we have had in a very long time to make some changes, to make some of the kinds of changes that the American people asked us to make in November and, indeed, have been asking us to make for some time.

It is the first opportunity in a long time to make some of the kinds of changes that most of us have known needed to be made for a long time in the welfare program. Most everyone agrees that we need a program in this country to help people who need help and help them back into the workplace. The program as it now exists has not accomplished that. Indeed, the program we now have has not accomplished the basic things we think it should accomplish.

The provisions of this welfare proposal will allow us to encourage people back to work, to put in some incentives to go back to work, and to deal very properly with the notion of child care, with extending health benefits to single-parent families so that that parent can work.

We have done this in our own Wyoming Legislature. We recognized some time ago that if the option was to take a minimum wage job and lose those benefits, then the better thing to do was stay on welfare. We have to change that. We do have to make some changes if we expect different results, and too often we all talk expansively about change; we want to make change; we are all for change; but when the time comes, we really resist change. We simply cannot expect the results to be different unless we do some changing, and one of the principal, most important changes here is to allow the States to have more flexibility, to allow the States to be the laboratory for developing and testing and creating programs that, indeed, deliver the kinds of programs needed.

I urge my fellow Senators to vote in support of this welfare bill today.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

Madam President, just very briefly regarding the welfare reform proposal, this is a substantially improved product from what the other body, the House of Representatives, has passed. It is certainly improved over what was originally proposed by the majority leader in the areas of child care, maintenance of effort, and a number of other areas that have been included as part of this proposal. My concern is, of course, that this may be the best it ever gets and that as we go to conference, as historically happens, you find some sort of middle ground between what the Senate has done and what the House of Representatives has done.

If that is the case, this bill will come back to us from conference in a very weakened position. And so while I think there will be a substantial vote for the proposal today, having spoken now with a number of our colleagues, particularly on this side, Madam President, it should not be construed, if the vote is a strong vote for the Senate proposal, that this is some indication of a willingness to support whatever comes back from conference.

In order to have intelligent welfare reform, you have to make investments. The distinguished Senator from New York [Mr. MOYNIHAN], who, as I mentioned at the outset of this debate, knows more about welfare reform than most of us will ever know about the issue, has warned that if we do not make these investments, we are going to be looking down the road at a tragic situation.

It is not enough just give the issue back to the States. The problems exist primarily at the local level, the city and town level. I do not know how many States are necessarily going to allocate resources in those parts of their own jurisdiction where the problems persist the most.

Having said all of that, Madam President, I do not disagree with what my colleagues have generally said this morning, that this is a far better bill than what the other body has passed, a far better bill than was initially proposed and offered here in the Senate.

But I would still say that we have a long way to go before this bill becomes the kind of proposal that not only saves money, but allows people to go from welfare to work and protects the 10 million children who could be adversely affected by these decisions.

I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). Morning business is closed.

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 having arrived, the Senate will resume consideration of H.R. 1976, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1976) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Brown modified amendment No. 2688 (to committee amendment beginning on page 83, line 4, through page 84, line 2), to prohibit the use of funds for salaries and expenses of Department of Agriculture employees who carry out a price support or production adjustment program for peanuts.

(2) Bryan-Bumpers amendment No. 2691, to eliminate funding to carry out the Market Promotion Program.

AMENDMENT NO. 2691

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes for debate under the Bryan amendment No. 2691 equally divided. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume. It is my intent to speak a few minutes in opposition to the Bryan amendment, to put in context the decision we will make at 9:45.

This is an amendment that does not seek to modify or simply reduce the funding for the Market Promotion Program. It is designed to kill the program, eliminate all funding under this legislation for this program in the next fiscal year. I think that would be a big mistake, Mr. President, and here is why.

The Foreign Agriculture Service undertook a study of this program in response to requests from the Congress and determined that for every $1 that we invest in this Market Promotion Program promoting U.S. agriculture commodities and foodstuffs that are exported in the international marketplace, $16 is generated in additional agriculture imports.

At a time when we are trying to compete more aggressively in the international market because of the opening up of new markets under the GATT Uruguay Round Agreement, we are trying to do a better job and use all the resources that we can muster to help ensure that we maintain a competitive edge and that we work with our farmers and ranchers and food processors to try to enlarge our share of markets. This is going to have just the opposite effect.

So I am hopeful that the Senate will vote against this amendment. I urge all Senators to carefully consider this. This is a proven, tested, workable, and effective program, and we have the facts to prove it. We debated this issue for an hour last night and laid all the facts out on both sides. I hope the Senators this morning will reject this amendment soundly.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, if there is no one seeking to address the Senate in support of the amendment, I am going to suggest that the time during the quorum, which I am going to call, be charged to the proponents of the amendment. I ask unanimous consent that the time be so charged.

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

Mr. COCHRAN. 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.

Mrs. BOXER. 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. COCHRAN. Mr. President, I yield 2 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I listened last night to a debate we have had here many times, and my friend and colleague from Nevada, RICHARD BRYAN, my distinguished friend who I respect, lists all the companies that get this, shall we say, assistance for export promotion and points out they all make a profit, they make large profits and says that this is a program that we should not have.

But every year, and it seems like twice a year, I take to the floor to point out to my friend and to the rest of our colleagues on both sides of the aisle that the future of this country, the economic future of this country really lies in exports. That is where we are going to have the job creation, that is where we are going to have an economic future that is worth something.

We know scientifically, because we have the studies, that every dollar that is invested in market promotion yields far, far many more dollars in return. It is a multiplier effect because the companies match the moneys and we wind up selling more of our products overseas.

The other point I want to make is that every other country in the world with whom we compete have similar programs, as a matter of fact, have much broader and wider and deeper programs where they push the exports of their country. If we are to walk away from this, we will fall behind.

So, Mr. President, I know that the companies that are listed by my friend are successful companies, and I know that they do put some of their capital into this, but I think it is very appropriate for this country to have an export promotion program, just as I think it appropriate for our trading partners.

I stand with the chairman, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I yield myself 3 minutes.

I point out to my colleagues that the MPP and its immediate predecessor, the Targeted Export Assistance Program, has cost the American taxpayers $1 billion—$1 billion. It is currently proposed for funding at $110 million. It is a program which has been soundly denounced by think tanks and organizations that are representing a broad spectrum of interest groups from the Cato Institute to the Competitive Enterprise Institute, the National Taxpayers Union, the Citizens Against Government Waste, the Center for Science in the Public Interest, the Progressive Policy Institute.

The General Accounting Office has reviewed this program and has concluded that there is no tangible, ascertainable basis upon which to conclude that, in fact, has assisted in the Market Promotion Program. There are no criteria in terms of large company, small company, who receives, no period of time in which one is supposed to graduate out of the program.

We are currently spending to assist our overall export promotion programs in this country about $3.5 billion annually. While agricultural products account for 10 percent of total U.S. exports, the Department of Agriculture spends $2.2 billion, or 63 percent of the total.

The way this program works, Mr. President, is that the advertising budgets of some of the largest corporations in the world receive a handout from the American taxpayer to supplement their budgets. Time restricts me from going into great detail, but here are some of the companies, all fine companies, that received in fiscal year 1993–1994 substantial amounts of money: Ernest & Julio Gallo, $7.9 million; Pillsbury, $1.75 million; Jim Beam Whiskey, $713,000, Campbell Soups, $1.1 million, to cite a few.

I think the American taxpayer, if he or she understood, would be shocked that, in effect, we are taking tax dollars collected from the American people and, in effect, adding them to the advertising budgets of some of the largest companies in the world.

Mr. President, the time to end this program has come. We have cut Medicare by $270 billion. We are cutting all kinds of programs involving educational assistance and a whole raft of programs. Yet, we seem to be unable to divorce ourselves from this form of corporate welfare.

I reserve the remainder of my time.

Mr. COCHRAN. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Mississippi has 3 minutes 33 seconds. The Senator from Nevada has 2 minutes 50 seconds.

Mr. COCHRAN. Let me simply say that in response to the suggestion that large corporations are getting all this money, 80 percent of this money goes to trade associations, farmer cooperative groups, the association of exporters of poultry and eggs, cotton promotion groups, and others who are trying to take up for the interests of America's farmers, ranchers, and those in the food businesses that sell in the international market.

We are trying to save American jobs and promote American economic interests, American agriculture interests. These are companies that are involved in those businesses. But the majority of the money goes to small businesses, farmer cooperatives, and organizations like that, who sometimes use those companies to help promote what the ingredients are in their products that are sold in the international market.

So we hope Senators will keep that in mind. This is not corporate welfare—the catchy phrase some are using to discredit programs, this one included. It is not well-placed criticism. It is not accurate to judge the worth of this program on the basis of that kind of argument.

Mr. President, I reserve the remainder of our time.

Mr. BAUCUS. Mr. President, I rise today to express my strong opposition to the amendment offered by my colleagues from Nevada and Arkansas—the amendment to eliminate the funding for the Market Promotion Program. I think this effort is a misguided attack on a program which is successful in its accomplishments. In fact I believe funding for this program should be increased, not eliminated.

Mr. President, American agriculture is an example of successful export growth. This year our exports will be in the neighborhood of $50 billion. And our trade surplus in agricultural goods is around $20 billion. And one big reason is the MPP.

This program promotes American agricultural commodities in foreign markets. This program allows foreign businesses to advertise American products in their operations. The MPP helps put American beef in Chinese Big Macs—rather than less expensive, locally produced foods.

And the benefits of such a program are well-recognized by our competitors in the global marketplace. The European Union, our largest and most tenacious agricultural export adversary, outspends us nearly 3 to 1 in programs of this type. They spend as much to export wine as we do for all our commodities through the MPP. I think that speaks volumes about these programs.

