals in Goochland (Manakin-Sabot)  
 Henrico Humane Society (Richmond)  
 Heritage Humane Society (Williamsburg)  
 Humane Society Montgomery County (Blacksburg)  
 Humane Society/SPCA of Nelson County (Arrington)  
 Isle of Wight County Humane Society (Smithfield)  
 Lynchburg Humane Society Inc. (Lynchburg)  
 Madison County Humane Society (Madison)  
 The National Humane Education Society (Leesburg)  
 New Kent Sherrif's Department (New Kent)  
 Page County Animal Shelter (Stanley)  
 Peninsula SPCA (Newport News)  
 Portsmouth Police Animal Control (Portsmouth)  
 Potomac Animal Allies, Inc. (Woodbridge)  
 Prevent a Litter Coalition, Inc. (Reston)  
 Smyth County Humane Society (Marion)  
 SPCA of Northern Virginia (Arlington)  
 SPCA of Martinsville-Henry County (Martinsville)  
 SPCA of Winchester, Frederick and Clarke Counties (Winchester)  
 Suffolk Animal Control Shelter (Suffolk)  
 Tazewell County Animal Shelter (Tazewell)  
 Vinton Police Department—Animal Control (Vinton)  
 Virginia Beach SPCA (Virginia Beach)  
 Wildlife Center of Virginia (Waynesboro)  
 Williamsburg-James City County Animal Control (Williamsburg)
- VERMONT  
 Addison County Humane Society (Middlebury)  
 Caledonia Animal Rescue (St. Johnsbury)  
 Central Vermont Humane Society (Montpelier)  
 Collie Rescue League of New England (Bradford)  
 Elizabeth H. Brown Humane Society, Inc. (St. Johnsbury)  
 Endtrap (White River Junction)  
 Green Mountain Animal Defenders (Burlington)  
 Humane Society of Chittenden County (South Burlington)  
 The Nature Network (North Pomfret)  
 Rutland County Humane Society (Pittsford)  
 Rutland Police Department-Animal Control (Rutland)  
 Second Chance Animal Center (Shaftsbury)  
 Vermont Volunteer Services for Animals (Woodstock)  
 Windham County Humane Society (Brattleboro)
- WASHINGTON  
 Animal Protection Society (Friday Harbor)  
 City of Hoquiam's Animal Control  
 Ellensburg Animal Shelter (Ellensburg)  
 Humane Society of Central Washington (Yakima)  
 The Humane Society of Seattle/King County (Bellevue)  
 Humane Society of Skagit Valley (Burlington)  
 Kindred Spirits Animal Sanctuary (Suquamish)  
 NOAH (Stanwood)  
 Progressive Animal Welfare Society (Lynnwood)  
 SpokAnimal C.A.R.E. (Spokane)  
 Wenatchee Valley Humane Society (Wenatchee)  
 Whatcom Humane Society (Bellingham)
- WISCONSIN  
 Alliance for Animals (Madison)  
 Bay Area Humane Society and Animal Shelter, Inc. (Green Bay)  
 Cats International (Cedarburg)  
 Chippewa County Humane Association (Chippewa Falls)  
 Clark County Humane Society (Neillsville)  
 Coulee Region Humane Society, Inc. (LaCrosse)  
 Dane County Humane Society (Madison)  
 Eastshore Humane Association (Chilton)  
 Eau Claire County Humane Association (Eau Claire)  
 Elm Brook Humane Society (Brookfield)  
 Fox Valley Humane Association Ltd (Appleton)  
 Humane Society of Marathon County (Wausan)  
 Lincoln County Humane Society Inc. (Merriell)  
 Northwoods Humane Society (Hayward)  
 Ozaukee Humane Society (Grafton)  
 The Pepin County Humane Society (Durand)  
 Rock County Humane Society (Janesville)  
 Rusk County Animal Shelter (Ladysmith)  
 Shawano County Humane Society (Shawano)  
 Washburn County Area Humane Society (Spooner)  
 Washington County Humane Society (Slinger)  
 Wisconsin Humane Society (Milwaukee)

## WEST VIRGINIA

Brooke County Animal Welfare League (Wellsburg)  
 Federation of Humane Organizations of West Virginia (Mineral Wells)  
 Hampshire County Pet Adoption Program (Paw Paw)  
 Hancock County Animal Shelter New Cumberland)  
 Humane Society of Harrison County (Shinnston)  
 Humane Society of Morgan County (Berkeley Springs)  
 Humane Society of Parkersburg (Parkersburg)  
 the Humane Society of Pocahontas County (Hillsboro)  
 Humane Society of Raleigh County (Beckley)  
 Jackson County Humane Society/Jackson County Animal Shelter (Cottageville)  
 Jefferson County Animal Control (Keaneysville)  
 Kanawha/Charleston Humane Association (Charleston)  
 Marshall County Animal Rescue League (Glen Dale)  
 Monroe County Animal League, Inc. (Union)  
 Morgantown Animal Control (Morgantown)  
 Ohio County animal Shelter (Triadelphia)  
 Ohio County SPCA (Triadelphia)  
 Ohio County SPCA (Wheeling)  
 Putnam County Humane Society, Inc. (Scott Depot)  
 TLC Animal Sanctuary (Clendenin)  
 Upshur County Humane Society (Buckhannon)  
 Wetzel County Humane Society (New Martinsville)

## WYOMING

Animal Care Center (Laramie)  
 Caring for Powell Animals (Powell)  
 Cheyenne Animal Shelter  
 Dare to Care Animal League (Riverton)  
 Humane Society of Park County (Cody)  
 Lander Pet Connection, Inc. (Lander)  
 Laramie Animal Shelter (Laramie)  
 PAWS of Jackson Hole (Jackson)  
 Wyoming Advocates for Animals (Cheyenne)

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment as further modified.

The amendment (No. 2542), as further modified, was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. LUGAR. Mr. President, I ask the Chair to bring us to consideration of the Gramm amendment No. 2849.

The PRESIDING OFFICER. That amendment is now pending.

The Senator from Texas.

## AMENDMENT NO. 2849, AS MODIFIED

Mr. GRAMM. I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment, as modified, is as follows:

(Purpose: To provide equity and fairness for the promotion of imported Hass avocados)

At the appropriate place insert the following:

Section 1205 of the Hass Avocado Promotion, Research, and Information Act (contained in H.R. 5426 of the 106th Congress, as introduced on October 6, 2000 and as enacted by Public Law 106-387) is amended—

(1) in paragraph (b)(2) strike subparagraph (C) and insert in lieu thereof:

(C) FUTURE ALLOCATION.—After five years, the USDA has discretion to revisit the issue of seat allocation on the board.

(2) in paragraph (h)(1)(C)(iii) by striking everything in the first sentence following “shall” and inserting in lieu thereof “be paid not less than 30 days after the avocado clears customs, unless deemed not feasible as determined by the Commissioner of Customs in consultation with the Secretary of Agriculture.”

Mr. GRAMM. This is a very simple amendment that tries to bring equity to Mexican producers of avocados by collecting the fee in the same way on imported avocados as we do on domestically grown avocados. It also gives the Department of Agriculture an opportunity in 5 years to look at the representation on the board that spends the money to promote avocados.

I thank the Senator from California, Mrs. FEINSTEIN, for working with me. I commend it to my colleagues.

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

The amendment (No. 2849), as modified, was agreed to.

Mr. GRAMM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 2856

Mr. HARKIN. Parliamentary inquiry: What now is before the Senate?

The PRESIDING OFFICER. Amendment No. 2856, offered by the Senator from Iowa.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) the Senator from Alabama (Mr. SESSIONS), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 17, nays 80, as follows:

[Rollcall Vote No. 26 Leg.]

## YEAS—17

Akaka	Harkin	Nelson (FL)
Brownback	Hollings	Reid
Carnahan	Hutchison	Roberts
Graham	Inouye	Voinovich
Grassley	Kohl	Wyden
Hagel	Mikulski	

## NAYS—80

Allard	Dodd	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Edwards	Miller
Biden	Ensign	Murkowski
Bingaman	Enzi	Murray
Bond	Feingold	Nelson (NE)
Boxer	Feinstein	Nickles
Breaux	Fitzgerald	Reed
Bunning	Frist	Rockefeller
Burns	Gramm	Santorum
Byrd	Gregg	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Helms	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kyl	Thomas
Corzine	Landrieu	Thompson
Craig	Leahy	Thurmond
Crapo	Levin	Torricelli
Daschle	Lieberman	Warner
Dayton	Lincoln	Wellstone
DeWine	Lott	

## NOT VOTING—3

Bennett	Domenici	Sessions
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The amendment (No. 2856) was rejected.

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 2845

The PRESIDING OFFICER. The question is on agreeing to the underlying amendment No. 2845.

The amendment (No. 2845) was agreed to.

Mr. LUGAR. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Georgia.

## AMENDMENT NO. 2832, AS FURTHER MODIFIED

Mr. MILLER. Mr. President, I ask unanimous consent to further modify amendment No. 2832, offered by Senator CLELAND and myself.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 120, line 3, strike “\$0.10” and insert “\$0.11”.

On page 112, strike lines 20 through 25 and insert the following:

“(A) a designated marketing association of peanut producers that is approved by the Secretary, which may own or construct necessary storage facilities. In the Southeast and Southwest areas, such designated marketing association shall be operated primarily on behalf of peanut producers. The designated area marketing association shall be allowed to form marketing pools for peanuts by type and quality, including the creation of a separate pool for Valencia peanuts in New Mexico;

(B) the Farm Service Agency; or

(C) a loan servicing agent approved by the Secretary.

On page 112, after line 25, insert the following:

“(6) LOAN SERVICING AGENT.—If approved by a majority of historical peanut producers in a State voting in a referendum conducted by the Secretary, as a condition of the Secretary’s approval of an entity to serve as a loan servicing agent or to handle or store peanuts for producers that receive any marketing loan benefits in the State, the entity shall agree to provide adequate storage (if available) and handling of peanuts at the commercial rate to other approved loan servicing agents and marketing associations.

On page 116, strike lines 6 through 15 and insert the following:

“(h) AREA MARKETING ASSOCIATION COSTS.—If approved by a majority of historical peanut producers in a State voting in a referendum conducted by the Secretary, the Secretary shall deduct in a marketing assistance loan made to an area marketing association in a marketing area in the State such costs as the area marketing association may reasonably incur in carrying out the responsibilities, operations, and activities of the association and Commodity Credit Corporation under this section.

“(i) DEFINITION OF COMMINGLE.—In this section and section 158H, the term ‘commingle’, with respect to peanuts, means—

“(1) the mixing of peanuts produced on different farms by the same or different producers; or

“(2) the mixing of peanuts pledged for marketing assistance loans with peanuts that are not pledged for marketing assistance loans, to facilitate storage.

**“SEC. 158H. QUALITY IMPROVEMENT.**

“(a) OFFICIAL INSPECTION.—

“(1) IN GENERAL.—All peanuts placed under a marketing assistance loan under section 158G or otherwise sold or marketed shall be officially inspected and graded by a Federal or State inspector.

“(2) ACCOUNTING FOR COMMINGLED PEANUTS.—If approved by a majority of historical peanut producers in a State voting in a referendum conducted by the Secretary, all peanuts stored commingled with peanuts covered by a marketing assistance loan in the State shall be graded and exchanged on a dollar value basis, unless the Secretary determines that the beneficial interest in the peanuts covered by the marketing assistance loan have been transferred to other parties prior to demand for delivery.

Mr. MILLER. Mr. President, I ask unanimous consent that Senators EDWARDS, WARNER, ALLEN, and SESSIONS be added as cosponsors and that the amendment, as further modified, be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to amendment No. 2832, as further modified.

The amendment (No. 2832), as further modified, was agreed to.

Mr. LUGAR. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2848 WITHDRAWN

Mr. LUGAR. Mr. President, I ask unanimous consent that amendment No. 2848, offered by Senator GRAMM of Texas, be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, what is the matter now before the Senate?

The PRESIDING OFFICER. Amendment 2825, offered by the Senator from Oklahoma. The Senator from Iowa.

AMENDMENT NO. 2853

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside and that the Harkin amendment No. 2853 be called up.

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

Mr. HARKIN. Mr. President, this amendment deals with a change, and that has to do with the equity portion of a part of the farm bill that just changes the mix a little bit to cover cities up to 100,000.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to amendment No. 2853.

The amendment (No. 2853) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2850

Mr. HARKIN. Mr. President, I call for the regular order. Might I inquire exactly what the regular order now is before the Senate?

The PRESIDING OFFICER. The regular order is amendment No. 2850 offered on behalf of Senators KYL and NICKLES.

Mr. HARKIN. Mr. President, I understand that the pending amendment before the Senate is the Kyl amendment No. 2850 that deals with a sense of the Senate on estate taxes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, again, we are getting close to the end here. We only have a few amendments left that I have on my list. Most of them have been worked out. I thank all Senators for helping to work out the amendments. I think we have basically the pending amendment, as I understand it. We have an amendment No. 2851 offered by Senator DOMENICI dealing with dairy. We have the Leahy

amendment No. 2834 dealing with organics. We have a Kerry-Snowe amendment No. 2852 dealing with commercial fisheries, and we have an Inhofe amendment No. 2825 dealing with peanuts. That is all I have on my list. I ask Senator LUGAR if he has anything else.

Mr. LUGAR. That is my understanding. I believe, in addition, another amendment will be offered in relation to the Kyl-Nickles amendment on estate taxes.

Mr. HARKIN. A second degree?

Mr. LUGAR. A second-degree amendment. But there will be votes on both of those; that is, they will be side by side in the debate.

Mr. HARKIN. Mr. President, we are now on the Kyl amendment No. 2850. I ask the assistant majority leader if we could enter into a time agreement to bring this to a close.

Mr. REID. If I could respond to the manager of the bill for the majority, we attempted to get a time agreement. We could not do that. We agreed to having 30 minutes equally divided. This matter has been debated endlessly for the past several weeks. I think we have heard about all there is to hear. I would hope that those people who are in favor of this legislation would speak, and those opposed to it. Senator CONRAD is going to speak. He has an alternative. The proposal is, we would vote on his and, following that vote, on the underlying Kyl amendment.

Mr. HARKIN. I ask the leader, could we move to that and debate that?

Mr. REID. Senator CONRAD has been on the floor for more than an hour. He is here someplace. He will be here momentarily. But what he did say is he would appreciate it if those who are proposing this legislation would move forward and then, when they have completed their statement, he would offer the second degree, and we would go from there.

Senator KYL is here.

Mr. HARKIN. Senator KYL is here. Wonderful. Now we can move ahead. Get the Senator a podium.

Mr. REID. I inquire through the Chair to my friend, the Senator from Arizona—he is going to speak—are there others who wish to speak?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in response to the assistant majority leader, the answer is, yes. Senator GRAMM is prepared to speak. I think Senator HUTCHISON was here a moment ago. Senator NICKLES will be back in about a half hour. So until we know exactly how many people want to speak, I am reluctant to enter into a time agreement. I don’t want to take all night, but I don’t want to limit it at this point.

If I could further propound an inquiry, it is my understanding we will have separate votes on both the second-degree amendment and on the Kyl-Nickles amendment. What I am unclear of is the effect of the Conrad

amendment and whether it would obviate the Kyl amendment. It is a little unclear by virtue of the language. I have only seen a handwritten copy of it. It would be helpful if we knew what the effect of that is before we proceed.

Mr. REID. If I may respond to my friend from Arizona, if the Conrad second-degree amendment passes, then his amendment is gone. If it doesn't pass, then we would come back and vote on his amendment.

Mr. KYL. Mr. President, if I had understood earlier, the idea would be to have a separate up-or-down vote on both. I thought that is what the agreement was. Am I incorrect?

Mr. REID. I think the Senator from Arizona is correct. The Senator from North Dakota has decided he wanted to file a second-degree amendment. I would only say to my friend from Arizona, if you and those who have spoken on behalf of this legislative measure for several weeks now have confidence it has been elaborated upon several times, you should be OK and have a vote on yours.

Mr. KYL. I am sorry. If the suggestion was that we should have a vote, I think there are folks who would like to talk about this.

Mr. REID. I am sorry to interrupt. If we could have some time agreement from the proponents of this legislation, we would work out a side-by-side.

Mr. KYL. Mr. President, I think at 7 o'clock we should revisit this question of a time agreement. We perhaps could enter into it. I want to wait until Senator NICKLES returns.

Mr. DORGAN. Will the Senator yield for an inquiry on that issue?

Mr. REID. I am happy to yield.

Mr. DORGAN. I would inquire, for purposes of scheduling this evening, I understand the Senator's point that someone is now gone for a half an hour and you might want to talk at 7 o'clock about scheduling. Is there any way we might get some notion of whether we will have votes, whether you are intending to accept the time agreement, so that if we are going to have votes later this evening we could get a sense of when that might be?

Mr. REID. If I could respond to my friend, the majority leader wants to finish this bill tonight. We have indicated that the estate tax debate is going to take a little bit of time. Earlier today, we agreed on half an hour evenly divided.

But I say about the amendments pending, Domenici 2851, Leahy, Kerry-Snowe, and Inhofe, if that is still available, if they are not here, I am going to move to table those amendments. We are not going to wait around for people to come by at their convenience and offer their amendments. That is a very good question. We have been on this bill for weeks. We have made tremendous progress today with the help of the managers of this bill. I see no reason we can't finish it tonight. I think we should finish it tonight.

Mr. GRAMM. If the Senator will yield, I thought we had something

worked out where the Senator from Arizona, Mr. KYL, would have a sense-of-the-Senate resolution on making the repeal of the death tax permanent and that the Senator from North Dakota, Mr. CONRAD, would have a parallel measure with a sense of the Senate about the Social Security trust fund, and that we would have an opportunity to vote on each so it would be technically possible that both could go into the bill.

If, on the other hand, the Conrad amendment is a substitute for the Kyl amendment and would, in the process of being adopted, kill it, then what we want is an up-or-down vote on the Kyl amendment. We certainly don't object to an up-or-down vote on the Conrad amendment. We don't think it is relevant because 9 years from now, when this would go into effect, we will have a surplus far larger than the repeal of the death tax. But if we could do it where they are parallel, as I understood we were going to do it, I think we can get a time limit and finish our business.

If the Conrad amendment is a substitute so that we are not going to get to vote on a sense of the Senate to repeal the death tax, I don't think we will get an agreement.

Mr. REID. Mr. President, we had an agreement earlier today that was not effectuated with the consent of the Chair. We thought we had an agreement on 30 minutes equally divided on the first- and second-degree amendments and there would be side-by-side votes. The time agreements have broken down.

We acknowledge that this issue has been debated considerably. We are willing to give you an up-or-down vote. But even though it is not relevant to the farm bill, we believe there should be a vote, it should transpire. But we want a time agreement. Otherwise, we are faced with an all-night session here, and it is not necessary. The Senator from Arizona has told me in 25 minutes he would agree to a time agreement. So I think we should all cool our jets for a few minutes and see if we can work our way through this.

Mr. LUGAR. If I may respond to my colleague, shortly, I will offer a motion that the Inhofe amendment be withdrawn. That means there will be only three amendments other than the debate on the estate tax. I inquire if we might get a time agreement of 20 minutes on each of those three amendments.

Mr. REID. To interrupt my friend—and I hope he accepts this—that would be Domenici, Leahy, and Kerry-Snowe.

Mr. LUGAR. Yes. And then perhaps work out time agreements so that there are up-and-down votes on the two estate tax amendments.

Mr. REID. In fact, we could get one of the amendments out of the way before 7 p.m. I think that is appropriate. 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. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2825, WITHDRAWN

Mr. LUGAR. Mr. President, I move that the Inhofe amendment No. 2825 be withdrawn.

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

Mr. LUGAR. I thank the Chair. 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. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2850

Mr. KYL. Mr. President, I anticipate a unanimous-consent request to be delivered momentarily which will set the stage for the debate on the Kyl-Nickles amendment which I believe is the pending business. But we do not need to waste time prior to that. We can actually begin this discussion and lock that in and proceed. With that understanding—and I have spoken to Senator CONRAD about this—I propose we begin the discussion on this amendment, and when the agreement is ready, we can propound it to the body.

Let me say by way of introduction, and then I will yield to the Senator from Texas for some remarks, that the Kyl-Nickles amendment is a sense of the Senate. We should finish the job we started last year and make the repeal of the death tax permanent.

As my colleagues will recall, because the tax bill was considered under the reconciliation procedure, it could only last 10 years. That means that even though we repealed the death tax in that 10th year, after that, the bill sunsets and we go right back to the position of the death tax as it existed last year, with a 60-percent higher rate and a \$675,000 exemption. That is very unfair, it is very poor tax policy, and if we really meant to repeal the death tax, as we voted to do, then we should finish the job we started.

This amendment simply puts us on record as committing to that proposition so that when the appropriate bill comes along, we can accomplish the result. Clearly, this farm bill is an appropriate vehicle for us to discuss this issue as a sense-of-the-Senate issue because there are an awful lot of owners of family farms who would like to see the death tax repealed so they do not have to worry about the burden of it.

To further discuss this proposition, I yield now to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate very much what Senator KYL and Senator NICKLES are doing because most people think we are on a

glidepath to eliminating the death tax. We have taken that vote.

The worst situation we could possibly have is not knowing. Can you imagine how debilitating it would be to plan for a family business or a family farm to think that you would have 9 years at lower inheritance taxes and then in the 10th year, unless you happened to die in the one year we have repealed, you would end up going back to 3 years ago? That just does not make sense.

The best tax policy is one that is stable, that people can count on; that when it is passed, people can plan according to that tax law or policy.

What we have now is the absolute opposite. We have a situation where people cannot plan. They do not know when they are going to die, so they do not know what the inheritance tax is going to be, and they do not know if it really will be repealed because Congress keeps talking back and forth about not repealing something we have already repealed. That is not consistent, and it is not good tax policy.

Family-owned farms and small businesses are the hardest hit because they have assets that are valued greater than the income they can produce. When someone who is the head of a small business or a family farm dies, many times the value of that farm or small business is very high and the family does not have the cashflow to pay the taxes. So what do they do? They sell the family business or family farm to pay the taxes.

This is not money that has never been taxed. No, it is money that was taxed when it was earned, and taxed every year that it has been invested. The money has already had its fair share of taxes taken out.

We have to make a decision in this Congress if we want small businesses to survive. I do. Small family-owned businesses are the basis of our country. Sometimes they grow and prosper and become big businesses. Sometimes they are passed to their children and create livelihoods for children.

Lost in a lot of this debate are the employees of these small businesses and family-owned farms, the people who own nothing but work for these small businesses. What happens when a business has to be sold to pay taxes? All the people relying on that business lose their job. We have heard story after story of a small family business that was the most important business in town and had to be sold. The people working there were out of jobs, in a very small community where one does not just walk across the street and get another job. We have heard that time and again.

I will never forget the letter I saw written by a man who happened to have a farm that his parents had worked very hard to buy, about 100 acres in a beautiful part of Texas, but it was a part of Texas in the old days that was just a farming area. It was not very expensive, not very well

known. It was pretty and nice but not that big a deal. Today it is called the hill country, and it is the most expensive land in rural Texas.

When the parents died, the children inherited that farm, but they had to sell their own homes to pay the taxes on that farm because it had escalated to such a great value. They sold their homes and moved into an apartment to keep the family farm.

The bottom line is, going into the third generation, the man said: My children could not possibly get enough cash to pay the taxes for us to pass this farm to them in the third generation. The land is going for \$6,000, \$7,000 an acre, and the farm will eventually have to be sold.

Mr. President, who gains? Who gains from selling that farm? Who gains from a small business having to be sold to pay taxes? The employees who work for that business lose. They lose their jobs and their livelihoods in the community in which they want to live. Certainly not the family, not the patriarch and the matriarch who worked hard to put that business together. Certainly not the children who may have worked or wanted to be in the family business, who wanted to continue the tradition. They lose.

One might say Uncle Sam gains. But is it really a gain when you tear something out of our economy that is a thriving small business? It is a minuscule amount. It is an amount that has already had taxes paid on it. In fact, the only reason one would ever want to tax an inheritance is to level society, and America was not built on society leveling. America was built on the concept that one could come to this country, work hard, and make as good a living as they could make by the sweat of their brow, and pass on what they have to their children, if that is what they decide to do.

We are not a country that is entrepreneurial, that has a spirit that is looking at society leveling. What good does it do for us to tax at death and disrupt family businesses, family farms, family ranches, families? It does not make sense.

I hope we will pass the amendment offered by Senator KYL and Senator NICKLES that puts the Senate on record we are going to make permanent this tax cut. We have done it once. The Congress has voted for it and the President has signed the bill, but because of a process, it goes out of existence in 10 years and that is not stabilizing, it is destabilizing, and we need to correct it and do the right thing.

So I applaud Senator KYL and Senator NICKLES. I support them fully, and I hope Congress will speak once again. We passed it once; we can do it again. This time let us do it right, and let us do it within a process that says we are doing this and we really mean it; not we are doing this but because of a process that nobody cares about it is going out of existence in 10 years. Let us do it right so people can count on it, so

they can plan and so these small businesses can continue to create jobs and be a part of our economy.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, at the appropriate time, I will offer a second-degree amendment that says this: Since both political parties have pledged not to use Social Security surplus funds by spending them for other purposes, and since under the administration's 2003 budget the Federal Government is projected to spend the Social Security surplus for other purposes in each of the next 10 years, and since permanent extension of the inheritance tax repeal would cost, according to the administration's own estimate, approximately \$104 billion over the next 10 years and \$800 billion in the next 10 years, all of which would further reduce the Social Security surplus, therefore it is the sense of the Senate that no Social Security surplus funds should be used to make currently scheduled tax cuts permanent or for wasteful spending.

The situation we face as a nation is last year when we were addressing the budget, the President and the Congressional Budget Office told us we were going to have \$5.6 trillion of surpluses over the next decade. Under the President's budget, that is down to \$600 billion. The truth is there are no surpluses left. Let me repeat that. There are no surpluses left, not a dime. Every penny of money that is still available is Social Security money, every dime. There are no surpluses left.

This chart shows it very clearly. This chart shows from 1992 until 2012 the fiscal condition of the country. We were in deep deficit in 1992. Then we started to pull out of it with the 1993 plan that we passed, I might add, without a single vote on the other side of the aisle, not a single vote, and we started moving out of deficit.

In 1997, we passed an additional plan. That one was on a bipartisan basis, and it finished the job. We moved into budget surpluses. We stopped using Social Security trust funds. This chart shows in specific detail what has happened since 1996. In 1996, we were using 100 percent of the Social Security trust funds for other purposes. The same was true in 1997. In 1998, we reduced it so we were only using 30 percent of Social Security money for other purposes.

In 1999 and 2000, we stopped using Social Security money entirely. These were the good days. These were the responsible days. In 2001, we started backsliding. Under the President's budget, President Bush's budget, every year we are going to be using 100 percent of the Social Security money for other purposes.

Let us go back to what we confront. We are headed for deficits this year, fiscal year 2002, 2003, every year through the rest of this decade. Making tax cuts that were previously scheduled permanent means every dime of it is coming out of Social Security.

Where did the money go? The Congressional Budget Office came before the Budget Committee and told us that in the near term the biggest reason was the recession, but over the 10 years of the President's plan, the biggest reason of the tax cuts the President proposed and pushed through Congress last year, 42 percent of the reduction in the surplus and the return to deficits is from the tax cut. Twenty-three percent is from the recession. Eighteen percent of the additional expense is caused by the attack on the United States. Seventeen percent is caused by certain technical changes, largely the underestimation of the cost of Medicare and Social Security.

Last year, we were told there was in the non-trust-fund side of the Federal accounts a \$2.7 trillion surplus. That is from where the tax cuts came. But you know what. There is no \$2.7 trillion of non-trust-fund money anymore. The Congressional Budget Office tells us, instead of surpluses, there are massive deficits, \$2.2 trillion of deficits. What the good Senator from Arizona is saying is do not worry about it. Let us just pile on some more. Let us have some more tax cuts. Let us dig the hole deeper.

What he is saying is, let us not only have the estate tax reductions that are already scheduled, which are significant—and I would correct those who say there is a death tax. There is no death tax in America. Ninety-eight percent of the estates in America pay nothing, zero. They pay no estate tax. That is what we have in America, not a death tax; it is an estate tax. If one has an estate over a certain value, they start to pay something. Why? Because we have determined that is a fair way to distribute tax burden.

The Senator from Texas says this is not part of American history. I beg to disagree. It is a fundamental part of American history. Go back and read what the Founding Fathers had to say on this question. They did not want America to be a land of inherited aristocracy. No, no, no. They wanted this to be a land where people rose and fell on the basis of their own hard work and their own skills and their own talent, not because they inherited from grandpa, not because they inherited from great grandpa. That was not the point of America, and that is why fundamentally we have had an estate tax because our Founding Fathers came from Europe and they saw what inherited aristocracy led to, the concentration of wealth in the hands of a few, and ultimately instability and political chaos. They did not want that for us.