This year we have seen significant advances in our ability to enter foreign markets. We've moved apples and broccoli in Japan, and negotiated an agreement to ship more meat into Korea. These exports mean jobs and revenue in America. And I am confident this trend will continue. But it makes no sense to eliminate the tools which have facilitated this progress. The MPP is one such tool.

Mr. President, I strongly endorse the Market Promotion Program and I urge my colleagues to join me in opposing this amendment to end the funding for this valuable program.

Mrs. FEINSTEIN. Mr. President, I oppose the Bryan amendment to eliminate funding for the Market Promotion Program.

The Market Promotion Program helps promote U.S. agricultural commodities abroad and build foreign markets for American agricultural products. I support the Market Promotion Program. And here is why:

First, the Market Promotion Program has been a very successful program. It has significantly benefited agriculture and expanded markets. There have been scores of success stories. For California agriculture, MPP moneys have boosted exports of almonds, asparagus, prunes, citrus, avocados, kiwi-

fruit, canned peaches, canned pears, canned fruit cocktail, pistachios, strawberries, table grapes, tomatoes, walnuts, wine, raisins, cotton and cotton products, and more.

The California avocado industry, for example, used MPP moneys to increase Japanese consumers' awareness of the higher quality of California avocados as opposed to lower priced, lower quality foreign sources. In 3 years, using MPP funds California avocado growers were able to increase exports to Japan by 200 percent.

Similarly, the U.S. cotton industry effectively used to promote the higher quality of products made with U.S. cotton. In the 5 years preceding the Market Promotion Program, exports of American cotton averaged only 5.3 million bales of raw cotton. This year, U.S. cotton exports will exceed 10 million bales. U.S. cotton exports have averaged $437 million more per year since the Market Promotion Program began.

Second, the Market Promotion Program is a cost-shared program. Recipients of MPP funds must contribute funds of their own as well. But the Federal funds serve as seed money that attract the private funding and bring diverse segments of an industry together on export promotion that would not otherwise be possible.

Third, the Market Promotion Program helps American agriculture compete in a global market. It is a GATT legal program. Agricultural exports now account for nearly one-third of total U.S. agricultural production and over $40 million in sales. But our competitors in world markets are aggressively supporting export and promotion of their agricultural products. We need to ensure that our growers are given the same support that their foreign competitors receive.

Mr. President, the Market Promotion Program works. We should not eliminate it.

Mr. GORTON. Mr. President, my message today is simple: If you are pro trade, pro growth, and pro jobs—you are pro MPP.

The Market Promotion Program is a proven success. For example, in my home State of Washington we have seen a dramatic increase in apple exports from 4.3 million cartons to 25.1 million, an increase of over 500 percent. Export sales now total over $300 million. This success is due to the Market Promotion Program.

My State alone exports over 1.1 billion dollars' worth of agriculture products. Such exports generate nearly $3 billion in economic activity and provide over 33,000 export-related jobs in my State of Washington. Programs like MPP are absolutely essential if U.S. agriculture—the most competitive industry in the world—is to remain viable and competitive in the international marketplace. MPP gives U.S. agriculture the tool it needs to develop, maintain, and expand commercial export markets for U.S. agriculture commodities in the new post-GATT environment.

In summary, Mr. President, without MPP we give our competitors an advantage and the opportunity to capture and maintain a significant share of the world market. U.S. agriculture is the most competitive industry in the world. We should provide the tools necessary so that U.S. agriculture can develop, maintain, and expand its share of the world market.

Mrs. BOXER. Will the Senator yield me 30 seconds?

Mr. COCHRAN. If I have 30 seconds, I will yield that to the Senator from California.

Mrs. BOXER. Mr. President, I strongly support the Market Promotion Program. I urge my colleagues to oppose the amendment offered by my colleague Senator BUMPERS to eliminate funding the Market Promotion Program. I would like to point out to the Senate why this program is so important for agriculture in my State of California, and many other States as well.

The MPP is an important tool in expanding markets for U.S. agricultural products. Continued funding for this program is an important step in redirecting farm spending away from price supports and toward expanding markets.

A 1995 Foreign Agricultural Service study, Evaluating the Effectiveness of the Market Promotion Program on High-Value Agricultural Exports, concluded that for every dollar invested in the MPP and its predecessor, the Targeted Export Assistance Program, since 1986, the United States has exported $16 dollars worth of agricultural products.

The U.S. Department of Agriculture estimates that each dollar of MPP money results in an increase in agricultural product exports of between $2 and $7. The program has provided much needed assistance to commodity groups comprised of small farmers who would be unable to break into these markets on their own.

While the program has been the subject of criticism, some of it justified, I believe it would be a mistake to cut the program because of a few cases of poor judgment. Overall, the program has greatly benefited the small growers for whom it was intended. New regulations went into effect in February 1995 to, among other things, give priority assistance to small businesses. In 1995 small businesses will receive over 50 percent of the funding provided for brand-name products up from 41 percent in 1994.

Last year, a task force of the U.S. Agriculture Export Development Council met for 2 days in Leesburg, VA, to review the role of the MPP, and other agriculture programs as part of our overall trade policy. This task force affirmed that the purpose of the MPP is to ''increase U.S. agricultural project exports.'' It concluded that the increase in such exports helps to ''create and protect U.S. jobs, combat unfair trade practices, improve the U.S. trade balance, and improve farm income.''

According to the U.S. Department of Agriculture, U.S. agricultural exports reached $43.5 billion supporting almost 800,000 jobs. For fiscal year 1995, agricultural exports are expected to reach a record $51.5 billion. Individual export records have been set in 1994 for red meats, poultry, fresh fruit, fresh vegetables, tree nuts, wine and beer and other high value products. This has been achieved with the help of MPP and other USDA export programs.

Mr. President, the Market Promotion Program has been an unqualified success for California farmers. For many Californian crops, the MPP has provided the crucial boost to help them overcome unfair foreign subsidies. I would like to share two of the successes of this program in California.

California produces about 85 percent of the U.S. avocado crop on over 6,000 farms that average less than 8 acres per farm. Between 1985 and 1993, California avocado growers utilized $2.5 million of their own money, combined with $3.4 million of MPP funds to achieve over $58 million in avocado sales in Europe and the Pacific rim. This is better than a 17 to 1 return on our MPP investment that means jobs for California.

The growth of California walnuts exports also illustrates the success of this program. Since 1985, the year before the MPP began helping walnuts, 90 percent of the growth in California walnut sales has come from exports. And 90 percent of this export growth has been to markets where California walnuts have had MPP support. The total value of these exports in 1985 totaled $36 million. By last year, that total export value grew to $119 million.

This growth in MPP driven walnut exports has been the greatest in the heavily protected Japanese market. There, California walnut exports grew from about $3 million in 1985 to $28 million last year. The $19 million devoted by the MPP between 1986 and 1994 to promoting California walnuts in Japan has helped generate nearly $140 million in sales. This is a rate of return on the taxpayer's investment that approaches 700 percent.

The California walnut industry is not a monolithic corporation. It is made up of over 5,300 growers who farm orchards that average only 44 acres. And its these California family farmers, not big corporations, who benefit from the MPP support of walnut exports. Without the MPP, these farmers could not muster the resources they need to break into the Japanese and other protected markets.

Lastly, I would like to make a few comments on a possible initiative by my colleagues to means-test the Market Promotion Program. In California, nonprofit agricultural marketing cooperatives such as Sunkist, Blue Diamond, and Calvaro are owned by their

farmer members and distribute all income to the individual farmers less operating expenses. Cooperatives such as these are associations of farmers who accomplish collectively what that cannot accomplish individually. The average farmer in these three cooperatives farms between 20 and 40 acres and the overwhelming majority of them are full-time farmers. I believe it would be unfair to penalize individual small farmers because they have joined together to form an effective cooperative. It defeats the purpose of a market development program. It is clear that these farmers could not individually be effective exporters to the world market.

In closing Mr. President, the MPP is a wise investment in American agriculture and I urge my colleagues to support it in its current form, at the highest possible level.

I ask unanimous consent that a list of export-related jobs in each State be printed in the RECORD.

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

MARKET PROMOTION PROGRAM

*Agriculture export related jobs by State*

| State: | *Jobs* |
|---|---|
| Alabama | 11,000 |
| Alaska | 20,000 |
| Arizona | 10,000 |
| Arkansas | 33,000 |
| California | 137,000 |
| Colorado | 25,000 |
| Connecticut | 1,500 |
| Delaware | 2,000 |
| Florida | 22,000 |
| Georgia | 15,000 |
| Hawaii | 1,700 |
| Idaho | 22,000 |
| Illinois | 68,000 |
| Indiana | 36,000 |
| Iowa | 96,000 |
| Kansas | 69,000 |
| Kentucky | 25,000 |
| Louisiana | 17,000 |
| Maine | 400 |
| Maryland | 5,500 |
| Massachusetts | 1,100 |
| Michigan | 27,500 |
| Minnesota | 50,000 |
| Mississippi | 24,000 |
| Missouri | 24,000 |
| Montana | 6,000 |
| Nebraska | 74,000 |
| New Jersey | 2,000 |
| New Mexico | 3,000 |
| New York | 8,300 |
| North Carolina | 27,500 |
| North Dakota | 23,000 |
| Ohio | 33,000 |
| Oklahoma | 10,000 |
| Oregon | 15,000 |
| Pennsylvania | 11,000 |
| South Carolina | 7,000 |
| South Dakota | 25,000 |
| Tennessee | 9,000 |
| Texas | 77,000 |
| Utah | 2,800 |
| Virginia | 10,000 |
| Washington | 30,000 |
| Wisconsin | 27,500 |
| Wyoming | 1,400 |

Mrs. BOXER. Mr. President, I just received, from the farmer cooperatives a table that I have placed in the RECORD, which shows the number of jobs that are related to the export of agricultural products. They are shown by State. It is really an extraordinary list: Kansas, 69,000; Kentucky, 25,000; Texas, 77,000; California, 137,000. Virtually every State in the Union, thousands of jobs. I stand in strong support of this program.