So the reality is, 2 percent of estates in this country pay any estate tax. We are scheduled to raise the exemption to \$3.5 million per person. Only three-tenths of 1 percent of estates are at that level. This would mean that one could transfer \$7 million and not pay a dime of tax. The Senator from Arizona is not satisfied with that. He wants anybody to be able to pass any amount to their heirs.

The cost in this decade of the Senator's proposal is \$104 billion. The cost in the next decade is \$800 billion. At the time the baby boomers start to retire, they will take it all out of Social Security funds. That is from where it is coming from.

Here is what we confront at the very time they are talking about adding \$800 billion of additional tax cuts: Social Security and Medicare trust funds go cash negative at the very time they are talking about another \$800 billion of tax cuts, all of it out of Social Security.

The Director of the Office of Management and Budget came before the Senate Budget Committee and said:

Put more starkly, Mr. Chairman, the extremes of what will be required to address our retirement are these: We'll have to increase borrowing by very large, likely, unsustainable amounts; raise taxes to 30 percent of GDP, obviously unprecedented in our history; [we are at 19 percent of GDP now in taxes. Anybody think we will go to 30 percent of GDP? If we do not, they will have to be massive cuts in benefits] or eliminate most of the rest of government as we know it. That's the dilemma that faces us in the long run, Mr. Chairman, and these next 10 years will only be the beginning.

I cannot think of an amendment that is more fiscally irresponsible than the one before this body now. The President last year in his State of the Union promised not to use Social Security trust funds for any other purpose. That is the pledge he made. I quote:

To make sure the retirement savings of America's seniors are not diverted to any other program, my budget protects all \$2.6 trillion of the Social Security surplus for Social Security and for Social Security alone.

That is what he said last year.

Now, in reading his budget, we see he will take \$2.2 trillion of Social Security and Medicare trust fund money and use it for tax cuts and other expenses of Government.

The Senator from Arizona says that is not enough, let's take even more money from Social Security—let's take it all and not protect any of Social Security.

I don't think so. Those who vote to take it are going to be mighty surprised by the reaction of the American people when they find out we are already on course to eliminate taxes for a couple that would not pay any taxes—not a dime—on \$7 million. Now the Senator proposes no limits forever—and take every dime out of the Social Security trust fund.

This reversal in our financial fortune has meant that over the next decade, instead of being virtually debt free by 2008, which is what they told us last year, we now find by 2008 there will be \$3 trillion of debt. The result of that is we will be paying as a country \$1 trillion more in interest over the next decade. Instead of \$600 billion in interest, we will pay \$1.6 trillion in interest payments. We ought to quit digging the hole deeper.

This amendment takes more money out of the trust funds to have a tax cut

that goes to a fraction of 1 percent of the American people.

The Senator from Arizona and the Senator from Texas earlier argued this is a question of fairness. I agree. It is a question of fairness. Where should the money come from to restore the integrity of the trust funds? Where should it come from? One of the first places we would look is the wealthiest among us, for us to say, if you die and have an estate of over \$7 million, maybe you ought to be part of solving this extraordinary problem we now face. I don't think that is unreasonable.

We have had some of the wealthiest people in America before the Finance Committee saying they did not think it was unreasonable for them to make some contribution to restoring the integrity of the trust funds of Social Security and Medicare.

For those who say this money has already been taxed over and over and over, it is not true. Much of this money has never been taxed because it has been locked up in long-term capital gains and people never paid taxes at all.

This is a fundamental question before the Senate, the most basic of questions about priorities, about fiscal responsibility, about paying our bills, about keeping the promise that this President and Members of this Chamber made on the question of not looting or raiding the Social Security trust fund to pay for other things. Now before the Senate is an amendment that says we will take Social Security money and use it to give a tax reduction to the very wealthiest. What a perversion of fairness. Those are not the values of the people I represent. I don't believe those are the values of the American people. I hope when the vote is called tomorrow we will have a chance to vote for the substitute amendment and to defeat the amendment of the Senator from Arizona.

I yield the floor.

The PRESIDING OFFICER (Mr. SCHUMER). The Senator from Texas.

Mr. GRAMM. Mr. President, I agree with every word Senator CONRAD said. Senator CONRAD laments that we are not keeping our promises of not raiding the Social Security trust fund. In fact, in his resolution he talks about not using it for tax cuts or spending.

I remind my colleagues, only a few hours ago on rollcall vote No. 25, we waived the Budget Act to steal \$2.4 billion out of the Social Security trust fund. If people look at that vote—I voted against it, the Senator from Arizona voted against it—the Senator from North Dakota voted for the budget waiver that did exactly what he laments today. In the same day we talk about not spending the Social Security trust fund on making the death tax repeal permanent, we waive the Budget Act to take \$2.4 billion of it to pay subsidies while we continue to talk about the poor versus the rich. Where did the subsidies go? A select group of people, generally very high income people.

It is very instructive to note that while the assault on making the repeal of the death tax permanent is an assault that is claimed to be protecting Social Security, this very day those who have launched the assault voted to raid the Social Security trust fund when we have a deficit where we are spending Social Security trust fund money and borrowing money. That did not prevent the Senate from spending another \$2.4 billion this very single day. That shows how this whole amendment rings hollow.

It does not end there. Let me read this language of the Conrad amendment:

Therefore it is the Sense of the Senate that no Social Security surplus funds should be used to pay for making currently scheduled tax cuts permanent or for wasteful spending.

Who gets to define "wasteful"? Does that mean every effort to make the death tax repeal permanent is equivalent to wasteful spending? In fact, was adding \$2.4 billion to an already bloated farm bill less or more wasteful than making the death tax repeal permanent so that farmers and ranchers will not lose their farms and ranches when they die?

A final point before I turn to the amendment I am for. Senator CONRAD acts as if the passage of the Kyl amendment—and we are just doing a sense of the Senate—would spend Social Security trust fund money. Not so. In fact, the Kyl amendment goes into effect 9 years from now. Nine years from now, in the year 2011—in fact, CONRAD refers to the administration's estimate. Let me tell you what that estimate is.

Nine years from now, when the Kyl amendment would go into effect, by making the tax cut that would be fully implemented permanent, we will have a surplus, according to OMB, of \$350 billion. The Social Security surplus will be \$290 billion, which is \$60 billion less than the surplus we are projected to have.

The repeal of the death tax costs \$4 billion. So, in fact, if the death tax repeal were made permanent, if we were voting on, not a sense-of-the-Senate resolution but law today—and we are going to get an opportunity to do that, probably on the so-called energy bill—but if we were voting on it today, this permanency goes into effect in 9 years, in 2011, the projected surplus from the administration—contrary to what the sense-of-the-Senate resolution that Senator CONRAD is offering says—is \$350 billion, the Social Security surplus is \$290 billion, giving us an on-budget surplus of \$60 billion. Repealing the death tax costs \$4.249 billion. So even if we were repealing the death tax and making that repeal permanent, we will not spend a penny of Social Security surplus in the year 2011.

Let me also say something about the idea that we are going to have social unrest because we don't make people pay 55 cents out of every dollar they earned in their life to the Government when they die; I think it is stretching

someone's conception of social unrest beyond the breaking point. I am opposed to the death tax. None of my people have ever paid a death tax. The only thing I have ever been bequeathed in my life is a cardboard suitcase that my great uncle Bill, my grandmother's brother, left me, full of yellow sports clippings, but I am opposed to the death tax because it is wrong. It is rotten. It is absolutely outrageous that people work a lifetime, they save, skimp, sacrifice, they build up a business, they build up a farm, they build up assets, and then when they die their children have to sell their life's work to give the Government another 55 cents on the dollar tax.

I remind my colleagues that the Kyl provision requires people to pay capital gains tax. If you have untaxed income, you are going to have to pay it. But what it does not have is double taxation.

I believe the American people understand this issue, and I can honestly say, in speaking in my State and around the country, in white-collar crowds or blue-collar crowds, when I talk about killing the death tax, when I talk about not making people sell their business or sell their farm, people always applaud—whether they expect to pay the tax or not.

I think if we view things politically as to who gains and who loses, we often lose in terms of not understanding our own country. This is a question of right and wrong. The death tax is wrong. And the final absurdity is that on the floor of the Senate we claim to be repealing the death tax, Democrats and Republicans voted to repeal it, and yet because of a quirk in the Budget Act we are phasing down the death tax to zero, 9 years from now. So if you die 9 years from now, your children can keep what you have earned, but if you die 10 years from now they have to pay 55 cents out of every dollar of your life's work to the Government.

I think that is wrong. I urge my colleagues to vote for this sense-of-the-Senate resolution. We should be making the repeal of the death tax permanent.

I don't have any concern about committing ourselves to not spend the Social Security surplus in repealing the death tax. The repeal doesn't go into effect until 2011, at which point we simply make what the tax is on that day permanent. By 2011 we are going to have a surplus that far exceeds the Social Security surplus, unless we do what we did today, which is waive the Budget Act to spend it.

I am hopeful that those who vote for the Conrad amendment, tomorrow when we vote on another budget waiver, will vote not to waive the Budget Act. But I hope people will not say to us, "We are really worried, we are worried we are going to use the Social Security surplus to make tax cuts permanent and to make the repeal of the death tax permanent," and at the same time in the same day to take \$2.4 bil-

lion out of the Social Security trust fund.

I do not understand. If you are concerned about the trust fund for repealing the death tax, how come you are not concerned about it when you are spending money on a bloated agriculture bill? I do not think you can have it both ways.

I think, in the end, people who vote for this resolution, when we vote on another budget waiver to spend more money, I hope they will say: Look, I voted for the Conrad resolution which said I wouldn't spend Social Security trust funds. So while I would love to spend this money, I cannot vote for the waiver.

I bet that many people will vote for this sense-of-the-Senate resolution, then vote not to make the repeal of the death tax permanent, and then the first time we have a vote on busting the budget and spending more Social Security trust fund, they will vote for it.

Maybe that sells where you are from. That doesn't sell where I am from. I am for repealing the death tax. I am for making it permanent. The good news is that everyone should know that by doing that we are not raiding the Social Security trust fund. We raided it today when we waived the budget point of order on \$2.4 billion. We stole that money right out of the Social Security trust fund, and everybody who voted for that waiver voted to steal that money out of the Social Security trust fund.

I am proud I did not.

But when we make the death tax repeal permanent, it costs \$4 billion in the year 2011, which is when the permanency would kick in. At that point we will have a \$60 billion non-Social Security surplus, according to the administration's numbers, if we quit spending money.

I urge my colleagues, however you vote on the Conrad amendment, just be sure you read it before you vote and you are ready to live up to it. I am ready to live up to the sense of the Senate to repeal the death tax. I am ready to live up to the sense of the Senate on the Conrad amendment.

I would strike out "wasteful" because, as we all know, every program you are for is not wasteful. So I thank our dear colleague from Arizona for his leadership. I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate those remarks of the Senator from Texas. The Senator from Alabama, I know, and the Senator from Oklahoma, as well, want to speak. I just wanted to make a couple of points.

No. 1, President Bush wants us to do this. His budget for this next fiscal year has in it the permanent repeal of the death tax. So he wants us to go forward with it. As the Senator from Texas said, we will have a Social Security surplus at the time when we make

this death tax repeal permanent. So we are not raiding the Social Security trust fund, as the Conrad amendment would suggest. In fact, because we are injecting more money into our economy, one could expect there will be additional Federal revenues, not less Federal revenues.

One of the experts on this subject, Dr. William Steger, has estimated that immediate repeal of the death tax would provide a \$40 billion automatic stimulus to the economy. He is president of Consad Research Corporation and an adjunct professor of policy sciences at Carnegie Mellon University. So it is a \$40 billion automatic stimulus to the economy—not taking the Social Security trust fund.

I will have a lot more to say about this after we enter into our unanimous consent agreement, but I think both the Senator from Alabama and the Senator from Oklahoma would like to speak, and I will yield the floor to them at this point.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Arizona for his hard work and leadership on this. I appreciate the remarks of the Senator from Texas. He is eloquent, as always, and is effective in the points he makes.

First of all, I would like to say why I think it is appropriate that we have this sense-of-the-Senate amendment on the farm bill. It is because it is one of the most significant issues for farmers in America. I speak to farmers frequently. When I first began to campaign for the Senate, they told me right upfront that one of their top priorities was the elimination of the death tax. It threatens everything they do.

I was shocked and really surprised to hear the Senator from North Dakota say he is not worried about people passing on their farms to their children. I thought that was what the farm bill was all about. I thought it was all about trying to preserve a family farm. What good does it do to preserve the farm, have a living wage for farmers, and then make them pay 50 or 55 percent of the value of the farm to the Government every generation?

Eliminating the death tax is about preservation of the farm. I think it is appropriate that we are considering it. It is certainly one of the highest priorities of every agricultural organization of which I know.

Second, let me say why I think this thing is bad economics for America, why it is hurting our economy, and why we need to eliminate it.

First of all, the death tax is extraordinarily difficult to compute and collect by the Federal Government. It produces a lower return based on how much money the taxpayer has to pay than almost any other tax we pay. It is an extraordinarily complex thing. It causes individuals to go through the most intricate gyrations and causes them to make financial decisions they

would never make otherwise except to attempt to avoid being decimated or having their heirs decimated by the death tax.

Let me tell you what I am really concerned about. This is an issue that I feel has not been talked about enough. There are a lot of different ideas that people have about why this tax is bad. I would like to talk about a purely economic argument that strikes me as a great unfairness about the death tax.

Let us say International Paper Company, or the Weyerhaeuser Company, owns 1,000 acres of land, and an individual owns 1,000 acres of land and saves some money and manages it well. Then the individual dies. They have to pay an estate tax. But Weyerhaeuser or International Paper, which may own 600,000 acres of land, or maybe multi-million acres of land, never pays a death tax. Big corporations, large stock-held corporations, never have their corporate work—Mr. President, I believe there is a little noise here. Even I can't think very well when it is going on.

The PRESIDING OFFICER. The Senator will be in order.

Mr. SESSIONS. I thank the Chair.

So these large corporations are never impacted by estate taxes, but they are competing with smaller farmers, smaller timber producers, and smaller landowners. Whenever a family member in one of those privately held companies dies, they get whacked by the Federal Government with a tax. It makes them less competitive.

In my State of Alabama, we have seen an extraordinary number of banks go out of business by selling out to larger banks. Small, closely held banks no longer exist today. One of the main reasons is that the family sits around the table and wrestles with what they are going to do about the future. They get an offer from a big holding company to buy them out. They consider how much in taxes they are going to have to pay and how they are going to keep the bank going while paying 55 percent tax on it. They end up selling out, and then we get bigger and larger corporations with more and more concentrations of wealth and less competitiveness in the American economy.

We need and desire more smaller motel companies. We need more small entrepreneurs. We need more stores selling material, like Home Depot or Wal-Mart. But those stores, if they are closely held, end up getting whacked in each generation by an estate tax.

I talked to a young man and his father. They had four motels. He told me they were paying \$5,000 a month for insurance on the father's life, trying to make sure that if he were to die, they wouldn't lose their investment.

That is the reality of America. This tax is favoring large corporations in their competitiveness against small corporations and companies and closely held companies. It is not fair. It is not healthy for the economy. We can do better.

I thank the Chair. I yield the floor

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to compliment my friend from Alabama, Senator SESSIONS, for his speech, as well as the Senator from Arizona, Mr. KYL, and the Senator from Texas, Mr. GRAMM, because they have laid it out very plainly and very clearly to the American people.

When we repealed this tax, it was temporary. Some people asked, Why? We did it under a reconciliation instruction. Most Americans don't have a clue what that means. Basically, that instruction was given to Congress, saying you can pass a bill for 10 years. In other words, it had a sunset. We passed the bill that increased the exemption basically from about \$750,000 up to about \$4 million. It took 9 years to do that. On the 10 years, we said we will just eliminate the tax which is unfair. It is unfair to have a tax on death. It is unfair for the Federal Government to say: When somebody dies, we want half of their estate. We don't care if they built up a big business. Maybe they built up Microsoft, or maybe they built up a series of restaurants, or maybe they built up a manufacturing facility, or maybe they have a large ranch or a large farm which they have had in their family for two or three generations.

We said even if you are fairly large, we don't think the Federal Government should come in and take half of it because you happen to pass away. So we changed it. We said the taxable event will not be death; it will be when the property is sold. That is what we passed.

So the taxable rate, when and if that property is sold, will be at the capital gains rate. It will be at 20 percent, which is plenty of tax, and the taxable event will be figured when the property is sold, when there is money available to pay that tax. That made good, eminent sense.

The bad news is it will be sunset. Presently, we take the exemption of last year. This year, because of the tax changes we made last year, the exemption is \$1 million. There is no death tax by the Federal Government if you pass away this year and the taxable estate is less than \$1 million. That is an improvement.

We gradually increased that over a period of time. For 2009, we go up to a \$3.5 million exemption. We gradually reduce the rate, which is presently 50 percent—last year it was 55—to 45 percent by the year 2009, and there is a \$3.5 million exemption. For the year 2010, we said we are going to eliminate it. There will be no taxable event on death. The taxable event will be when the property is sold. The tax rate will be at the capital gains rate, which is 20 percent, instead of the rate of 45 percent. It makes good sense. It is good sense.

Unfortunately, because of the sunset in the year 2011, bingo, nothing happens. So we revert back to last year's

law. Instead of having a \$3.5 million exemption, we have an exemption of about \$1 million. Instead of having the rate at 45 percent, we are going to go back to the rate of 55 or 60 percent. But there was a little 5-percent kicker rate for estates that were between \$10 million and \$17 million. We go back to a maximum rate in the year 2011 of 60 percent. That is absurd.

A lot of us said we should make the death tax repeal permanent. That is what the sense of the Senate is. Somebody asked, Why isn't this real? We tried to do it on the tax bill we had pending before the Senate—the so-called stimulus package. Senator DASCHLE pulled that bill down. He didn't want a vote on the amendment of my colleague from Arizona and me. Maybe it is because we are going to win. Maybe it is because we are going to change the tax law and do some real good so people can count on it. We didn't get a vote on it.

That is the reason we are here today. We are on the farm bill. We voted on a lot of amendments dealing with agriculture, none of which is as strongly supported as this amendment we are going to vote on tomorrow.

I have spoken to my fair share of agricultural groups—ones that want very little Government involvement and ones that want a lot more than I want. But they are unanimous. When you ask them if they want to repeal the tax, they are in support because they realize that the so-called death tax is one of the most punitive things you can do to American agriculture.

That is telling somebody, who in many cases is asset rich and cash poor: We want half your assets. So they may be trying to pass their farm or ranch on to their kids or to their grandkids, but Uncle Sam says: No, you can't do that because the value of your estate is over \$1 million. And you don't have to have a very big farm or ranch for that to happen where the Federal Government wants half.

The Federal Government is entitled to take half? That is going to be the law unless we make repeal permanent. So that is why this is important to agriculture. That is why it is important that the amendment be adopted.

What about the underlying amendment or the "let's confuse the American public" amendment that was offered by our friends on the Democratic side. It is a sense-of-the-Senate amendment. I don't have a problem with the conclusion. It says:

Therefore it is the Sense of the Senate that no Social Security surplus funds should be used to pay to make currently scheduled tax cuts permanent or for wasteful spending.

I do not want them to be used for wasteful spending.

And "permanent tax cuts," let's see, do we do that in our amendment? The answer is no. So I guess I could support the "therefore," which is the only thing people really read in these resolutions.

If you read the sentence above that, it is just factually incorrect. It says:

Since permanent extension of the inheritance tax repeal would cost, according to the Administration's estimate, approximately \$104 billion over the next 10 years, all of which would further reduce the Social Security surplus. . . .

That is factually incorrect. I am a stickler for facts. I think people are entitled to their own opinion. They are not entitled to their own facts.

If you use the administration's estimate, they estimate that the surplus will exceed Social Security by about \$51 billion in the year 2010, \$99 billion in the year 2011—the first year this would have real impact—\$199 billion in the year 2012, and \$395 billion—these are surpluses over and above Social Security. In other words, they are enormous surpluses in the outyears.

You may say this does not really have an impact until the years 2011, 2012, and 2013 because that is when the death tax is repealed, and those are years we have enormous surpluses, including Social Security.

So the amendment is trying to confuse people and bring in Social Security, and so on. Maybe it is confusing, but it is not accurate. It is factually inaccurate. I want people to know that. I do not care how you vote on it. It doesn't mean anything. The sense of Senate says we are not going to use Social Security to pay for permanent tax cuts.

This amendment that Senator KYL and I and Senator GRAMM and Senator SESSIONS have offered does not do that. Are we for wasteful spending? No.

It is interesting to note that people start drawing out Social Security every time we have a tax cut that is real or a tax cut that is proposed as real. But they couldn't care less about spending. Evidently, it is OK to spend money—Social Security money—on anything and everything, and, oh, we will waive the Budget Act to do so, but, oh, in the outyears, when we have enormous surpluses far exceeding Social Security, don't you dare do it. We are going to waive the Social Security flag. It is a false flag. It is false cover. Maybe it makes people feel good. I can care less how people vote on that amendment.

I hope people will vote in favor of the sense of the Senate that says we should make the repeal of the death tax permanent. We should do it. We can afford it. We must do it.

It makes no sense, whatsoever, to have a death tax where the Federal Government is coming in and taking a significant portion of somebody's farm or ranch or business, saying: Oh, we want to take it and use it to pay for other programs, and so on. That does not make sense.

So I compliment my colleagues from Arizona and Texas and Alabama for their work on this amendment. I am happy to cosponsor this amendment.

I urge my colleagues, tomorrow morning, to vote in favor of this sense-of-the-Senate amendment to permanently repeal the death tax. Probably

the best thing we can do for agriculture in this entire bill is to make repeal of the death tax permanent.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, the proposal before us today to repeal the estate tax rests on profound misunderstandings of this tax, and particularly on who pays this tax.

We have been hearing our colleagues talk about the death tax and that it is stalking every American. It turns out that in 1999, 2.5 million adults died; 49,870 estates incurred a tax liability. A very small fraction of Americans face the estate tax, but I point out, they are the wealthiest Americans. They are not the Social Security recipients. They are not individuals who have worked all their lives and are now with a small pension facing their last days. These are the wealthiest Americans.

It turns out that with the unified credits, with the ability to gift funds to individuals, there is an opportunity—in fact, one that is taken by most Americans—to avoid the estate tax. So this is not a death tax; this is a tax on the very wealthiest Americans. And this is a tax that was really, in many respects, copied from the example of our British brethren across the sea, who saw the corrosive power of wealth that is passed on from generation to generation to generation.

I have heard some of my colleagues on the Republican side talk about how the death tax is an insidious weapon of large corporations to beat down the small workers and farmers in this country. Nothing is further from the truth.

This whole estate tax not only is designed to raise revenue, it is also designed to ensure that great fortunes are not passed down, becoming great and powerful without any check whatsoever.

There is another issue with respect to estate taxes. People talk about it as so unfair because it is a double tax: You get taxed when you earn the money and you get taxed again when you pass away. It turns out that a significant amount of estates consist of unrealized capital gains.

Economists have estimated that 36 percent of the wealth in all taxable estates is in the form of unrealized capital gains: someone purchases a home, someone purchases stock, they hold that stock for years, and at the time of their death, the estate tax is imposed. But also at the time of death, these assets are passed on to their heirs on a stepped-up basis. So without an estate tax, much of this gain would never be taxed.

There is also another myth that we have heard time and time again; that is, really what happens is that this onerous tax takes away from the family farms and the small businesses of America; that they have to liquidate their assets; that they cannot pass

them on; that they have to pay everything they have earned just to satisfy this tax.

First of all, recognize this tax applies to very few Americans at all. And second, recognize that, despite all the discussions about the family farms being forced into sale because of this tax, no one can produce any real evidence.

The New York Times did a report, talking about an Iowa State University economist who searched out and tried to find farms that were forced into sale because of the estate tax. He could not find any. Indeed, they cited officials from the American Farm Bureau. They could not find any concrete examples of a farm that was forced to be sold to pay for estate taxes. So the myth of the family farm being eliminated—the sons and daughters standing there being denied their inheritance because of the estate tax—is a myth.

There is also the suggestion that if we repeal the estate tax there will be no effect on charitable contributions. That, too, is a misnomer. There have been studies on this question. One study was by David Joulfaian, a Treasury Department economist, who estimated that eliminating the estate tax would reduce charitable bequests by about 12 percent, or about \$1.3 billion in 1998 dollars. This would have a deleterious effect on something that we all want to encourage; that is, contributions to charities.

So for these reasons, and many more, I do not think repeal of the estate tax is something that should become permanent.

It will also have an impact on State budgets because there is a portion of the estate tax which is credited to local States for their purposes. This would have adverse effects on the finances of States and the finances of the Federal Government. Ultimately, we would be trading off estate taxes for the rich, relief for those individual estates, and we would be paying for it with Social Security funds. I believe this is not the right way to proceed.

Much of what is talked about today as the inequity of the estate tax is more myth than reality. The reality is that if we make this permanent, it will be a huge windfall, most of it the result of unrealized capital gains for the very wealthiest Americans, and we will be taking away the resources we need to provide support for seniors, for children, for the educational system, for those things that will make us strong as a nation.

I hope we will reject the proposal offered by the Senator from Arizona.

I yield the floor.

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

Mr. CORZINE. Mr. President, I, too, rise in strong support of the second-degree amendment offered by our distinguished chairman of the Budget Committee. His arguments about protecting Social Security and the promotion of fiscal responsibility and basic fairness in our economy are com-

PELLING, particularly when we consider it relative to the permanent extension of the inheritance tax.

This amendment stands for a very simple proposition, a principle that no Social Security surplus funds should be used for any other purpose. Under this second-degree amendment, the Senate would go on record opposing the use of Social Security funds for making currently scheduled tax cuts permanent or for wasteful spending.

Social Security is a sacred compact between the American people and their Government. We have promised all Americans if they work hard and play by the rules, when they retire they will not have to live in the fear of poverty. We have promised them a safety net that will provide baseline payments for their retirement years. That is what Social Security is all about, that safety net.

The Kyl amendment and those who would make permanent the estate tax are truly undermining that promise of Social Security. In this decade alone, we will spend \$104 billion, if this is made permanent, of Social Security revenues and reserves to fund this new accelerated tax cut. And probably as serious with regard to fiscal issues, we will spend over \$800 billion in the following decade just at the time our baby boom generation, those in the demographic bubble, come into play, and when the stresses on Social Security and Medicare and all other Federal Government expenditures will be under most pressure.

This is a bad idea. It is a mistake. The Senator from Rhode Island was speaking in the context of fairness. I wonder why we think 2,800 farm estates out of over 2½ million in 1999 leads us to believe that we need to change this tax policy, particularly when we put it in conjunction with undermining our Social Security payments, and only 48,000 estates were paid in 1998. Then you add in the fact that taxes have not been paid on unrealized capital gains. I don't understand why we want to make the tradeoff of undermining our fiscal position as a nation, undermining our ability to continue to fund Social Security appropriately for such a narrow slice.

We are all asked to sacrifice in a world where we are under constraints because of national defense, homeland security, expenditures we need to make, but we also need to protect our seniors, our Social Security. It seems to me this is a priority that does not match the time nor the place nor the needs of our Nation.

It is not like Social Security is an extraordinarily generous benefit for our seniors. It provides a little more than \$10,000 per person per year on average. In New Jersey, that doesn't go a long way toward paying for retirement.

I don't know why we should be putting it at more risk today than we would at other times, particularly since we are talking about such a narrow slice of the American landscape.

This is a time when making some adjustments to our estate taxes are perfectly reasonable. We have accomplished that. We continue to do that as we go forward. But why we want to make this permanent, undermine our fiscal integrity, undermine Social Security, and do it with an eye that forgets about the fairness of who is getting the benefit relative to what is going to be charged to the American people as we go forward makes no sense.

I hope my colleagues in the Senate will stand with the distinguished Senator from North Dakota and make sure that we have a true expression of the sense of the Senate that stands with the American people.

When the American people are asked a question, do we want to make permanent these tax cuts or do we want to have a raid on Social Security and an undermining of our retirement benefits, 84 percent of the American people say: Let's stand with Social Security, and let's forgo these tax cuts.

I hope we take that into consideration when we are thinking about what are our priorities in this debate about an estate tax cut acceleration relative to our priorities on fiscal responsibility and protecting our seniors through Social Security.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if the Senator from Minnesota will withhold briefly, we are at a point now where we can see a finality to this bill. At the present time, it is my understanding on this estate tax debate, Senator KYL and Senator DAYTON are the only two people still left to speak on this. That is my understanding.