I yield the floor.

Mr. BRYAN. Mr. President, might I inquire about the time?

The PRESIDING OFFICER. The Senator from Nevada has 2 minutes 50 seconds. The Senator from Mississippi has 1½ minutes.

Mr. BRYAN. I yield myself a minute and a half.

Mr. President, I simply make a point that this presumably is a time in America in which we are calling for shared sacrifice. We are saying that we cannot do business the way we have always done it. With all due respect to my distinguished colleague and friend from California, in terms of weighing the priorities, it seems to me it is pretty hard to contend when we are savaging the kinds of programs that affect the poor and those who are least able to defend themselves to support these kinds of dollars.

McDonald's, the hamburger folks, I think, reported a net profit of in excess of $1 billion. They continue to receive money to supplement their advertising account. Their advertising budget is in the range of $600 to $700 million. I would think that these outfits would be embarrassed, at a time when they are encouraging us to balance the budget, as we should, to simply say, look, it is time for us to kind of participate in this shared sacrifice and say, look, we will handle our own promotion and not depend upon the American taxpayer for a handout.

I reserve the remainder of my time.

Mr. COCHRAN. Mr. President, I yield myself as much time as I may consume. Let me remind the Senate that we voted on this same issue when we had the supplemental reconciliation bill before the Senate on April 6 of this year. I moved to table this same amendment that was offered by the Senators from Nevada and Arkansas. And on a vote of 61 yeas to 37 nays, this amendment was tabled. We fully debated the issue then. We have fully debated the issue now. Nothing has changed, Mr. President.

So I hope Senators will notice that I am going to put on the desk here how everybody voted on that previous occasion. I hope we will repeat the success of that favorable motion on the motion to table this same amendment. It is my intention to move to table when time has expired and we ask for the yeas and nays.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. May I inquire as to how much time I have left?

The PRESIDING OFFICER. The Senator has 1 minute 44 seconds. The Senator from Mississippi has 30 seconds.

Mr. BRYAN. I will yield time to the Senator from Arkansas.

First, the point I seek to make, as I have over the past several years with my friend from Arkansas, is that this is really a question of a subsidy that in light of what I consider the new economic reality, where we are literally going to have to reexamine the way in which we do things in Government, and those programs that have long existed that are near and dear to many of my colleagues. Some of these programs simply cannot pass what I would call the ''smell test.'' This is one of them.

I offer no criticism of these large agribusinesses, who have been extraordinarily successful. I compliment them. But I think the fundamental question is: Should the American taxpayer be paying for their advertising and promotion?

I reserve the remainder of my time.

I yield the Senator from Arkansas my remaining time.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be allowed to proceed for 2 minutes.

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

Mr. BUMPERS. Mr. President, I just came from downstairs where the House just receded to the Senate position on mine law reform. The effect of that is to take 233 patent applications that have been excluded from being grandfathered in last year and say you can have that, too. The biggest mining companies in America. Those 233 patent applications, which we just voted to allow to go forward contain $15.5 billion worth of gold, platinum, palladium, silver, and so on, underneath them. They will be given out to the biggest mining companies in the United States for zip—not $1 to the taxpayers of this country.

Here we are debating continuing a practice of giving $110 million to the biggest corporations in America, not just the 10 listed on that chart—dozens more. Some of them are almost as big. To the biggest corporations in the world, we are giving $110 million to help them sell McNuggets and Big Macs around the world. I found out last night that we have already spent $86 million on this program for alcoholic beverages. Who thinks that is a great idea?

We are doing that, while we are cutting welfare, kicking 50 percent of the people off of the rolls by the year 2000, cutting earned-income tax credit to keep people off the rolls, $270 billion in Medicare cuts for our elderly citizens, $240 billion in Medicaid cuts for the poorest of the poor for health care in this country, and on and on it goes. And this day, in one fell swoop, we have just voted to give $15 billion worth of minerals away and $110 million in the grossest kind of corporate welfare. Is that what the revolution of 1994 was about?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COCHRAN. Mr. President, I yield myself the remainder of the time on this side.

Mr. President, this is a red herring. The fact is that the funds allocated under this program are to promote U.S. agriculture products. We are seeing the U.S. Poultry and Egg Export Council promoting the purchase of U.S. poultry products and eggs by foreign-owned and operated franchises of McDonald's. That does not mean that goes to corporate headquarters in Chicago, or wherever. This means that we are producing a promotional campaign using these funds to try to help sell more of what we produce in America.

It is a good program. It has worked and I hope the Senate will vote ''yes'' on this motion to table.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SANTORUM). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—59

| | | |
|---|---|---|
| Akaka | Frist | Lott |
| Ashcroft | Gorton | McConnell |
| Baucus | Graham | Moseley-Braun |
| Bennett | Gramm | Murkowski |
| Biden | Grassley | Murray |
| Bond | Harkin | Nunn |
| Boxer | Hatch | Packwood |
| Breaux | Hatfield | Pell |
| Burns | Heflin | Pressler |
| Campbell | Helms | Pryor |
| Cochran | Hutchison | Rockefeller |
| Cohen | Inouye | Shelby |
| Conrad | Jeffords | Simon |
| Craig | Johnston | Simpson |
| Daschle | Kassebaum | Snowe |
| Domenici | Kempthorne | Specter |
| Dorgan | Kerrey | Stevens |
| Exon | Kohl | Thomas |
| Feinstein | Leahy | Thurmond |
| Ford | Levin | |

NAYS—41

| | | |
|---|---|---|
| Abraham | Faircloth | McCain |
| Bingaman | Feingold | Mikulski |
| Bradley | Glenn | Moynihan |
| Brown | Grams | Nickles |
| Bryan | Gregg | Reid |
| Bumpers | Hollings | Robb |
| Byrd | Inhofe | Roth |
| Chafee | Kennedy | Santorum |
| Coats | Kerry | Sarbanes |
| Coverdell | Kyl | Smith |
| D'Amato | Lautenberg | Thompson |
| DeWine | Lieberman | Warner |
| Dodd | Lugar | Wellstone |
| Dole | Mack | |

So the motion to lay on the table the amendment (No. 2691) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was tabled.

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we have about 10 minutes before we are to proceed with debate on the amendment dealing with poultry regulation. One hour on each side is available under that agreement for debate of that issue. We had hoped to take up another amendment and discuss it between now and then. I know Senator KERREY had considered bringing up his amendment, which is a Market Promotion Program amendment. I know of no other business that Senators have requested be transacted during this 10-minute period, so I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, I further ask I may be permitted to proceed as if in morning business for 5 minutes.

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

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BOND. I thank the Chair, and I yield the floor.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 83, LINE 4 THROUGH LINE 2 ON PAGE 84

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the excepted committee amendment regarding poultry regulations, on which there will be 2 hours of debate. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as I understand the allocation of time, there is 1 hour on each side. If I am not mistaken, I think under the order, I am to control the time in opposition to the amendment of the Senator from California.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COCHRAN. Mr. President, what is at issue here in this amendment that will be offered by the Senator from California is a provision of the Senate bill as approved by the Appropriations Committee, which I will read. It is section 729 and found on page 83 of the bill:

> None of the funds appropriated or otherwise made available by this Act may be used to develop compliance guidelines, implement or enforce a regulation promulgated by the Food Safety and Inspection Service on August 25, 1995 (60 Fed. Reg. 44396): Provided, That this regulation shall take effect only if legislation is enacted into law which directs the Secretary of Agriculture to promulgate such regulation, or the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry receive and approve a proposed revised regulation submitted by the Secretary of Agriculture.

This regulation, which has been promulgated after a great deal of discussion, public comment on the proposed regulation has the effect of prohibiting and actually preventing poultry producers and processors in the Southeast and Southwest from exporting their products into the California market. That is the practical consequence of the regulation as drawn and promulgated by this administration.

The origin of the initiative came from California to restate the regulations and rules regarding the labeling of poultry products with respect to whether they were frozen, chilled or not and what should be disclosed in that connection and how you measure the temperature with respect to which regulation or label would be appropriate.

This was all driven by the poultry industry in California which is a high-cost producer and processor of poultry products. High cost: High labor costs, regulations that are imposed locally and in the State of California, that elevate the price at which poultry products can be sold in California.

Different regulations with regard to the way these imported products are sent from the Southeast and the Southwest into that market, are packaged and labeled, could be drawn so as to increase the costs of and maybe even make it impossible to ship deeply chilled poultry products into that market.

So this issue was developed as a way for the California poultry industry to keep competition out of their market, to keep lower cost poultry processing firms in the Southeast, like in my State of Mississippi, from competing and undercutting the price being sold by California poultry producers in their own market.

To let the Senate know that this is not an issue that has been just hastily or capriciously injected into this appropriations bill, back in April, we were trying to convince the administration of the seriousness of this situation that would be caused throughout many parts of this country if this regulation were to be approved.

I am looking at a letter, which I will have printed in the RECORD, dated April 4, 1995. It is written on the letterhead of Senator JOHN WARNER of Virginia, but it is signed by 19 Senators: Senators DAVID PRYOR, JOHN WARNER, MITCH MCCONNELL, JESSE HELMS, HOWELL HEFLIN, PAUL COVERDELL, THAD COCHRAN, TRENT LOTT, STROM THURMOND, RICHARD SHELBY, BENNETT JOHNSTON, JOHN BREAUX, JIM INHOFE, SAM NUNN, CHRISTOPHER BOND, LAUCH FAIRCLOTH, ROD GRAMS, KAY BAILEY HUTCHISON, and DON NICKLES.