I ask unanimous consent that Senator KYL be allowed to speak for up to 15 minutes and Senator DAYTON for up to 15 minutes regarding amendment No. 2850 and that there be no second-degree amendments in order to either amendment; that is, the Conrad amendment or the Kyl amendment; that upon the use or yielding back of the time of the two Senators I have just mentioned, the amendments be set aside to recur Wednesday, tomorrow, February 13, at 9:40 a.m.; that there be a total of 5 minutes for debate on both amendments with the time equally divided and controlled; that at 9:45 a.m., the first vote occur on the Conrad amendment, to be followed immediately by a vote on the Kyl amendment without further intervening action or debate.

Has Senator CONRAD offered his amendment?

The PRESIDING OFFICER. He has not.

Mr. REID. Mr. President, I will offer his amendment. These will be the two amendments that have been talked about here this evening.

The PRESIDING OFFICER. Is there objection? The Senator from Arizona.

Mr. KYL. Reserving the right to object, I would like to suggest one change

in the proposal. I know Senator DOMENICI would like to speak tomorrow. He is not here this evening. Since there are no other Senators in the Chamber to listen to this debate except for the four who are here, might I inquire of the assistant majority leader whether he would be agreeable to a total of 10 minutes, with 5 minutes per side, and then adjusting it, the 9:40 or 9:45 time; in other words, to add 2½ minutes per side?

Mr. REID. We accept that suggestion. The vote will be at 9:50.

Mr. KYL. Mr. President, I have no objection to that point. Since there were two previous Democratic speakers, I wonder if the Senator from Minnesota would allow me to proceed.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified? Without objection, it is so ordered.

## AMENDMENT NO. 2857

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CONRAD, proposes an amendment numbered 2857.

Mr. REID. 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:

Since both political parties have pledged not to misuse Social Security surplus funds by spending them for other purposes; and

Since under the Administration's fiscal year 2003 budget, the federal government is projected to spend the Social Security surplus for other purposes in each of the next 10 years;

Since permanent extension of the inheritance tax repeal would cost, according to the Administration's estimate, approximately \$104 billion over the next 10 years, all of which would further reduce the Social Security surplus;

Therefore it is the Sense of the Senate that no Social Security surplus funds should be used to pay to make currently scheduled tax cuts permanent or for wasteful spending.

Mr. REID. Mr. President, I ask unanimous consent that there be 20 minutes each for debate prior to a vote in relation to the following remaining amendments: Domenici 2851, as modified; Kerry-Snowe 2852, with the time equally divided and controlled in the usual form; that the amendments must be debated tonight; that no second-degree amendments be in order to the amendments prior to a vote in relation to the amendments; that if the amendment is not disposed of, then it remains debatable and amendable; that the vote in relation to these amendments occur on Wednesday in a stacked sequence in the order in which they were offered; that there be 2 minutes for explanation between each vote; that upon disposition of all amendments, the remaining provisions of the previous unanimous consent agreement remain in effect; provided further that a managers'

amendment still be in order on Wednesday and that Senator MCCAIN be recognized to speak for up to 15 minutes prior to final disposition of this bill.

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

## AMENDMENT NO. 2834, AS MODIFIED

Mr. REID. Mr. President, I send a modification to the desk and state that Senators LEAHY and STEVENS and the two managers have agreed to this amendment. This is in relation to the Leahy amendment No. 2834.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

[The amendment will be printed in the RECORD of February 13, 2002.]

The PRESIDING OFFICER. Is there further debate on the Leahy amendment as modified?

The question is on agreeing to the amendment.

The amendment (No. 2834), as modified, was agreed to.

Mr. LUGAR. I move to reconsider the vote.

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

## AMENDMENT NO. 2851, AS MODIFIED

Mr. LUGAR. I call up amendment No. 2851, which I offered on behalf of Senator DOMENICI earlier today, and I send a modification of the amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

Strike section 132 and insert the following:  
**SEC. 132. NATIONAL DAIRY PROGRAM.**

The Federal Agriculture Improvement and Reform Act of 1996 (as amended by section 772(b) of Public Law 107-76) is amended by inserting after section 141 (7 U.S.C. 7251) the following:

**"SEC. 142. NATIONAL DAIRY PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) DAIRY FARM.—

"(A) IN GENERAL.—The term 'dairy farm' means a dairy farm that is—

"(i) located within the United States;

"(ii) permitted under a license issued by State or local agency or the Secretary—

"(I) to market milk for human consumption; or

"(II) to process milk into products for human consumption; and

"(iii) operated by producers that commercially market milk during the payment period.

"(B) EXCLUSION.—The term 'dairy farm' does not include a farm that is operated by a successor to a producer.

"(2) ELIGIBLE PRODUCTION.—The term 'eligible production' means the average quantity of milk marketed for commercial use in which the producer has had a direct or indirect interest during each of the 1999 through 2001 fiscal years.

"(B) each of fiscal years 2003 through 2005.

"(4) PRODUCER.—The term 'producer' means the individual or entity that is the holder of the license described in paragraph (1)(A)(i) for the dairy farm.

"(b) PROGRAM.—The Secretary shall make payments to producers.

"(c) AMOUNT.—Subject to subsection (h), payments to producers on a dairy farm under this section shall be calculated by multiplying—

"(1) the eligible production; by

"(2) the payment rate.

"(d) PAYMENT RATE.—

"(1) IN GENERAL.—Subject to paragraph (2), the payment rate for a payment under this subsection shall be equal to \$0.315 per hundredweight.

"(2) ADJUSTMENT.—The Secretary may adjust the payment rate under paragraph (1) with respect to the last fiscal year of the payment period if the Secretary determines that there are insufficient funds made available under subsection (h) to carry out this section for that fiscal year.

"(e) APPLICATION FOR PAYMENT.—To be eligible for a payment for a payment period under this section, the producers on a dairy farm shall submit an application to the Secretary in such manner as is prescribed by the Secretary.

"(f) TIMING OF PAYMENTS.—Payments under this section shall be made on an annual basis.

"(g) ADJUSTMENTS.—The Secretary may provide for the adjustment of eligible production of a dairy farm under this section if the production of milk on the dairy farm has been adversely affected by (as determined by the Secretary)—

"(1) damaging weather or a related condition;

"(2) a criminal act of a person other than the producers on the dairy farm; or

"(3) any other act or event beyond the control of the producers on the dairy farm.

"(h) FUNDING.—The Secretary shall use not more than \$2,000,000,000 of funds of the Commodity Credit Corporation to carry out this section."

## AMENDMENT NO. 2850

The PRESIDING OFFICER. The Senator from Arizona is recognized for 15 minutes.

Mr. KYL. Mr. President, let me explain where we are. We have two competing sense-of-the-Senate amendments. The first is the Kyl-Nickles amendment. Incidentally, I ask unanimous consent that Senator HUTCHINSON of Arkansas be added as a cosponsor.

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

Mr. KYL. This sense-of-the-Senate amendment says we should make permanent the repeal of the death tax that the majority of us voted for last year and the President signed into law. It is kind of a cruel hoax to repeal the death tax after a 10-year period, only to have that sunset the very next year. So if you are lucky enough to die in the year 2010, your heirs don't have to pay the tax. But if you are unlucky enough to live to the year 2011, you go right back to the death tax as it existed last year, with a 60-percent rate, with only a \$675,000 exemption. That will be a huge tax increase in that year unless we are able to make the death tax repeal permanent.

I submit that all of us who voted for that—the vast majority of the Members of this body—certainly intended that we weren't playing a trick on the American people. We intended the repeal of the death tax to be permanent rather than just for 1 year. The competing amendment is Senator CONRAD's. The bottom line is that we

not spend Social Security money either for tax cuts or wasteful spending. That is a proposition with which I suspect we can all agree.

The only problem with his proposal is in the text of it, an assertion that the proposal to make permanent the repeal of the death tax actually would spend Social Security money. That is incorrect, as has been pointed out by Senators GRAMM and NICKLES.

Let me talk about the reasons we need to make the death tax repeal permanent and why the arguments of those who oppose that are simply incorrect. One of the arguments the Senator from Rhode Island had was that there is the myth that lots of people pay the death tax. Actually, I didn't assert that. I don't think most people would say lots of people pay it. Too many estates pay it. I guess his point was that people don't pay it, estates pay it. Who owns estates? People do—the heirs, the children, usually, of the person who has died. It is not a very happy circumstance that the death of their father or mother causes them to have to pay a tax. All of the other taxes, with two minor exceptions that we have in our Tax Code, are a result of some action that we take, voluntary action. If you want to earn money, you have to pay income tax. The death tax is the only one where you don't choose the event that triggers the tax. You die; you pay a tax. That is not something you voluntarily do.

That is why everyone who has voted for it has agreed it is an unfair tax and it should not be paid. The fact that not that many people pay it is beside the point. It affects millions and millions of people. Whom does it affect? First of all, all the people in the families of the estates that are being taxed. Secondly, it affects all of the people who tried to plan against the eventuality of paying a death tax. There are literally millions of those people.

In 1999, the estimate is that we collected \$23 billion in estate tax and, in addition to that, Americans paid an additional \$23 billion in estate planning, in insurance, to accountants and lawyers and estate planners. So, in effect, it is a double tax.

Another point the Senator from Rhode Island made was that there is really a demonstrable effect on charitable contributions. He cited a study that said there might be fewer contributions to charity if we repeal the death tax. First, it should not be Federal Government policy to force people to give money to charity. That should be from the heart, not because you have a gun at your head. We can have incentives and we can have a tax credit if you contribute to charity. But we should not say unless you contribute that money to charity, the Government is going to confiscate it from your heirs. That is unfair and not something Federal tax policy should do.

Secondly, to summarize a story of a friend of mine, Jerry Witsosky, who

started a small printing company: He eventually hired 200 people. He was one of the most generous people in our community of Phoenix, AZ. He just could not say no. He had Boys and Girls Clubs named after him. He was a very generous person. When he died, his family had to sell the business to pay the estate taxes. They sold it to a big corporation. So much for preventing the accumulation of wealth. Has that big corporation ever contributed to charities in my community? Not that I am aware.

The bottom line is these private, family-owned businesses are pillars of their community. When they have to be sold off to some big corporation, don't tell me you are going to have enhanced contributions to charity as a result.

The Senator from New Jersey had a couple of arguments—I wish he were still here. He is absolutely wrong in both of the arguments he made. I don't think he has actually read the bill that repealed the tax last year or he would not have made the statement that taxes are not paid on unrealized capital gains under the law that exists today, under the bill we passed last year. That is not correct. We substitute the capital gains tax for the estate tax. So for the first time there will be a tax on unrealized capital gains. The only amount we carve out from that is essentially equal to the exemption we have in the law today. So nobody who is exempt from paying the tax today would have to pay the tax 10 years from now. But except for that carve-out, there is going to be a capital gains tax substituted for the estate tax. So that argument of the Senator from New Jersey is simply incorrect.

The second argument is also incorrect, that no Social Security surplus funds should ever be used and that that is what would happen if we made permanent the repeal of the estate tax. But that is not correct either. As the Senator from Texas and the Senator from Oklahoma pointed out, at the point in time that the repeal of the death tax is made permanent, we are running huge Social Security surpluses. In 2010, for example, according to OMB, we would have a Social Security surplus that year of \$290 billion—a non-Social-Security surplus of \$60 billion. Subtract the \$4 billion in costs from the repeal of the death tax and you still have \$56 billion in non-Social-Security surplus, and you still have the original \$290 billion Social Security surplus.

So the OMB numbers—the very numbers referred to in Senator CONRAD's amendment—believe the claim that we would be taking Social Security money in order to pay for the repeal of the death tax. It just isn't true.

Mr. President, what are the reasons for making the repeal of the death tax permanent? The primary reason is fairness. But the secondary reason is the confusion that exists in the code if we don't do that. Think about it. We

gradually phase down the amount of death tax until the ninth year, when it finally goes out of existence, and 1 year later it is all back again in its worst form—the form that existed last year. How do you plan against that? Unless you are absolutely certain you are going to die in the year 2010, you are going to have to pay the same lawyers, accountants, buy the same insurance, and do the same estate planning that you do today that you will have to do tomorrow. You will have to do all of those things, and the net result is a very inefficient and wasteful situation—money that is unproductively going to these people who could be put productively back into the economy to create jobs, stimulate the economy and, to be fair, frankly, to our families.

That money is wasted unless you consider money going to lawyers as not being wasted. As a recovering lawyer, I would argue differently. The fact is, that is unproductive capital. Wilbur Steger says if you can repeal it tomorrow, you can inject \$40 billion of capital into our economy.

The bottom line is repealing the death tax is good economically. It is also good for the people who have to plan against the eventuality of paying the tax, and it is good for the families who otherwise would have to bear the burden of it.

It is not fair because it is a tax on death rather than voluntary activity. It is bad economic policy and bad tax policy because nobody can figure out under the law we passed last year what they are going to have to do, again, unless they know for sure they are going to die in the year 2010.

Let's go back to the basics. Last year, because of a quirk in the law, we could only pass a 10-year tax bill. We did the best we could. We repealed the estate tax within that 10-year frame. Right after the 10 years expire, the whole provision sunsets, and we go right back to the Tax Code as it existed last year.

Is that what we intended when the vast majority of us voted to repeal the estate tax we call the death tax? No. Were we playing a cruel hoax on our constituents, claiming with great fanfare that we repealed the death tax, but knowing all along we really only repealed it for 1 year? Did we really intend for it to be repealed for 1 year? I daresay everyone who voted for repeal of the death tax is going to support the amendment, the sense-of-the-Senate resolution that says we should make it permanent. Otherwise, they intended something different certainly than I did and, I think, the vast majority of the Americans who support this.

The President in his budget calls for the "permanetizing" of the repeal of the death tax. That is calculated in his budget, and OMB makes crystal clear that budget is not taking one dime from the Social Security surplus to do it. That is why we should reject the proposal of the Senator from North Dakota which has in it a statement that that is what we are doing.

If he is willing to drop that one clause of his sense-of-the-Senate resolution, then I will be the first to vote for his sense-of-the-Senate resolution and urge my colleagues to do so because I agree we should not take Social Security surplus money. But that is not what will happen if we are able to effect a permanent repeal of the death tax.

At the end of the day, this is all about fairness. Is it fair to tax people who are members of a family and who did not choose that the breadwinner in the family die? Is it fair to tax them up to 60 percent of the value of that estate, especially since many of the assets of small businesses and farms are tied up not in cash or liquid assets but in the business itself, so that the net result is they cannot just write a check for that obligation, they literally have to sell the business, as my friend Jerry Witsosky's family had to do? Is that fair?

Is that the policy the U.S. Government should be setting? I submit the answer is no. That is what the vast majority of Senators said last year. The House of Representatives concurred, and the President signed the repeal of the death tax into law.