What we said in this letter addressed to the acting Under Secretary of Agriculture for Food Safety, is that we believe it is appropriate for the Food Safety and Inspection Service to consider changes in the existing Federal standards, but we have major reservations about the standards that the Food Safety and Inspection Service are proposing. We talk about the consequences of the proposed regulations

at that time, illogical from the point of view of measuring the temperature of chilled poultry and then having it labeled ''previously frozen'' or ''frozen'' and the consequences of that in terms of the businesses that deeply chill the poultry to protect it from contamination as it is transported across the country to other markets in the United States.

I ask unanimous consent, Mr. President, that a copy of this letter be printed in the RECORD.

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

U.S. SENATE,
*April 4, 1995.*

Hon. MICHAEL TAYLOR,
*Under Secretary for Food Safety (Acting), U.S. Department of Agriculture, Washington, DC.*

DEAR MR. TAYLOR: We believe it is appropriate for the Food Safety and Inspection Service (FSIS) to consider changes in the existing federal standards for labeling ''fresh'' and ''frozen'' poultry. However, we have major reservations about the standards FSIS are proposing.

FSIS on January 18, 1995 proposed regulations that would allow a ''fresh'' label to appear only on those poultry products that have not been chilled below 26 degrees Fahrenheit. Poultry that had been chilled to 0 degrees or below would be labeled ''frozen.'' Poultry chilled to a temperature of between 0 degrees and 26 degrees would be labeled ''previously frozen.''

The following are our most serious concerns about this proposal:

FSIS arbitrarily chose 26 degrees as the dividing line between ''fresh'' and other designations. There are other temperatures below 26 degrees that preserve the ''fresh'' characteristics consumers are seeking while giving poultry products the longer safe shelf life necessary for transportation across long distances.

The proposed regulation requires ''fresh'' poultry products to remain at no less than 26 degrees throughout processing, storage and transportation. The original processor does not control some of these operations and could lose a ''fresh'' designation through no fault of their own. The strict adherence to 26 degrees also does not take into account important differences in equipment calibration.

The designation of ''previously frozen'' poultry is completely illogical. Poultry chilled to between 0 degrees and 26 degrees never has met the proposed regulations definition of ''frozen.'' How, then, can it accurately be labeled ''previously frozen''?

As Members of Congress deeply concerned about food safety, accurate labeling for consumers and fairness for all segments of the poultry industry, we urge you in the strongest possible terms to make several changes to the proposed rule.

First, we urge FSIS to select a temperature lower than 26 degrees but higher than the current 0 degrees as the minimum temperature at which poultry can receive a ''fresh'' designation.

Second, we urge FSIS to consider a temperature variance from that minimum to accommodate temperature shifts during shipping and storage and to accommodate the important differences in the calibration of temperature measuring devices and refrigeration equipment. We would point out that USDA's Agricultural Research Service, working in laboratory settings, is able to control holding-chamber temperatures only to within three degrees of the target temperature.

Finally, we urge you not to require a label designation for poultry chilled to between 0 degrees and the minimum temperature as necessary for ''fresh'' labeling.

These common sense changes will result in a regulation that assures full labelling disclosure for consumers and the safest possible shipment of fresh poultry products across the nation.

Thank you for your attention to these recommendations; please do not hesitate to contact us if you have additional questions.

Sincerely,

David Pryor; Mitch McConnell; Howell Heflin; Thad Cochran; Strom Thurmond; J. Bennett Johnston; James Inhofe; Christopher S. Bond; Rod Grams; Don Nickles; John Warner; Jesse Helms; Paul Coverdell; Trent Lott; Richard C. Shelby; John B. Breaux; Sam Nunn; Lauch Faircloth; Kay Bailey Hutchison.

Mr. COCHRAN. Mr. President, before yielding time for others to discuss their views on this, let me just say the temperature threshold and the negative labeling that the California poultry industry has been promoting has only one objective, and that is keeping competitive products out of the California market, to make those products appear less appealing to California consumers. I do not believe the Federal Government should take actions which, like it would in this instance, influence improperly interstate trade and commerce in this matter.

This issue has absolutely nothing to do with improving product quality, nothing to do with enhancing food safety. The regulations will not improve consumer information or enhance consumer protection. This is an intraindustry trade dispute between California and the rest of the country where poultry products are produced and sold in that market, and I hope that the Senate will reject the amendment to be offered by the Senator from California.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I yield myself as much time as I might consume.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Mr. President, I was wondering how this debate would shape up because, to me, it is very straightforward. It is not about California; it is about common sense. The Agriculture Department, after 8 long years, finally issues a rule that says if your chicken or your turkey is frozen, then you cannot put a ''fresh'' label on it.

Let me repeat that. If the chicken or turkey is frozen when you send it out of your State, you cannot mislead consumers and put a ''fresh'' label on it. Hurray, a victory for common sense, a victory for the right to know what we are purchasing.

I have shopped for my family for many years, and these things are important. So what happens in the Appropriations Committee? A sneak attack on a fair rule. They are not going to allow this rule to go into effect. I say to consumers all over the country, listen to this debate because you are going to hear words that have no meaning. You are going to hear words such as exporting and fairness and barriers. But those are not the issues. This is about truth in labeling.

Now, to prove my point that this is not just a California issue, I might say on the Record to my friend, my chicken producers are for this rule, and my turkey producers are against this rule. I have business on either side. I line up with consumers. I hope you will, too, after listening to some of the points that I will make.

Perdue Chicken, which is produced in New York, and has headquarters in the State of Maryland and offices in Alabama, Delaware, Florida, Indiana, New Jersey, North Carolina, South Carolina, and Virginia, says, ''We are opposed to companies selling products as fresh when they have been previously frozen or thawed.''

Perdue is not a California company. This is simple corporate responsibility. What are we going to do in the U.S. Senate? I am glad it is not in the dead of night. At least it is in the day time and everybody can watch us. We are going to say that fresh is frozen and frozen is fresh. This makes no sense at all, for anybody who has ever gone into a supermarket. I think most Americans have, and they understand this.

Mr. President, I ask unanimous consent that I may show you this chicken.

Mr. COCHRAN. Mr. President, I object. I make a point of order that the display of any such product would violate rule 17 of the Senate rules.

The PRESIDING OFFICER. The Senator from Mississippi is correct.

Objection is heard.

Mrs. BOXER. I have put away my frozen chicken. I will not bring it out in violation of the rules. I respect my friend's right to object to my request. But what I was going to do was take that little chicken, which is frozen as hard as a rock and marked fresh, and put it on this table, and it would have sounded like this. And everyone could see the lunacy of this debate.

Mr. BUMPERS. Will the Senator yield?

Mrs. BOXER. Yes, I would be happy to.

Mr. BUMPERS. I could not agree with the Senator more. If you take a chicken frozen solid like that, one at zero degrees, and use it for a bowling ball, as a House Member did, or as a prop here, as you were proposing to do, I agree that is the sound it would make. But that is not what this debate is about.

Mrs. BOXER. Mr. President, if I may reclaim my time, because I have limited time, that is exactly what this debate is about. When my friend speaks, he can say what he thinks it is about. It is about taking a product that is frozen to one degree—what human being can say that one degree is not frozen—

and enabling producers to mark it ''fresh.'' Why? Because they want to get more money for a frozen product. That is what this is all about. They want to get more money by marking it ''fresh.''

So I would have shown you this chicken, hard as a rock, marked ''fresh.''

My friends objected, and I respect their right to object. So I will show you a picture instead. I know they cannot object to that. As you can see, there is a frozen chicken being used as a bowling ball headed for these pins and, as a result, I think some of them were knocked down. Now, do we believe for a minute that a chicken that is frozen like this should be marked ''fresh'' if it can knock down bowling pins?

Now, if I told you this desk was a chair, you would think I was kidding. And if I told you summer was winter, and ice was hot, warm was freezing, ovens were freezers, and freezers were toasters, you would send me to the nearest psychiatrist. And you would be right.

I do not know what came over the committee, but let me read you the definition of fresh. This is out of Webster's Dictionary: ''Fresh: Recently made, produced, or harvested, not preserved as by canning, smoking, or freezing.''

Yet, my friends on the committee say that if a chicken or a turkey is frozen to one degree, it can be marked fresh. Let me remind you what Webster said: ''. . . not preserved as by freezing.''

''Frozen: Made into, or covered with, or surrounded by ice; preserved by freezing.''

That is frozen. ''Immobile.'' I will add one: It knocks down bowling pins. Chickens that are that hard are not fresh, they are frozen. And everyone with a pulse, I think, understands that.

We have tried to straighten this mess out for 8 long years, and special interests come in every time and kill it. This time, the Clinton administration had the guts to issue this rule, and the Appropriations Committee—by the way, whose chairman said—and he is my friend, and I work with him and I admire him, and we just worked together on an issue—that we really should not do these things on appropriations bills, in relation to an article that appeared today. He said he does not believe in making policy on spending bills in relation to the mink program.

Mr. COCHRAN. Will the Senator yield?

Mrs. BOXER. Yes, on his own time.

Mr. COCHRAN. Mr. President, I am not quoted in that article. My office said something to the effect that I did not think policy should be established on appropriations bills. I am not sure my staff said that. My staff told me they told this reporter that I did not favor legislation on an appropriations bill. That was one reason why I was opposing that amendment. I am not advocating legislation on this bill. I am saying no funds shall be used to carry out this regulation.

Mrs. BOXER. I say to my friend and colleague, he is a very smart Member of this Senate. He is terrific. He gets his way a lot around here. A lot of the time he is right, and he should get his way. But if this is not legislating on an appropriations bill, I do not know what is. This is a rule that is going to go into effect so that when consumers go to the supermarket, they will know whether the chicken they buy is fresh or frozen. We are stopping it dead here in the Appropriations Committee, simply saying no funds shall be spent to enforce it. Well, if it cannot be enforced, then there is no rule. So we know what we are talking about here.

This rule is a victory for common sense. That is why the Consumer Federation supports the rule. That is why Citizen Action supports the rule, and Public Voice supports the rule, and Public Citizen supports the rule. Look at all the people who are for the rule. My friends say it is a California issue. Why do we have the National Association of Meat Producers and Meat Purveyors and all kinds of national unions, and the Oregon Broiler Growers Association and Pacific Egg and Poultry Association? As I told you, there are all these consumer groups and veterinary groups, et cetera.

Studies show consumers are willing to pay more for products that are fresh. These are their hard-earned dollars. They should be getting what they are paying for: a fresh product. And, by the way, there is nothing wrong with buying frozen produce, nothing at all. Some people prefer to do that.

Let me give you another serious problem with this. You go to the supermarket and buy a frozen product, it is defrosted, marked ''fresh,'' so you think it is fresh. You go home and put it in your freezer. Then you defrost it again before you cook it. That could be dangerous to your health.

I have to say that this rule is very gentle on the people that my friends represent in Arkansas and in the Southern States. Why do I say that? Because it does not say they have to label it ''frozen'' until it gets down to zero. They can use the term, quote, ''hard chilled.'' So the Department of Agriculture bent over backward. In my mind, if it is 10 degrees, it is frozen. They are allowed to say ''hard chilled.'' That is a commonsense rule that looks out for those producers that my friends represent.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. There are 49 minutes, 23 seconds remaining.

Mrs. BOXER. How much time remains on the other side?

The PRESIDING OFFICER. There are 51 minutes and 42 seconds.

Mrs. BOXER. I see my friend, the senior Senator from California has joined me. I will yield the Senator 15 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 15 minutes.

Mrs. FEINSTEIN. I thank the Senator from California and I thank the President.

Mr. President, I rise in opposition to the committee amendment. I urge my colleagues to strike the committee language to ensure truthful labeling of poultry and poultry products.

Let me say first that the committee language in the fiscal year 1996 agriculture appropriations bill flies in the face of the consumer. It prevents the Department of Agriculture from implementing a new and commonsense regulation on what poultry products can be labeled as ''fresh.''

I might parenthetically say I never thought when I came to the U.S. Senate we would be debating this on the floor.

Be that as it is, I must say, Mr. President, I find it astonishing that any business engaged in the processing of food products can call something ''fresh'' when it has been frozen as hard as a rock. The whole thrust of Federal food labeling over the past several decades has been to provide consumers with accurate information about the quality and contents of the food they buy.

Existing departmental guidelines regarding poultry are really wrong. They allow consumers to be deceived into thinking they are choosing between two equally attractive pieces of poultry, when in fact one has been frozen to zero degrees and then thawed, while the other has never been frozen at all.

The consumer has a right to know if a chicken has been previously frozen. If it has, then it is not fresh.

The new Department of Agriculture Food and Safety Inspection Service rule, which is scheduled to take effect next year, ensures that the labeling corresponds with reality.

The new rule sets three labeling categories: First, poultry products which have never been chilled below poultry's freezing level of 26 degrees may be labeled as fresh. Second, hard chilled: Poultry products which have been chilled below 26 degrees but above zero degrees must be labeled as hard chilled. Third, frozen: Poultry products which have been chilled at zero degrees or below must be labeled as frozen or previously frozen.

It makes sense. However, until this new rule goes into effect, the poultry industry can use the term ''fresh'' on poultry that has been chilled down to zero degrees. In practice, this means that chicken and turkeys are being labeled and sold as fresh when, in fact, they have been frozen rock solid.

For example, in California, Foster Farms and Zacky Foods, among others, sell fresh chicken, while previously frozen chicken shipped in from Southern producers can also bear the ''fresh'' label.

In the Washington, DC, market, Perdue Farms sells fresh chicken, but

labeling does not tell consumers that Tyson and Wampler chickens have been frozen.

Similarly, while Farmers Pride in Pennsylvania, Plainsville Farms in New York, and Sunset Acres Farm in Maine sell fresh poultry, their competitors who sell previously frozen poultry can also use the ''fresh'' label.

This situation makes a mockery of the label and misinforms consumers about the actual freshness of the product.

This most certainly is not reasonable, and it does not meet the expectations of today's consumers.

According to a telephone survey conducted by ICR Survey Research Group in June 1994, the vast majority—75 percent—of the public does not think chicken which has been shipped or stored below 26 degrees should be called ''fresh.''

The vast majority of the public questioned, 86 percent, said it was inappropriate to label as ''fresh'' chicken which has been stored below 26 degrees and then thawed out.

Four out of five consumers, 81 percent, said yes there is a difference between chicken which has never been frozen and chicken which has been frozen and thawed out.

By a margin of five to one, those questioned rated ''never frozen'' chicken as superior to chicken which had been ''previously frozen.''

That is the rub. Clearly, the consumer, if possible, would prefer to buy fresh chicken.

According to the Department of Agriculture, once food is thawed, when it is refrozen there may be a loss of quality due to high loss of moisture. Consumers certainly think so.

Consumers have a preference for fresh poultry and—this is the rub, as well—they are willing to pay a higher price for it. They should be getting, we think, what they are paying for.

As in many issues of national importance, California has taken the lead on truthful labeling of poultry products. In 1993, California enacted a law restricting the use of the term ''fresh'' on labels of poultry that have been chilled at or below 25 degrees and to allow the use of the term ''fresh'' only on poultry that has been kept above 25 degrees. However, the court subsequently ruled that California law was preempted by Federal law, which prohibits States from imposing labeling requirements that are different from, or in addition to, the Federal requirements.

California is preempted, even though California says what is fresh is fresh, and what is frozen is frozen, and never the twain will meet, and we will show you with our law. Bingo—they are preempted by the Federal Government.

In response to the consumers' continued demand for truthful labeling, the U.S. Department of Agriculture accepted its responsibility, and after a 15-month rulemaking process, the Department is prepared to implement truthful labeling.

The Department of Agriculture's new poultry labeling rule, we believe, is reasonable and fair to both consumers and the poultry industry. Not only does it ensure truthful labeling of fresh poultry and protect the consumers' right to know, it provides a new category of ''hard chilled'' and gives the industry 1 year to comply, allowing ample time to use up inventories of existing labels and make the necessary changes.

Accurate and truthful labeling is strongly supported by national consumer groups—the National Consumer League, the Public Voice for Food and Health Policy, and the Consumer Federation of America.

The committee language, on the other hand, will prohibit the Department from proceeding with its own order.

Unless the Department of Agriculture is permitted to implement its new poultry labeling rule, frozen poultry products will continue to be falsely labeled.

We do not allow fish which has been frozen to be labeled as fresh. We should not allow poultry to be mislabeled, either.

Let us, Mr. President, make the Federal Government be honest about what is fresh and what is frozen. Otherwise, we face the prospect of allowing the American public to be conned into going to Antarctica to lie on the beach.

I yield the remainder of my time to the Senator from California.

The PRESIDING OFFICER. Who yields time? The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me simply say in response to the distinguished Senator from California who has just spoken, on this issue of frozen and fresh, I happened to receive a letter from someone in California telling me her views on this issue, back when we were all corresponding with the Food Safety Inspection Service about this proposed regulation. I am going to read this letter and ask unanimous consent a copy of it be printed in the RECORD.

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

(See exhibit 1.)

Mr. COCHRAN. It is from Dr. Ann R. Stasch, who lives, according to the return address, in Northridge, CA. She writes it to me, Senator THAD COCHRAN, ''Chair,'' she says, ''of the Senate Appropriations Committee, Senate Office Building, Washington, DC.''

DEAR SENATOR COCHRAN: I am interested in the frozen/fresh chicken controversy.

This is a handwritten letter. This is a handwritten letter.

I have recently retired as a University Professor of Food and Nutrition. As a consumer, I find little difference in the frozen and unfrozen chicken with regard to the state of thawing. The only chickens which are completely thawed, regardless of state of origin, are, for the most part, those on periodic price reduction sales. It has been my experience that wholly thawed at purchase chickens are often those which have been in storage the longest. These frequently have less flavor.

I prefer partially frozen (that is, not totally thawed) chicken when I purchase chicken, as chicken fat develops rancidity rather quickly. There are local differences in color of fat preferences by consumers and California chickens have a generally more yellow colored fat than southern chickens. If a chicken is going to sit 3 or 4 days between harvest and sale, it would probably be preferable that it be frozen, no matter the point of origin. It would be unfortunate if partially frozen chicken could not be sold at a regular price.

Sincerely,

ANN R. STASCH.

Mrs. BOXER. Will the Senator yield some time on my time to respond?

Mr. COCHRAN. I will be happy to yield for a question. I have other Senators I want to yield to for purposes of——

Mrs. BOXER. I was asking if the Senator will yield for a moment?

Mr. COCHRAN. I have the right to the floor now, but I do intend to yield to a Senator, as the Senator from California has yielded to a Senator on her side. It was my intention to yield to a Senator on our side, but I will be glad to yield to my colleague for a question.

Mrs. BOXER. I will put it in the form of a question. Is the Senator aware there are 32 million people in the State of California?

Mr. COCHRAN. I know it is a big State.

Mrs. BOXER. It is a big State, and this is one person's opinion. Is the Senator aware that clearly we are going to enable this woman to buy frozen products? We just want to make sure they will be marked ''frozen'' or ''previously chilled'' or ''hard chilled.'' This would not stop this woman from buying frozen. It would just make her choice even clearer.