The only problem with that is, as I have said, it sunsets after the 10th year. That is what we need to correct. We need to find the right vehicle to do that. It has been said the farm bill is not the right bill to do that, even though the tax has a very perverse effect on family farms. That is why we bring this sense-of-the-Senate resolution to our colleagues—if you agree with us that we make the repeal of the death tax permanent, that we intended to do that, and we intend to do as soon as we have the right opportunity and reject the competing sense-of-the-Senate resolution that claims that doing this would take money from the Social Security surplus, something which now three of us have pointed out is absolutely totally false.

If the author of the competing sense-of-the-Senate resolution will drop that claim and will simply say it is the sense of the Senate we not spend the Social Security surplus to “permanentize” tax cuts or on wasteful spending, then we will be happy to support that. We can support both of them. Otherwise, we are going to have to vote against the sense-of-the-Senate resolution of the Senator from North Dakota, and I urge my colleagues to support the sense-of-the-Senate resolution that Senator NICKLES, Senator HUTCHISON, I, and others have sponsored. It is the right thing, it is the fair thing, and it is the honest thing to do for the American people so they are not misled that our action last year in repealing the death tax is for all time. It is not. It is only for 1 year.

I conclude by submitting for the RECORD a list of organizations that support the permanent repeal of the estate tax, what I have been referring to as the death tax, and I ask unanimous

consent this list be printed in the RECORD.

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

THE FAMILY BUSINESS ESTATE TAX COALITION

Air Conditioning Contractors of America; American Business Press; American Consulting Engineers Council; American Council for Capital Formation; American Family Business Institute; American Farm Bureau Federation; American Forest and Paper Association; American Forest Resources Council; American Hotel & Lodging Association; American International Automobile Dealers Association; American Supply Association; American Wholesale Marketers Association; American Vintners Association; Americans for Fair Taxation; Associated Builders & Contractors; Associated Equipment Distributors; Associated General Contractors; Association for Manufacturing Technology.

Citizens Against Government Waste; Citizens for a Sound Economy; Communicating For Agriculture; Construction Industry Manufacturers Association; Farm Credit Council; Fierce and Isakowitz; Food Distributors International; Food Marketing Institute; Guest & Associates; Independent Community Bankers of America; Independent Insurance Agents of America; International Council of Shopping Centers, Kessler & Associates; National Association of Beverage Retailers; National Association of Convenience Stores; National Association of Home Builders; National Association of Manufacturers; National Association of Plumbing-Heating-Cooling Contractors; National Association of Realtors; National Association of Wholesaler-Distributors; National Automobile Dealers Association; National Beer Wholesalers Association; National Cattlemen's Beef Association; National Corn Growers Association; National Cotton Council; National Electrical Contractors Association.

National Federation of Independent Business; National Grocers Association; National Licensed Beverage Association; National Lumber and Building Material Dealers Association; National Marine Manufacturers Association; National Newspaper Association; National Restaurant Association; National Roofing Contractors Association; National Small Business United; National Telephone Cooperative Association; National Tooling & Machining Association; National Utility Contractors Association; Newspaper Association of America; Ocean Spray Cranberries, Inc; Organization for the Promotion & Advancement of Small Telecommunications Companies (OPASTCO); Painting & Decorating Contractors of America; Petroleum Marketers Association of America; Printing Industries of America; Rock Hill Telephone Company; Safeguard America's Family Enterprises; Society of American Florists; Southeastern Lumber Manufacturers; Texas and Southwestern Cattle Raisers Association; Textile Rental Services Association; Tire Association of North America; United States Telecom Association; U.S. Business & Industry Council; U.S. Chamber of Commerce; Wine and Spirits Wholesalers of America; and the Wine Institute.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America; Alliance of Independent Store Owners and Professionals; Alliance of Affordable Services; American Bus Association; American Consulting Engineers Council; American Council of Independent Laboratories; American Machine Tool Distributors Association; American Moving and Storage Association; American Nursery and Landscape Association; American Road & Transportation

Builders Association; American Society of Interior Designers; American Society of Travel Agents, Inc.; American Subcontractors Association; Associated Landscape Contractors of America; Association of Small Business Development Centers; Association of Sales and Marketing Companies; Automotive Recyclers Association; Bowling Proprietors Association of America; Building Service Contractors Association International; Business Advertising Council; CBA; Council of Fleet Specialists; Council of Growing Companies; and the Cremation Association of North America.

Direct Selling Association; Electronics Representatives Association; Health Industry Representatives Association; Helicopter Association International; Independent Community Bankers of America; Independent Electrical Contractors, Inc.; Independent Medical Distributors Association; International Association of Refrigerated Warehouses; International Association of Used Equipment Dealers; International Business Brokers Association; International Franchise Association; Machinery Dealers National Association; Mail Advertising Service Association; Manufacturers Agents for the Food Service Industry; Manufacturers Agents National Association; Manufacturers Representatives of America, Inc.; National Association for the Self-Employed; National Association of Plumbing-Heating-Cooling Contractors; and the National Association of Realtors.

National Association of RV Parks and Campgrounds; National Association of Small Business Investment, Companies; National Community Pharmacists Association; National Electrical Contractors Association; National Electrical Manufacturers Representatives Association; National Lumber & Building Material Dealers Association; National Ornamental & Miscellaneous Metals Association; National Paperbox Association; National Private Truck Council; National Retail Hardware Association; National Tooling and Machining Association; National Wood Flooring Association; Painting and Decorating Contractors of America; Petroleum Marketers Association of America; Printing Industries of America, Inc.; Professional Lawn Care Association of America; Promotional Products Association International; The Retailer's Bakery Association; Saturation Mailers Coalition; Small Business Council of America, Inc.; Small Business Exporters Association; SMC Business Councils; Society of American Florists; Specialty Equipment Market Association; Tire Association of North America; Turfgrass Producers International; United Motorcoach Association; Washington Area New Automobile Dealers Association.

Mr. KYL. Mr. President, I hope my colleagues are joined in making permanent the repeal of the death tax, and we can express that is our intention when we vote on this tomorrow morning.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Minnesota is recognized for 15 minutes.

Mr. DAYTON. I thank the Chair.

Mr. President, I want to take a different tack from some of my Democratic colleagues and say to the Senator from Arizona and others who have expressed his point of view that I understand and respect his sentiment as one which reflects also accurately what I have heard from a lot of Minnesota farmers, a lot of Minnesota business owners throughout the State.

I am convinced, regardless of what my particular view might be and regardless of what the facts of the situation might be, that any farmer or business person or probably anybody who has accumulated some estate who even believes it is possible that he or she will ultimately be affected by this tax considers it onerous. I can see for those it does impact, they consider it onerous.

I agree with the Senator from Arizona that the decision made a year ago by the Congress, signed into law, to finally repeal the estate tax entirely in the year 2010 and then reverse that repeal and go back to the pre-2001 tax level is nonsensical, absurd, and should have been recognized last year for what it was, which was an attempt—in fact, a successful effort—to compress 10 years of tax cuts permitted by the budget resolution into the first 9 years of the budget so we would face exactly this predicament and there would be, as the Senator said, and properly so, no logical explanation to the American people for why these tax cuts which occurred over those 9 years are suddenly all going to disappear in the 10th year.

In fact, I think that argument can equally apply to the reduction in the rates which would also go back to their pre-2001 levels if no change is made. The child tax credit, which will go up to \$1,000 per child, reverts back down to its pre-2001 \$500 level.

I agree with the Senator what was done last year was nonsensical, and any rational person trying to look into that situation, any tax planning expert advising someone about his or her tax plan decisions, especially as that year 2011 approaches, is going to say what it is, and with which I agree: It is nonsensical and ridiculous to conduct tax policy in that way.

I invite the Senator from Arizona to work with me—and I look forward to doing so—to change this practice which I encountered last year which, for the first time, my first year—I understand the tactic, but I think it is fundamentally wrong no matter who perpetrates it, to be having tax changes phasing in, phasing out, and the like. These are the kinds of games and manipulations we all realize occur. No wonder the American people do not think we have a Tax Code they can depend upon, trust, that makes sense. They are right.

In my experience, just about any tax that is imposed upon people is considered onerous. As a policymaker, I guess I am left wondering which of those taxes, from the standpoint of perceived burden and actual burden, would be the prime candidates to be reduced if we had the resources to do so.

I certainly note that competing with the estate tax elimination, in terms of what taxes impact most Americans, the payroll tax would certainly be my first candidate, especially as it affects the employee. Seventy-five percent of working Americans pay more out of their payroll taxes than they do out of

their income taxes. And certainly for employers, for businesses, it is perceived as a cost and as an impediment to hiring additional people.

Another inequity we will face over this next decade as it stands today is some 39 million Americans will be bumped up against the alternative minimum tax by the year 2011 under current law.

We should remedy all of those inequities. The bottom line is, and what Senator CONRAD was asking his colleagues to recognize tonight, and what the American people need to understand about the course that we are about to head down, is we cannot afford to make all of these tax cuts and all of the spending increases which the President's budget proposes without seriously weakening the financial strength of this country so that in a decade, at the end of this 10-year budget period, we are likely to be unable to meet the increased demands of Social Security and medical benefits of an aging population.

If we take the President's budget, assume that the Congress does not change one thing about it, and then apply the Office of Management and Budget, the administration's own fiscal expert, consequences of that budget, as Senator CONRAD said, and it bears repeating, for those next 10 years every dollar in the Federal Government's operating budget, the surpluses, will be eliminated. All of the surpluses in the Medicare trust fund for every 1 of those 10 years will be eliminated. Sixty percent of the Social Security trust fund surpluses, totaling \$1.5 trillion during that time, will have to be spent to pay for the operating deficits which will result, leaving at the end of those 10 years in the fiscal year 2012, \$1 trillion of surpluses in the Social Security trust fund, and \$1.9 trillion of debt that has not been paid because of this additional spending—national debt that, I might add, was projected originally a year ago to have been eliminated by the end of these 10 years.

So I repeat, if we, today, were to adopt the budget which the President has sent to the Congress, without a change, if the economy of this country over the next decade performs according to OMB's assumptions, which are that we will come out of the recession quickly, we will boost up above average GDP, and then we will continue at a rate for the rest of the decade that will result in a decade average of 3.1 percent real growth in GDP; in other words a reasonably optimistic economic assumption sustained over 10 years—low inflation, 2.1 percent, unemployment staying at 4.9 percent, good economic conditions—we will still face \$849 billion in deficits in our operating budgets which have to be made up by Social Security and Medicare trust fund dollars.

At that point, we end up facing the proposal of Senator KYL and others that we should eliminate the estate tax permanently during that following dec-

ade, which the Congressional Budget Office predicts would cost \$4 trillion. If we look at the numbers, we will see we cannot afford to sacrifice another \$4 trillion in tax revenues during that time.

The Social Security payments are going to increase. The national debt has not been eliminated. Frankly, I am not even as concerned about that decade, at least not tonight, as I am about the decisions we will be making over the next few weeks and months that will affect what precedes that decade.

I assume Senator KYL's amendment will pass tomorrow. It is a sense-of-the-Senate resolution. It has no force of law. It does not start to take effect until the year 2011. That is about as easy a tax cut vote as anybody can ever hope for.

I implore my Republican colleagues, I implore all of my Senate colleagues, to review the President's budget proposals and to review Senator CONRAD's predictions because they essentially agree. They say if that budget is adopted, we are heading into another decade-long spree of cutting taxes. We did last year. Now some want to accelerate those tax cuts. We want to make some of those tax cuts permanent in following decades—popular decisions, every one of them not in context.

We are proposing to embark on a major military spending spree, \$451 billion of additional defense spending in the next 5 years compounded through the next 5 years, spending that we are not paying for with the tax cuts; that we are paying for with the Medicare and Social Security trust funds. Those are the unavoidable realities, the unpleasant realities that we would prefer to avoid. If we do that, we will jeopardize the long-term financial security of this Nation.

If we repeat what occurred in the 1980s and send this country down the path of ongoing budget deficits, we will bequeath to our children and those who follow a fiscal nightmare of unprecedented proportions. Regardless of what we do tomorrow with the sense-of-the-Senate resolution, the real decisions we are going to face in the months ahead will not be those kinds of cosmetics. They will be real commitments to tax cuts and to spending increases that will be sweet and appealing at the time, but the reality is they will jeopardize this country's financial strength and stability.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2851

Mr. LUGAR. Mr. President, under the unanimous consent agreement that has been adopted on amendment No. 2851, the Domenici amendment on dairy, that debate must occur this evening. The provision provides for 2 minutes of debate tomorrow prior to the vote, equally divided. Senator DOMENICI is not able to be present. Earlier today, on his behalf, I offered the amendment with a short argument.

I ask that the Chair call up amendment No. 2851.

The PRESIDING OFFICER. The amendment is now pending.

Mr. LUGAR. Mr. President, I yield myself as much time as I may require from the 10 minutes provided to the proponents of the amendment.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LUGAR. Mr. President I will read from a letter which Senator DOMENICI has written to his colleagues in the Senate in support of amendment No. 2851:

I ask you to join me in making the dairy title of the farm bill equitable to all producers across the country. There is currently \$2 billion available in S. 1731 over the next five years for the dairy program. However, the dairy title of the farm bill currently under consideration on the Senate floor gives special treatment to 12 states at the expense of the remaining 38. Specifically,

those producers in the 12 New England states currently producing 18% of our nation's milk, will receive a disproportionate 25% in producer payments. This is inconsistent with the vast majority of other programs where the loan rate, or payment rate for a particular commodity is the same for producers all across the country. There is no market justification for this type of division.

FAPRI analysis of S. 1731 shows that the response to these payments would result in depressed market prices. By the last year of the program, estimates predict that income to dairy farmers in every state would be reduced. This is a reduction on all milk—not just milk of a certain level of production. Thus, producers whose milk is not eligible for the payments will be receiving less money for their milk than if the payments were not made at all. To be fair, those producers should not have to pay for this policy. All producers should be allowed to fully participate.

I ask that you support an amendment that will be offered on my behalf that will distribute this \$2 billion in a more equitable

manner. The program that I propose is national in scope.

Dairy prices can change rapidly from month to month. Rather than burden the Secretary with the costs of computing payment rates and making monthly payments, I propose to streamline this process and make an annual flat payment to producers over the next five years which will approximate the counter-cyclical payments they would receive if computed and paid like other commodities. Estimates show that rate to be approximately 31.5 cents per hundredweight on all milk produced. Under this approach, administrative costs will be reduced and payment uncertainties will be eliminated. A payment on all milk will provide, in gross dollars, as much or more money to virtually all states. A table illustrating this is attached.

I ask unanimous consent to have that printed in the RECORD.

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

COMPARISON OF PRODUCER PAYMENTS DASCHLE SUBSTITUTE—DOMENICI AMENDMENT

State	2001 production (million)	Eligible pounds (million)	Daschle substitute			Domenici amendment (thous)
			Min (\$thous)	Mid (\$thous)	Max (\$thous)	
Alabama	300	278	486	1,652	3,402	3,623
Alaska	14.36	13	23	79	163	173
Arizona	2884	854	1494	5079	10457	34824
Arkansas	459	425	743	2528	5204	5542
California	33194	15435	27012	91839	189081	400818
Colorado	1961	1181	2066	7024	14461	23679
Connecticut	459	425	5785	7646	7646	5542
Delaware	140.9	130	1776	2347	2347	1701
Florida	2389	1206	2111	7178	14779	28847
Georgia	1431	1241	2171	7382	15198	17279
Hawaii	106.4	98	172	586	1206	1285
Idaho	7754	3644	6378	21684	44644	93630
Illinois	2020	2006	3510	11935	24572	24392
Indiana	2576	2476	4332	14729	30325	31105
Iowa	3785	3702	6478	22025	45346	45704
Kansas	1560	1444	2527	8591	17688	18837
Kentucky	1657	1654	2894	9839	20258	20008
Louisiana	629	582	1019	3464	7132	7595
Maine	656	607	8268	10928	10928	7921
Maryland	1285	1207	16430	21716	21716	15516
Massachusetts	366	339	4613	6097	6097	4419
Michigan	5721	5166	9041	30738	63284	69081
Minnesota	8895	8610	15068	51232	105477	107407
Mississippi	505	467	818	2781	5726	6098
Missouri	1972	1942	3399	11557	23795	23812
Montana	346	320	560	1906	3923	4178
Nebraska	1146	1061	1856	6311	12994	13838
Nevada	485	449	786	2671	5499	5856
New Hampshire	322	298	4058	5364	5364	3888
New Jersey	242	224	3050	4031	4031	2922
New Mexico	5561	1268	2219	7544	15532	67149
New York	11750	11045	150396	198781	198781	141881
North Carolina	1164	1083	1894	6441	13261	14055
North Dakota	655	606	1061	3607	7427	7909
Ohio	4388	4318	7556	25691	52893	52985
Oklahoma	1293	1050	1837	6247	12861	15613
Oregon	1746	1437	2515	8550	17603	21083
Pennsylvania	10849	10697	145669	192520	192520	131002
Rhode Island	23.6	22	297	393	393	285
South Carolina	363	336	588	1999	4116	4383
South Dakota	1631	1432	2506	8521	17542	19694
Tennessee	1335	1324	2318	7880	16223	16120
Texas	5099	4166	7290	24787	51032	61570
Utah	1634	1428	2499	8497	17494	19731
Vermont	2678	2557	34824	46028	46028	32337
Virginia	1878	1850	3237	11006	22660	22677
Washington	5512	3467	6067	20629	42471	66557
West Virginia	249	230	3138	4148	4148	3007
Wisconsin	22225	21558	37727	128272	264089	268367
Wyoming	63	58	102	347	714	761
Total	165,357	.....	552,657	1,092,831	1,720,534	1,996,689

Source: USDA Dairy Products 4/17/01, 7/17/01, 10/16/01, 1/17/02.

Eligible pounds are pounds per operation at or below 8,000,000 per year and approximate the percentages used by FAPRI in its analysis.

Payment rates under Daschle Substitute are from Ken Bailey, Penn State Staff paper #344, December 20, 2001. Analysis of the Dairy Provisions in the Senate Version of the Farm Bill. Payments in the NE Program had to be reduced to keep within the 500 million budgetary cap.

Mr. LUGAR. I continue reading:

I also propose the elimination of caps on payments to producers based upon production. This is a fairness issue. Since 1983, dairy producers have paid assessments for their programs. These assessments have always been without limitation. Now that there are payments, these producers should benefit from the same policy—payments without limitations.

A well known dairy economist with Penn State University, using recent historical prices, estimated that payments for the Northeast farmers would be from 24 cents to 91 cents per hundredweight with an average of 57 cents. At the same time producers elsewhere would receive from nothing to 35 cents with a mid point of 14 cents.

Producers in the same marketing orders who share the same blend prices and the same markets, could be treated vastly dif-

ferent under S. 1731. These producers are members of the same cooperatives, use the same trucking companies and otherwise participate in a single market. Yet, some in the market order stand to make 3 to 4 times as much as their neighbors, while market prices in the rest of the country are significantly reduced as a result of the disparity.

Again, I urge you to join me in making the dairy title equitable to all producers. If you

are interested in co-sponsoring this legislation or need additional information, please contact Shelly Randel at 224-1964.

I wish Senator DOMENICI were here to make the statement himself and to further amplify the equity of his program, but common sense would dictate that there should be equity among the States. Clearly, there is not. Clearly, dairy farmers with almost identical conditions and identical cooperatives should have equitable treatment. S. 1731 clearly does not accomplish that.

Therefore, I commend the Domenici amendment to Senators. I am hopeful when the debate concludes tomorrow after the 2 minutes, 1 minute a side to summarize, that Senators will vote in favor of the Domenici amendment.

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. LUGAR. 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. LUGAR. Mr. President, I will ask again that a quorum call be instituted with the time evenly divided between the two sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I would like to bring to the Senate's attention an issue that I hope we might continue to work on during the conference on the farm bill. Last year President Bush set a theme that we "should not leave any child behind." While the world has certainly changed in the past year, I believe that one of the reasons we will succeed in the war against terrorism is that we understand the importance of leaving no child behind. It is my hope that as we work through this conference we will keep our children's health as a top priority.

The Food Stamp Act provides assistance to millions of children living in the United States. In 1980, Congress removed Puerto Rico from the food stamp program as a budget-cutting initiative and established in its place the Nutrition Assistance Program, a block grant for Puerto Rico to provide a modified Food Stamp Program. The Nutrition Assistance Program in Puerto Rico known as NAP, provides support to over 400,000 children.

Over the past year, Puerto Rico's Governor Sila Calderon and her administration have moved aggressively and voluntarily to complete implementa-

tion of an Electronic Benefits System for the nutrition program. The Commonwealth thus joins the 50 States as they modernize their food stamp distribution services to ensure authorized purchases by the individuals for whom the benefits were intended. They have worked effectively with the USDA's Food and Nutrition Service to strengthen the administration of the program to ensure that limited dollars are stretched to the maximum.

However, as of 2000, the annual purchasing power of NAP was \$147 million less than when it was enacted 22 years ago, compared to the cost of household food on the mainland. If you use the index measuring the increased cost of food in Puerto Rico, you find that the purchasing power of the program has fallen by almost \$1 billion.

The loss of purchasing power has real effects on real children. If you look at the NAP and compare it to the Federal Food Stamp Program, you find that the program, 1, does not provide similar benefits; and 2, the budget limitations have excluded many low-income children in Puerto Rico from participation in the program.

For example, the Food Stamp Program's monthly income limitation is \$1,531 for a family of three on the mainland and in the Virgin Islands, but the NAP program must limit participation in the program to families of three whose income is \$558. This amount equals about 47% of the Federal poverty level, while participation in the Federal Food Stamp Program is extended to those whose incomes are less than 150% of the Federal poverty level.

The NAP maximum benefit level for the family of three is \$268 as compared to \$341 for food stamps on the mainland and \$431 on the Virgin Islands. This problem becomes even more egregious when the cost of purchasing essential food items is compared between Puerto Rico and the mainland. For example, a gallon of milk in San Juan costs \$3.89 compared to \$2.87 in Washington, D.C.

When Congress established the Nutritional Assistance Program it was our intent to reduce cost and permit the Commonwealth flexibility in providing nutrition support. We certainly did not intend to create a gap such as the one that now exists between these two programs.

Puerto Rico's children are U.S. citizens who deserve a greater opportunity for nutritional support. These young men and women will serve in the U.S. military, they will pay Social Security, Medicare and unemployment taxes, and they are expected to compete in the U.S. labor market. I believe that we need to ensure that children who are U.S. citizens and live in Puerto Rico are not left behind when it comes to nutrition.

I look forward to working with the distinguished chairman; the distinguished ranking member Senator LUGAR; and the other conferees to examine alternatives for providing resources to the Nutrition Assistance

Program so that there is some narrowing of the gap between the Federal Food Stamp Program and the Nutrition Assistance Program.

Again, I thank the chairman for his excellent work on this issue, and I look forward to working with him to advance this cause.

Mr. LUGAR. Mr. President, I would like to associate myself with the remarks of my friend, the distinguished Senator from Vermont. As I have indicated in remarks throughout the Senate's deliberations on this bill, nutrition assistance is of paramount importance for enhancing our nation's security. I am familiar with the Nutrition Assistance Program in Puerto Rico and recognize the importance of adjusting benefit levels and income requirements for inflation. This is why Senator COCHRAN and I worked together on legislation, 2 years ago, that now provides such an adjustment. I look forward to working with Senator LEAHY, Chairman HARKIN and the other conferees in the conference on this bill to explore this issue by assessing the needs of low-income Puerto Ricans and possible means of addressing those needs.

#### PEANUT PROGRAM

Mr. SANTORUM. Mr. President, I rise to engage in a colloquy with my distinguished colleague from Georgia, Mr. MILLER, regarding the peanut title of the proposed farm bill.

My colleague represents the largest peanut growing State and I represent one of the largest peanut product manufacturing States. I compliment him for his leadership and I am pleased by the efforts of the Agriculture Committee in moving to a market-oriented peanut program. My foremost concern is for elimination of the peanut quota system, which has restricted peanut production in the United States. Do the provisions of this farm bill terminate the peanut quota program?

Mr. MILLER. Yes, the legislative language of this farm bill explicitly terminates the peanut quota system effective with the 2002 crop. The bill also provides that the Secretary of Agriculture is to enter into contracts that will compensate quota owners for the loss of their quota.

Mr. SANTORUM. I believe such provisions are useful, but I would like to have the compensation to quota owners terminated 1 year before the end of this 5-year farm bill. I have no problem with the House bill, which buys out quota owners over a 5-year period in the context of a 10-year farm bill.

Mr. MILLER. If we end up with a 5-year farm bill as a result of the House-Senate conference, my quota owners would have no problem in having their quota bought out over 4 years. Therefore, I commit to the Senator to work with the House-Senate conferees to ensure that we end the quota owner buy-out contract 1 year shy of any farm bill reauthorization.

Mr. SANTORUM. I thank my colleague for this unquestioned commitment to finding an agreeable resolution. I understand that these reforms

may be difficult for some of his peanut quota growers. However, if we fail to provide real reform of the peanut program we will have done a great disservice to the entire U.S. peanut sector.

Mr. MILLER. Ever-expanding peanut imports are threatening the current and future viability of the peanut industry in Georgia and other peanut-producing and manufacturing states. Peanut growers, shellers, and manufacturers will come under increasing pressure as peanut production and peanut processing infrastructure moves offshore. I am pleased to say that this new peanut program offers a positive resolution for the entire peanut industry, and the new program ensures that the U.S. peanut sector is competitive in the world marketplace.

Mr. SANTORUM. I applaud the leadership and foresight of the Senator from Georgia in developing a peanut program that truly brings needed reform to the program while presenting new opportunities for young peanut farmers.

Mrs. CARNAHAN. Mr. President, I wish to enter a short colloquy with the Senator from Iowa, Chairman of the Agriculture Committee and the floor manager of this bill. As you know, the manager's amendment contains a provision designed to remedy problems that transpired last year in the programs governed by Public Law 107-25. My question is whether this remedy applies to farmers eligible for payments and assistance under Public Law 107-25, but who were denied payments and assistance because their cases were under appeal when the September 30, 2001 deadline passed.

As the distinguished Senator might know, several Missouri farmers did not receive payments and assistance they were entitled to under Public Law 107-25. It was impossible for these Missouri farmers to meet their September 30 deadline because their cases were under appeal. They received no payments even though it was eventually determined that they were eligible for assistance. So, by no fault of their own, several Missouri family farmers face ominous financial situations without the clarifications provided in this amendment.

Mr. HARKIN. I commend the Senator's work on behalf of Missouri family farmers and thank her for her consideration of this amendment. This amendment will indeed apply to farmers who were under appeal status when the deadline passed but later were found to be in compliance and eligible for payments and assistance under Public Law 107-25. The amendment provides that they will receive payments for which they were eligible and have not received. I am pleased that this amendment will help Missouri farmers facing difficult situations.

#### NUTRITION

Mr. LEAHY. Mr. President, I ask to be recognized for the purpose of engaging in a colloquy with my good friends,

the distinguished senior Senators from Massachusetts, Pennsylvania, Florida, and Minnesota. Each of us worked closely with the distinguished Chairman and Ranking Member of the Committee on Agriculture to ensure that the nutrition title of the pending legislation represents an important step forward to improve the program's ability to help low-income children, working poor, and the elderly. As a former chairman of the Agriculture Committee, I know the importance of achieving balance in a farm bill. To ensure broad, bipartisan and bicameral support, a farm bill must have a strong nutrition title that benefits urban and suburban areas that feel less of a direct stake in the agricultural provisions of the bill. I think the pending legislation has that. Unfortunately, the bill passed by the other body earlier this fall does not. A mere \$3.6 billion out of a \$73.5 billion farm bill does not come close to representing balance and leaves unmet too many of the urgent nutritional needs of low-income families in urban, suburban, and rural areas alike.

Mr. KENNEDY. This farm bill makes important progress in ensuring the nutritional well-being of low-income children. The food stamp program is by far our nation's largest and most important child nutrition program. Over half of all food stamp recipients are children. Four-fifths of all food stamp benefits go to families with children. Despite its important mission, however, this program has been in trouble. Fully half of the savings in the 1996 welfare law came from budget-driven cuts in food stamp benefits. Since then, sharp reductions in the participation rate among eligible households have produced huge additional problems. As a result, significant unmet need exists among low-income children in our country. This legislation takes important steps to address these problems. It recognizes that one of the clear consequences of welfare reform is that children have been hurt. It was never the intention of the 1996 law to cut off these children. This legislation restores benefits to all children to eliminate confusion, and to encourage parents to apply for benefits on behalf of their children. In addition, this legislation recognizes that families with children have greater living expenses than single individuals, and it adjusts the food stamp standard deduction accordingly. It relies on the fundamental concept, similar to the concept in legislation I introduced last year with Senator SPECTER, that food stamp benefits should not start to phase down until a family's income is nine percent above the poverty line. By providing more adequate food assistance benefits to children, we can help ensure that they go to school ready to learn and grow up to be strong, healthy, productive members of our society.