Mr. COCHRAN. I thought the Senate would benefit, Mr. President—I will reclaim my time—from a point of view which apparently is a thoughtful point of view by someone who is a recently retired university professor in the subject of food and nutrition.

Mr. President, I want to yield to my distinguished colleague from Mississippi such time as he may require.

EXHIBIT 1

NORTHRIDGE, CA,
*April 21, 1995.*

Senator THAD COCHRAN,
*Chairman, Appropriations Committee, USDA, Senate Office Building, Washington, DC.*

DEAR SENATOR COCHRAN: I am interested in the frozen/fresh chicken controversy. I have recently retired as a University Professor of Food and Nutrition. As a consumer, I find little difference in the frozen and unfrozen chicken with regard to the state of thawing. The only chickens which are completely thawed, regardless of state of origin, are, for the most part, those on periodic price reduction sales. It has been my experience that wholly thawed at purchase chickens are often those which have been in storage the longest. These frequently have less flavor.

I prefer partially frozen (that is, not totally thawed) chicken when I purchase chicken, as chicken fat develops rancidity rather quickly. There are local differences in color of fat preferences by consumers and

California chickens have a generally more yellow colored fat than southern chickens. If a chicken is going to sit 3 or 4 days between harvest and sale, it would probably be preferable that it be frozen, no matter the point of origin. It would be unfortunate if partially frozen chicken could not be sold at a regular price.

Sincerely,

ANN R. STASCH.

The PRESIDING OFFICER (Mr. KYL). The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished chairman of the agriculture appropriations subcommittee for yielding me this time. I would like to go back and reiterate, for a moment, the process that is involved here.

On August 25 of this year, the Secretary of Agriculture revised regulations that imposed what I consider to be misleading restrictions on labeling of raw poultry products as ''fresh.'' This regulation was designed, as I understand it, by the California poultry industry, to make it difficult for competing poultry products from other sections of the country to be marketed in California without jeopardizing product quality.

Here is an important point. This new regulation is to take effect August 1996.

Senator COCHRAN's language in the bill would prohibit implementation of this regulation. That is very strongly supported by the ranking member. That will give us time to consider this matter further, to make sure the regulation is properly drafted and to make sure it is fair. That is all that Senator COCHRAN does, in this language in the bill.

The Agriculture Committee, the authorization committee, has not even had hearings on this matter. It is very important to all of the different parties involved. I believe the poultry industry would be very happy to work with the agriculture authorization committee and with all those interested and involved, both on the Appropriations Committee and from the State of California and all the other States affected, to come up with a regulation that is fair and that we can all live with.

So I wanted to emphasize this. This regulation is not even scheduled to go into effect until August 1996. We have the time to look at this matter very carefully. Funds should not be used to implement, start implementing this regulation until we have had hearings and really thought it through carefully.

The purpose of the provision is to require that the Secretary of Agriculture develop and implement a more reasonable regulation. Pleas were made to the Secretary of Agriculture to do that. It does not prevent the Secretary from eventually imposing a final rule.

The fresh poultry regulation that we are dealing with right now is going to cause major problems. For instance, in my own State of Mississippi, if a poultry firm ships a load of poultry from our State to California at 28 degrees, but it is unloaded and put in a freezer set at 26 or 24 degrees, it will be labeled ''hard chilled.'' The sender of this poultry, Sanderson Farms, in this case, followed all the procedures but its poultry would have to have a stamp which the consumer would mistake for it being frozen. When you ship something at 28 degrees, it is not hard frozen. It is not a bowling ball. And it is generally considered to still be in a very fresh state. Yet, once it gets to the State of California how it is handled could determine how it is labeled and could very much impact the sales in that State.

USDA's final rule also ignored the fact, in my opinion, that 23,000 of the 26,000 comments received objected to all or portions of the proposal. Ironically, the rule even ignores USDA's own study, done by the Agricultural Research Service, demonstrating that consumers cannot detect any quality differences, as pointed out by the letter from the lady in California, between poultry chilled to 26 degrees and products chilled to lower temperatures.

The same USDA study showed that, under ideal laboratory conditions, temperatures can only be controlled within plus or minus 2 degrees. Nevertheless, some reason, something caused USDA to go ahead and implement this regulation without providing any temperature variations or tolerances in the final rule, and that is critical. There must be some tolerance, some allowance for variation.

Also, I might note for those who represent pork and beef producing areas—and we have both of those in my own State—I think we need to be careful if we start down this road toward what can be considered, I believe, mislabeling. In the case of pork and beef, already, in order to be able to handle them better, products are brought below 26 degrees. Trim products from beef and pork boning operations are frozen. They are later thawed and used in ground beef and pork sausage sold as fresh. Frozen beef is mixed with fresh to get a mixture that forms well in patty equipment. Frozen lamb is routinely thawed at retail and sold fresh. Bacon is routinely chilled to below 26 degrees Fahrenheit to aid in slicing.

So, I just think what the Senator is trying to do here with the support of the senior Senator from Arkansas is say let us stop now, before we implement a rule that is misleading and unfair. Let us think about it. Let us talk about it. Let us have hearings on it. Then we can come up with a rule that we think everybody can live with.

So I urge my colleagues to support the action of the committee and oppose the amendment by the Senator from California.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today in opposition to the amendment offered by the Senator from California.

Recently, USDA issued a final rule prohibiting poultry that has ever been chilled below 26 degrees from being called fresh. Under the new rule, poultry chilled below zero degrees would be labeled frozen, poultry chilled between zero and 26 degrees would be labeled hard chilled, and poultry held above 26 degrees would be labeled fresh.

All we are asking for is a little common sense.

The language in the committee's bill is simply designed to ensure that before implementing any new regulations on this matter, USDA address three issues: First, the temperature variance; second, the language on the label; and third, to ensure consumer health and safety is fully protected.

The USDA's new poultry labeling rule does not allow for a temperature variance. As it stands, a poultry product could drop one-tenth of a degree below the cutoff assigned by USDA, and it would have to be relabeled. Yet USDA's own studies show it is impossible to maintain a refrigerated product's temperature to within 2 degrees of the target temperature. Imagine transporting a refrigerated truck long distances, through a variety of climates, and many stops and handlers. There needs to be some degree of flexibility in this rule to permit for those types of variations.

But I think the key words here are long distances. I hope no one is fooled by this debate. The issue here is competition—competition from out-of-State producers. Certain producers just do not want to compete with products from out of State. Maybe their production costs are too high, maybe they are not as efficient, or maybe they just do not want the competition. But the consumer does. The consumers I hear from want the greatest possible selection of safe foods at the lowest price. They do not care if their chicken comes from California or Arkansas or Virginia. They just want the highest quality product at the lowest price.

In case there is any doubt about what is a stake here, let me tell a story. A few months ago, I opened a Richmond, VA, paper and saw an add urging Virginians to call me and express their displeasure with my position on this issue. Obviously someone was very concerned for Virginia consumers. But down at the bottom of the add, in small print, were eight very telling words: ''Paid for by the California Poultry Industry Federation.''

Second, USDA has resorted to some unique terminology. Before USDA got into this there were two kinds of chicken: fresh and frozen. Simple enough. You went to the store, read the label, bought your chicken, and you were finished. Common sense.

Now, according to USDA, there are three kinds of chicken: fresh, frozen, and hard chilled. Some might call that an improvement. I call it confusing. As the junior Senator from California said earlier: ''You will hear words that have no meaning.'' Well there are two.

Linda Golodner, president of the National Consumers League said ''Consumers generally are familiar with the

terms fresh and frozen. Now we have to educate them about what it means when something is 'hard chilled.'" Once again, regulatory zeal displaces common sense, and consumers need to be reeducated by those who know better.

But why not just call it fresh, frozen, or "from somewhere other than California." I guess hard chilled is more concise.

Whatever term USDA selects to describe this new category of poultry, it should be a neutral term, not one that denigrates the product, confuses the consumer, or that benefits one market segment over another.

Mr. President, the committee bill in no way hinders the regulatory process. We ask simply for a level playing field. In the end, I am convinced that sound science and common sense will prevail. I urge my colleagues to oppose the amendment.

Mr. President, I, likewise, am very supportive of the action taken by the committee on which I am privileged to serve, the Senate Agriculture Committee, and, indeed, the position taken by the distinguished floor managers.

I just wish to propound a question here. I think we should have a little colloquy among us on this issue, because I think the only concern that remains is not all the technical business about the temperatures and everything, but did our committee—it is I my understanding we did as a committee—take into consideration the fact that our action as a committee would in no way jeopardize the health of the consumers? That is the bottom line. I am satisfied it does not, but I think it would be wise if we had the distinguished floor managers address that issue, and perhaps other Senators who might likewise wish to address it.

Mr. COCHRAN. Mr. President, if the Senator will yield, I am happy to respond. The Appropriations Committee has been questioning witnesses from the administration on this issue for some time. I can remember 2 years ago, the Senator from Arkansas [Mr. BUMPERS] was chairman of this subcommittee. At our regular hearing on the budget request this came up. We have talked about it. It is not a new issue. The issue is not whether we want to ensure that these food products are safe and healthy and do not in any way jeopardize human health because there is no question about that. This does not in any way put at risk any consumers.

All we are saying, as the distinguished Senator from Mississippi so eloquently put it—we are asking for time to review this in the Committee on Agriculture, for example, on which the Senator has served. We have not had hearings, as Senator LOTT pointed out. And the Agriculture Committee, that has jurisdiction over this legislation, ought to look at it and ought to have an opportunity to be heard in some official way, in my view, as controversial and as far-reaching and as unfair as many say this is; that it is protectionist regulation and that the administration has simply ignored some of the facts about how this poultry industry does business and what is used, in terms of chilling, to protect consumers, really.