Mr. GRAHAM. Accordingly, one of the most important aspects of the nutrition title of this legislation is its sensitivity to the needs of legal immi-

grants and their families. Immigrants come to this country today for the same reasons that have brought them here throughout our history: to live in freedom and the opportunity to earn a better life for themselves and their families through hard work. Unfortunately, many immigrants, like other workers in this country, will at times find it difficult to obtain work. Others may be unable to work for a period of time because of workplace injuries or family illnesses. To prevent these hard-working, tax-paying families from suffering serious hardship, it is vital that we extend our country's nutritional safety net, the food stamp program, to more legal immigrants, particularly immigrant children. Unlike its counterpart in the other chamber, the nutrition title of this legislation does just that. I am proud to support that effort.

Mr. WELLSTONE. While falling somewhat short of what I had hoped for in terms of nutrition funding, this legislation nonetheless makes important strides to help ensure that the most vulnerable among us are not left without adequate nutrition in this land of plenty. Refugees and asylees, who enter this country to escape foreign oppression, could receive food stamps for as long as they need them without having to worry about an arbitrary time limit such as the one in current law. Childless unemployed adults could receive six months of food stamps within a twenty-four month period designated by the state. This is still a harsh provision, tougher than the provision that twice passed the Senate in the mid-1990s with bipartisan support. Nonetheless, it would give more people enough time to find new employment before their food stamp eligibility runs out. The legislation also preserves a \$25 million fund to help these states provide work slots to persons reaching this time limit. The legislation also helps the very poorest of the poor by increasing the standard deduction and by providing transitional food stamps to persons leaving welfare because they obtained low-paying jobs or because they reached a time limit.

Mr. LEAHY. I fully concur with and support the comments of all four of my distinguished colleagues that have just spoken on the nutrition title of the farm bill. In addition to the many important features of the bill highlighted in their remarks, I would like to add that this legislation also takes major steps to simplify the program. Households would be permitted to report on changes in their circumstances by filling out a simple form every six months rather than having to take time off from work to visit the food stamp office, as often happens today. The cumbersome recertification process would be replaced by the same kind of re-determination process long used in the SSI and Medicaid programs. The crucial excess shelter deduction would be retained. This is essential to protect families in cold weather states like Vermont from facing the cruel choice

between heating and eating. Nonetheless, legislation would greatly simplify the calculation of households' utility costs. States would be given the option to conform their definitions of income and resources in the food stamp program to those they use in other programs. This should allow states to eliminate unnecessary questions from their application forms. In simplifying the program, this legislation strives to protect families in need from experiencing hardship. Simplification should be a means of helping the program serve families better, not an end unto itself. I believe the simplification provisions in this legislation meet that test. As a result, this legislation makes important progress toward simplifying the program in ways that the benefit of State administrators and needy families alike.

#### MARKET ACCESS PROGRAM FUNDING

Mrs. MURRAY. Mr. President, I rise today to speak on an amendment I filed to the farm bill that would enhance funding for the U.S. Department of Agriculture's Market Access Program. I appreciate the support and co-sponsorship of Senators FEINSTEIN, CRAIG, CANTWELL, BOXER, and WYDEN on this amendment.

Last year, the House of Representatives passed Trade Promotion authority by one vote, and the World Trade Organization meetings in Doha wrapped up with an agreement to begin a new round of trade negotiations. In Washington, D.C., and in the capitals of nation's around the world, it appears that momentum is building to expand trade.

But in rural areas in my home State, the support for new trade agreements is declining. Apple growers in Omak, WA and asparagus growers in the Yakima Valley are asking tough questions about our trade agreements.

Washington State is the most trade-dependent State in the nation. I have supported opening new markets for our products, whether it's airplanes or apples. I have also been a strong supporter of giving our farmers and businesses and tools they need to compete.

The global marketplace is tough, extremely competitive, and not always based on free market principles. Foreign governments have taken an aggressive posture in promoting their products. We need to be aggressive too.

One way we can be aggressive is to fully fund the Market Access Program. MAP helps nonprofit industry groups and other qualifying entities to conduct market promotion in foreign markets. MAP funds can be used for advertising and other consumer promotions, market research, and technical assistance.

In my home State of Washington, I have seen how MAP can help farmers, cooperatives, and small businesses. For example, each year, the apple industry receives roughly \$3 million in export development funds from the USDA Market Access Program.

These funds, matched by grower funds, are used to promote U.S. apples

in more than 20 countries throughout the world. Since 1987, when the apple industry first used MAP funds, apple exports have increased by 88 percent. Nearly one-quarter of fresh U.S. apple production is exported each year, with an estimated value of nearly \$400 million.

If we are not aggressive, we will not gain market share.

My amendment would have modified the Senate Farm Bill to fund MAP at \$200 million by 2004, and brought the Senate bill more in line with the House-passed Farm Bill, which funds MAP at \$200 million beginning in fiscal year 2002. While it may not be possible to fully fund MAP at \$200 million in fiscal year 2002, I strongly support funding MAP at this level beginning in fiscal year 2003.

Mrs. MURRAY. I want to begin by thanking Senator FEINSTEIN for her strong advocacy for additional Market Access Program funding. I also want to commend the Chairman of the Senate Agriculture Committee, Senator HARKIN, for writing a strong trade title in this Farm Bill. It is clear to me that Senator HARKIN understands how critical USDA trade programs are to our farmers and ranchers, and to hungry nations around the world.

I am concerned, however, about the level of funding for the Market Access Program in the early years of this Farm Bill. I was prepared to offer an amendment to the Farm Bill to add \$145 million to the Market Access Program, so that we would fund MAP at \$200 million sooner than in the underlying bill. Unfortunately, some controversy arose over the offset for my amendment.

I would ask Senator FEINSTEIN if she believes we need to fund the Market Access Program at \$200 million as soon as possible in the final Farm Bill.

Mrs. FEINSTEIN. I agree very strongly with the Senator from Washington that we need to fund the Market Access Program at \$200 million.

If American agriculture is to remain competitive, we must ensure that our farmers are given the same support that their foreign competitors receive.

Heavily subsidized foreign citrus entering the U.S. has quadrupled over the last five years, significantly lowering prices domestically for California growers. In the European Union alone, government subsidization of the fresh produce sector reaches upwards of \$15 billion each year.

The Market Access Program provides new jobs—jobs for longshoremen, jobs in processing, jobs in transportation, and of course, jobs for growers.

The Market Access Program is an important tool in expanding markets for U.S. agricultural products.

The U.S. Department of Agriculture estimates that each dollar spent on the Market Access Program results in an increase in agricultural exports of between \$2 and \$7.

Small farmers especially benefit from this program because they would

not be able to break into these foreign markets on their own.

The Market Access Program helps create and protect U.S. jobs, combat inequitable trade practices, improve the U.S. balance of trade, and improve farm income.

I thank the Senator from Washington for her leadership on this issue. I look forward to continuing our work together on increasing funding for this valuable program. To the distinguished Chairman of the Agriculture Committee, thank you for your continued help and support.

Mrs. MURRAY. I thank the Senator from California for her remarks. I would ask the Senator from Iowa if he supports raising MAP funding to \$200 million as soon as possible in the final Farm Bill that is sent to President Bush.

Mr. HARKIN. I want to thank the Senators from Washington and California for their strong advocacy for the Market Access Program. I believe this is an indispensable program, particularly for specialty crop producers around the country.

To answer the question raised by the Senators from Washington and California, I agree we need to fund MAP at \$200 million. The conference committee will have to address many difficult issues, however I believe it is a reasonable goal to try to fund MAP at \$200 million as soon as possible, recognizing that it may take some time for USDA to ramp up the program effectively.

Mrs. MURRAY. I thank the Senator from Iowa for his strong support for the Market Access Program and the specialty crop growers in my state.

#### MILK PROTEIN CONCENTRATE

Mr. DAYTON. Mr. President, today I planned to offer an amendment to the Senate farm bill that would close the milk protein concentrate loophole.

During the Uruguay Round multilateral trade negotiations, the United States agreed to allow a substantial increase in dairy product imports into this country. Tariff-rate quotas were established to allow imports of most dairy products to rise from an average of 2 percent of domestic consumption to as much as 5 percent.

Until recently, these controls have been effective, but foreign exporters now have found ways to circumvent these quotas. Importers are adjusting the protein content of nonfat dry milk so that it is classified by the U.S. Customs Service as milk protein concentrate, or MPC, a product that is not limited by a tariff-rate quota.

There is no tariff-rate quota on MPC because it was a relatively new product when the Uruguay Round WTO agreement was negotiated.

In March 2001, a General Accounting Office study requested by Congress determined that MPC imports have surged by more than 600 percent in just 6 years. MPC imports doubled between 1998 and 1999 alone. According to the GAO study, it appears that some foreign exporters are blending previously

processed dairy proteins, such as casein and whey, into nonfat dry milk to boost its protein content. This is being done solely for the purpose of avoiding the U.S. tariff-rate quota for nonfat dry milk. This practice, specifically cited in the GAO report, circumvents statutory regulations designed to restrict imports of nonfat dry milk powder.

I have introduced legislation, S. 847, that would close this loophole by regulating MPC imports in the same manner all other dairy product imports are regulated, by establishing new tariff-rate quotas on MPC. It also would close a similar loophole that exists for casein used in the production of food or feed, while continuing to allow unrestricted access for imports of casein used in the manufacture of glues and for other industrial purposes.

The Minnesota Farmers Union, the Minnesota Milk Producers, the National Milk Producers Federation, and the National Farmers Union strongly support this bill. I have worked closely with these organizations over the past year to find an appropriate legislative vehicle for my bill, and that is why I am now offering this legislation to the Senate Farm Bill.

Mr. BAUCUS. Mr. President, I commend the Senator from Minnesota for his hard work on behalf of U.S. dairy farmers. This bill, however, properly falls under the jurisdiction of the Senate Finance Committee. As chair of the finance committee, I will work with the Senator from Minnesota to bring the issue to the attention of the Finance Committee members and to find an appropriate legislative vehicle for his proposal this session.

Mr. DAYTON. Mr. President, I thank the Senator from Montana for his strong support for U.S. dairy farmers. I respectfully withdraw my plans to offer this amendment.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business, with Senators permitted to speak therein for a period not to exceed 5 minutes each.

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

CHANGES TO THE 2002 APPROPRIATIONS COMMITTEE ALLOCATIONS AND THE BUDGETARY AGGREGATES

Mr. CONRAD. Mr. President, Division C of Public Law 107-117, the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act of 2002, increased the statutory limits on discretionary spending for fiscal year 2002. Specifically, it raised the cap on general purpose discretionary budget authority to \$681.441 billion and the cap on general purpose discretionary out-

lays to \$670.206 billion. The legislation also increased the cap on outlays for conservation programs to \$1.473 billion. Accordingly, I am adjusting the Appropriations Committee's allocation and the budget aggregates to reflect the revised statutory caps.

In addition, Mr. President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the budgetary aggregates and the allocation for the Appropriations Committee by the amount of appropriations designated as emergency spending pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. Public Law 107-38, the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, authorized \$40 billion in emergency funding. Public Law 107-38 made the first \$20 billion immediately available in fiscal year 2001 and the second \$20 billion contingent on the enactment of a subsequent appropriation.

Mr. President, I previously adjusted the committee's allocation and the budget aggregates for the 2002 impact on outlays from the first \$20 billion provided in 2001. Public Law 107-117, which was signed into law on January 10, 2002, made available the second \$20 billion in emergency spending. That budget authority will result in new outlays in 2002 of \$8.223 billion. Consequently, I am making further adjustments to the committee's allocation and to the budget aggregates.

Pursuant to section 302 of the Congressional Budget Act, I hereby revise the 2002 allocation provided to the Senate Appropriations Committee in the concurrent budget resolution in the following amounts:

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002  
(In millions of dollars)

	Budget authority	Outlays
<b>Current allocation:</b>		
General purpose discretionary .....	549,744	551,379
Highways .....	0	28,489
Mass transit .....	0	5,275
Conservation .....	1,760	1,232
Mandatory .....	358,567	350,837
<b>Total .....</b>	<b>901,071</b>	<b>937,212</b>
<b>Adjustments:</b>		
General purpose discretionary .....	154,496	141,338
Highways .....	0	0
Mass transit .....	0	0
Conservation .....	0	241
Mandatory .....	0	0
<b>Total .....</b>	<b>154,496</b>	<b>141,579</b>
<b>Revised allocation:</b>		
General purpose discretionary .....	704,240	692,717
Highways .....	0	28,489
Mass transit .....	0	5,275
Conservation .....	1,760	1,473
Mandatory .....	358,567	350,837
<b>Total .....</b>	<b>1,064,567</b>	<b>1,078,791</b>

Pursuant to section 311 of the Congressional Budget Act, I hereby revise the 2002 budget aggregates included in the concurrent budget resolution in the following amounts:

TABLE 2.—REVISED BUDGET AGGREGATES, 2002  
(In millions of dollars)

	Budget authority	Outlays
Current allocation: Budget resolution .....	1,520,019	1,498,600
Adjustments: Emergency and cap increases ..	154,496	141,579
Revised allocation: Budget resolution .....	1,674,515	1,640,179

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 31, 1994 in Pensacola, FL. A gay man was struck by a car driven by a man who shouted anti-gay slurs. The driver, James Griffin, 18, was charged with aggravated battery in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ASIAN NEW YEAR

Mr. CORZINE. Mr. President, today, February 12, 2002, is the first day of the new lunar year. Americans of Asian heritage are celebrating the beginning of the Year of the Horse. This is an occasion for Asian Americans to gather with their families, think of those who have passed away, enjoy symbolic foods, and usher in good luck and health for the year to come.

As a Nation of immigrants, we all share in this time of celebration and salute the rich customs and energy that people of Asian descent have contributed to America. I am proud that the State of New Jersey is home to over 480,000 Asians and Asian Americans, representing the fifth largest community in the United States. Asian American New Jerseyans are an important and valued part of our diverse and vital community. In these troubled times, I hope you will join me in sharing in celebration and remembrance and help to reaffirm the importance of mutual respect and diversity in our Nation.

ECO-TERRORISM—DOMESTIC TERRORISM HURTS OUR NATION

Mr. CRAIG. Mr. President, I rise today to address the subject of eco-terrorism and the assault on our public lands. Eco-terrorism is described as any crime committed in the name of saving nature. And these "crimes" range from civil disobedience to crimes