Mr. WARNER. Mr. President, that is a very satisfactory response to my question. As I said, I serve on the Senate Agriculture Committee. We will have hearings.

But in this period of time that is embraced by the proposal, which I support, of the Appropriations Committee, those hearings will take place. But we also give assurance to the people that we have primarily explored this question as to whether or not the current processing and transportation will in any way affect health and safety, and the answer is, flat out, "No, it will not." That is very important.

Mr. COCHRAN. Mr. President, for the information of the Senator, I put in the RECORD at the beginning of this discussion a copy of the letter that actually was written on your letterhead, signed by 19 Senators, fully discussed from the point of view that the proposed regulations were unfair, and why, and that we have the interest of consumers at heart as well as fairness in the poultry industry.

Mr. WARNER. Mr. President, I thank the Senator for his leadership on this issue. Mr. President, I thank my colleague from Mississippi.

By coincidence, I was in the valley of Virginia yesterday on the occasion of the anniversary of the date of the Third Battle of Winchester, which was a very significant engagement during the Civil War. And I had a chance to meet with some of my constituents because our poultry industry in large part is in that historic valley of Virginia of the Blue Ridge Mountains. I know these people so well. I have grown up with them and have been with them all of my life. They would not even think of asking the Federal Government or the Congress or anyone else to do something that in any way jeopardized the health of the American people.

We export millions of birds daily from that area of Virginia—all over the United States; indeed, all over the world. It is a very significant industry, but an industry operated in large measure by the family farmers as we know them, co-ops and so forth. And these people are gravely concerned that someone might raise the allegation, "Well, you are doing something that would jeopardize the health of the American people."

I am glad that we have put that issue to rest. I thank the chairman.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, thank you.

Mr. President, I would like to respond to two comments that were made here, one by the Senator from Mississippi, which was echoed by the Senator from Virginia. Sometimes I wonder where I am. Is this "Alice in Wonderland"? On October 13, 1994, in a unanimous vote by the U.S. Senate on poultry labeling:

> It is the sense of the Congress that the United States Department of Agriculture should carry out the plans of the department to hold public hearings for the purpose of receiving public input on issues related to the condition under which poultry sold in U.S. may be labeled fresh; and, (b) finalize and publish a position on the issue as expeditiously as possible after holding those hearings, and no person serving on the expert advisory committee shall have a conflict of interest.

That passed overwhelmingly. It is the law.

Now Senators stand up here and say "not enough time, not enough hearings." That is extraordinary. We asked them to do this. Public Law 103–354, October 13, 1994. We said, "Do this expeditiously." And now, "Not enough time. This is not fair. Not enough time."

What a way to kill a commonsense rule. It is not even based on the truth and the facts.

The other comment was that the Department of Agriculture did not listen to the people who wrote in on this rule. The truth is they discarded the form letters that came from employees of Tyson Poultry, and other companies on both sides of the issue, because they had a conflict of interest. Sure, they were consumers, but they worked for these companies. They wanted to make sure that they were not making this rule based on what people who have an economic conflict of interest believe, but what is in the best interest of consumers.

I ask unanimous consent to have printed in the RECORD Public Law 103–354, October 13, 1994, asking the Department of Agriculture to pass a rule that was fair.

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

TITLE III—MISCELLANEOUS

**SEC. 301. POULTRY LABELING.**

It is the sense of Congress that—

(1) the United States Department of Agriculture should—

(A) carry out the plans of the Department to hold public hearings for the purpose of receiving public input on issues related to the conditions under which poultry sold in the United States may be labeled "fresh"; and

(B) finalize and publish a decision on the issues as expeditiously as possible after holding the hearings; and

(2) no person serving on the expert advisory committee established to advise the Secretary of Agriculture on the issues should stand to profit, or represent any interest that would stand to profit, from the decision of the Department on the issues.

Mrs. BOXER. Mr. President, if you ask the average person, "If a chicken is frozen to 10 or 20 degrees, is it frozen," they would say yes. The Department of Agriculture in its rule did not even force them to do that; it said you can

market hard chill. And no one is up here saying that it is bad to buy a frozen chicken or turkey at all. All we are saying—the Consumer Federation of America and all the consumer groups that are lined up behind this rule—is, you have a right to know. You should know. It is only fair to know. Consumers now know how much fat there is in a product. I hope we all support that. That is an important health issue.

We know how many vitamins there are, how many minerals there are, how many calories there are, and how much protein there is. Should they not know if the product has been frozen? It affects the taste. It affects the price. It affects whether or not they will throw it in the freezer again because we know that is not a good thing to do if it has been defrosted once or twice.

Again, we hear a lot of talk about, oh, let us hold off. Do you know, my friends, when this all started? It was more than 8 years ago now because it was under the Bush administration. Eight years ago the Bush administration attempted to solve this problem. My colleagues came on the floor, ''We need more time.'' How about 100 years? How much time does it take to understand that fresh is fresh and frozen is frozen? I think it is a no-brainer. But then again, others may disagree.

Truth in labeling should be a practice in this country. And the only reason I can see why people oppose this is—you guessed it—money. You can get more money for a fresh product, and they know they cannot deliver it fresh. So they freeze it, but they market fresh. And it is highway robbery, if you really want to get down to it, for the consumers of America. How are we going to do this?

I do not know where these votes are going to come out here, but I know there is an awful lot of money behind it. And if this Senate votes today that frozen is fresh, I do not know. That will be a low point for me in terms of common sense.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I yield 5 minutes to the distinguished Senator from North Carolina [Mr. FAIRCLOTH].

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, thank you.

Mr. President, I thank Senator COCHRAN.

Mr. President, I rise in opposition to the amendment offered by the Senator from California to strike a provision requiring the Department of Agriculture to report back to Congress with a new rule regarding poultry labeling. Both consumer groups and the poultry industry support the development of new labeling rules which are fair and based on scientific data about consumer views regarding descriptive labeling terms. But instead of taking this approach, the USDA arbitrarily established temperature ranges and descriptive terms which have no basis in science, marketplace experience, or consumer preference, and have never been heard of before.

Moreover, in issuing its recent labeling rule, the U.S. Department of Agriculture ignored 23,000 comments which it received in opposition to the proposed rule change. And it is worth mentioning that they only received 4,000 in support of the rule change, and these all primarily from one State.

This rule discriminates against poultry producers which market their products nationwide, and most agricultural products are marketed nationwide. But this rule carves out regional markets where local producers can sell their product free from out-of-State competition. It simply is a barrier to trade. Thus, in the end, this new rule is not at all proconsumer. It is anticompetitive and will result in higher consumer prices and protected markets where regional producers will reap monopolistic benefits.

The very day that Secretary Glickman was confirmed by the Senate, I came to the floor and voiced my concerns about this issue, which at the time was still in the form of a proposed rule.

Mr. President, I am disappointed and surprised that Secretary Glickman has allowed his Department to issue a final rule with as many flaws as this one has. I am shocked that he would tolerate the development of a major labeling rule with total disregard for scientific data or consumer views. He has allowed the USDA to pick the term ''hard chilled'' out of thin air. It is a term that has never existed in the poultry industry before. I have been around the industry all my life and had never heard the term. It is a totally meaningless term. There are absolutely no market data to support the appropriateness of the term, and there is no history of it ever having been used in the poultry industry.

Another problem with the USDA labeling rule is that it totally fails to provide for temperature variance for products shipped over long distances.

Common sense tells you that when you load a truck in Virginia and drive it across country to California, it is impossible to maintain an exact, no-variance temperature. I know from personal experience you just simply cannot maintain the temperature without any variance whatsoever as it travels through different climates and different time zones en route to its final destination. But what does a variance of 1 degree matter anyway?

In addition to the weather problems, the shippers also have to contend with cooling equipment, which is simply not that exact. Calibrating a thermostat to maintain a product temperature at exactly 26 degrees is a very inexact science and impossible to do. However, the USDA rule provides no temperature tolerance.

This is totally an unreasonable and farfetched idea, and it is completely unacceptable. A real proconsumer rule would be based on scientific data and would ensure competitive prices for poultry consumers throughout the Nation. The existing USDA rule accomplishes neither.

I encourage Secretary Glickman to revise the existing rules in a manner consistent with fairness, objectivity, and real marketplace competitiveness. Therefore, I strongly oppose the amendment offered by my colleague from California and urge its defeat. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I was prepared to yield some time to the distinguished Senators from Arkansas. I am going to let them decide which one goes first.

The PRESIDING OFFICER. There are 32 minutes on the side of the Senator from Mississippi, 33 minutes on the side of the Senator from Arkansas.

Mr. COCHRAN. Mr. President, I yield such time as the distinguished Senator from Arkansas [Mr. PRYOR] would like to have on this issue.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, let the RECORD show that the junior Senator from Arkansas was certainly willing to yield to the distinguished senior Senator from Arkansas to make his statement at this time. I have been looking forward to that statement. I think he, as the ranking member of the subcommittee, along with our friend from Mississippi, Senator COCHRAN, is doing a very good job of putting this issue exactly where it should be placed, and that is it is not an issue, in my opinion and I think in the opinion of many of my colleagues, of consumer protection. It is an issue basically of the protection of the State of California. That is where we see this issue coming down.

There is something missing about this debate, I might say, Mr. President, that is disconcerting to me, which I think, and hope, will deserve a response certainly, if I could elicit one, from my colleague from California, Senator BOXER. I am hoping to find out why the issue of only poultry—only poultry—is today before the Senate in this so-called great debate between frozen and fresh poultry products.

Mr. President, it is a known fact that beef, that pork, that fish may be frozen at any degree and they are not affected as the Senator from California, or I should say the Senators from California, would attempt to affect the products of poultry especially from the South and the Southeastern part of the United States.

I might say, also, Mr. President, that the Senator from Mississippi has rightfully offered his amendment and placed it into this basic legislation, into the committee bill. The Senator from Mississippi is not trying to obliterate what the U.S. Department of Agriculture is attempting to do. He is simply trying to say that any regulation in this area,

assuming that we would have hearings, as the Senator from Virginia, Senator WARNER, has stated on the issue, that the Committees of Agriculture in the House and the Senate must approve ultimately any language that the U.S. Department of Agriculture would adopt in imposing and, I might say, implementing such a far-reaching, sweeping regulation, in regulatory language.

Mr. President, I think it is also needful, or let us say worthwhile, at this point for us to sort of go back just a couple of years and see how this issue got to the Senate in this form.

First, about 2 or 3 years ago, the State of California passed a law to prohibit fresh labeling as has been under discussion today. I think, if I am not mistaken, that was in 1992 or 1993. The American Meat Institute and the National Broiler Council and others took this issue to court, in fact to the Federal court. The court held, with the support of the Department of Agriculture, that this particular law passed by the State of California was preempting Federal law and therefore basically was struck down. The U.S. Department of Agriculture then, Mr. President, agreed to review this regulation and issued an interim or a proposed rule.

During the rulemaking process, as other Members of the Senate have mentioned this morning, during that particular time of several weeks when people could comment on how they felt about this rule about to be proposed, or which assumingly was going to be proposed by the Department of Agriculture, of the 26,000 comments that came in, 23,000 stated they felt that the regulation went too far.

We think it also interesting to note, and perhaps the RECORD could be made clear on this, we do not know of any consumer in the State of California who objected to this labeling process that we have had so long, that has been so fair. We do not know of any consumer in Senator BOXER's or Senator FEINSTEIN's State who has objected to this process.

Who objected? The California Poultry Association, which is an association made up of California poultry producers who might not be as efficient as those throughout the South and the Southeast in the field of poultry production.

Once again, Mr. President, I think that there is no scientific basis today that we can see for the U.S. Department of Agriculture's arbitrary selection of 26 degrees as the threshold temperature for determining whether poultry is fresh. In fact, some say that if you kept poultry at 26 degrees, it might well spoil.

What this is, I think, is a nontariff trade barrier erected by the California poultry industry, not brought about by California consumers. There is no objection from California consumers that we know of. Perhaps we might even consider initiating new GATT or NAFTA rounds for a trade agreement among the States, involving the State of California and these particular poultry concerns that they are raising this morning.

Mr. President, we have time to hold hearings. And with the Cochran amendment in place, if it is kept in place, we are certainly willing and, I think, able to work out a fair solution to the issue of fresh versus frozen poultry.

I sincerely hope that the Senate will defeat the amendment offered by our very good and distinguished friends, the Senators from California, Senator BOXER and Senator FEINSTEIN.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I yield myself as much time as I might consume.

Let me say to my dear friend from Arkansas that he is correct that there were 26,000 comments. Now, 22,000 comments came from people who were employed in the chicken business in his home State and other Southern States, so I do understand their point of view. Of course I do.

A couple thousand came in from California, also people employed by the chicken industry there. So when they were making a decision, obviously people with a special concern do not carry as much weight as people who are not economically affected.

Let me tell you about that, because the Senators from Arkansas keep making this a California issue. As I said before, I have a split in my State. I have the chicken people backing this rule, and the turkey people strongly opposing it. I have come down on the side of consumers. As the Senator knows, it is hard when your State is not united. In this case, the Senator from Arkansas's State is pretty much united.

Let me say that I have a breakdown of the comments: 611 from poultry processors and growers, clearly with a special concern; 23 from trade associations; 12 from State government agencies; 6 from academia; 6 from consumer organizations; 5 from congressional Members; 3 from chefs who are interested in this issue; 2 from retailers; and 4 from other sources. And the vast majority of the individual letters were on company forms.

So I think it is hard to learn a lot from that. I think we all know if we are concerned that a rule might impact our economic abilities, of course we are going to write, and I support those people. But I think we have to cut to the bottom line here, which is, what is fair and what is just and what is right?

Clearly, the Senate is on record asking the Agriculture Department to issue this rule or this kind of a rule, which I think bends over backward. They did not say that produce under 26 degrees must be marked frozen—it allows the producers in Arkansas to mark those products ''hard chilled'' down to zero degrees—only when they go below zero. I also think it important that I place in the RECORD, and I ask unanimous consent to do so, a statement of the administration about this move by the Appropriations Committee to essentially cancel this rule or, if you will, I will say in nice terms, to deep-six this rule or to put it in a hard freeze.

This is what the administration says:

> The administration is strongly opposed to the committee bill's prohibition on the use of funds to implement or enforce the final regulation on fresh and frozen poultry, which was published on August 25, 1995. Publication of this regulation was the culmination of nearly 2 years of effort, during which the views of all stakeholders were heard and considered. The issue of proper labeling of poultry products has been the subject of litigation in Federal court as well as congressional- and USDA-sponsored public hearings throughout the Nation. Committee language would prevent consumers from receiving accurate information and assurance of a national standard in this area and could result in disparate and conflicting State enforcement activity.

I think this is important coming from the administration:

> The committee's language represents unwarranted legislative intrusion into the regulatory process.

We all know here that we are opposed to regulation that overreaches. But in this particular case, I say to my friend, the Senate itself voted, urging the Department of Agriculture to produce this rule, and now when they produce a rule that bends over backward to be fair—it takes them 2 years, public hearings all over the country—there is a backdoor attempt to stop it from going into effect.

I also want to make this other point. We keep hearing this is a California issue. I already told my friend that the California poultry industry is split on it, but I also want my friend from Arkansas to know that other States have passed labeling laws that mirror or are similar to this rule. Those States are: Alaska, Arizona, Delaware, Illinois, New York, Oregon, and Washington.

So clearly, these other State legislatures are waking up to the fact that their consumers deserve truth in labeling.

I ask unanimous consent to print in the RECORD a list of those States and the types of laws that they have.

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

IRELL & MANELLA,
*January 25, 1994.*

To: Team
From: Matthew Sloan.

MEMORANDUM

File: NBC v. Voss and CPIF (Intervenor).
Re State Labelling Laws.

STATE LAWS

1. *Alaska* (unlawful to sell prev. frozen as fresh; no definition of fresh?):

Title 3: Agriculture and Animals: Section 03.05.035(a): Meat, fish or poultry which has been frozen may not be sold, represented or advertised as a fresh food.

(c) Commissioner shall adopt regs to provide for examinations to ascertain whether it has been frozen.

Title 45: Trade and Commerce: §45.50.471: Unlawful to (b)(21) ''selling, falsely representing or advertising meat, fish or poultry which has been frozen as fresh food''.

2. *Arizona* (defines fresh; prohibits misbranding):

Title 3: Agriculture and Dairying: §3–2151: Definitions. This section defines:

(7) ''Fresh'' means any dressed or ready to cook poultry or poultry product which has not been frozen.

(8) ''Frozen'' means any . . . poultry product which is in fact in a frozen state and which has been constantly maintained at a temperature of thirty-two degrees Fahrenheit or lower.

(11) and (12) define label and labelling.

(13) ''Misbranded'' shall apply to any poultry product under one or more of the following circumstances, if:

(a) Its labeling is false or misleading in any particular.

3. *Delaware* (fresh prohibition):

Title 16, Part IV, Chapter 33: Pure Food and Drugs. 16 Del. C. §3309:

Misbranding of Food:

For the purposes of this chapter, food is deemed to be misbranded:

(5) If it is obtained by the dealer in frozen bulk form and is subsequently thawed and offered for sale in a package or bearing a label indicating such food to be fresh.

4. *Illinois* (misleading; previously frozen requirement):

Chapter 410 Public Health Food and Drug Safety: Ill. Food, Drug and Cosmetic Act §410 ILCS 620/11

Sec. 11. A food is misbranded—(a) If its labeling is false or misleading in any particular.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such [info prescribed by Director as necessary to inform buyers of value for such purposes].

(n) If its is a color additive unless [labelling in conformity with Section 706 of Federal Act] [Mr: shows when refer to federal act or regs for definitions/guidelines?]

(o) If a meat or . . . poultry food product has been frozen prior to sale unless when offered for sale, the package, container or wrapping bears, in type of uniform size and prominence, the words ''previously frozen'' so as to be readable and understood by the general public except that this subsection does not apply to [precooked items].

[My notes: (1) not define frozen; use federal definition? (2) This is a requirement not prohibition.]

5. *Kansas* (imported):

Section 65–6a47: requires that wholesaler or retailer label poultry from foreign country as ''imported''.

6. *Maine* (organic):

Title 7. Part 2. Chapter 103.

7 M.R.S. §553. Labeling and advertising.

Except as otherwise provided in this chapter, a good shall not be labeled or advertised as ''organic,'' ''organically grown,'' or ''biologically grown'' or by a similar term, unless the food is:

D. Meat, poultry or fish produced without the use of any chemical or drug to stimulate or regulate growth or tenderness, etc.

7. *Mississippi* (imported):

§75–33–101: must label foreign poultry as imported.

8. *Nevada* (imported)

§583.045: must label foreign poultry as imported.

9. *New York* (kosher labelling prohibitions and requirements; frozen labelling requirement.):

A. *Prohibits Using Kosher Label Unless Meets Orthodox Hebrew Requirements:*

*See* §201–a (1). Person who, with intent to defraud, represents poultry as kosher or k. for passover, if not meet orthodox Hebew religious requirements, is guilty of misdeameanor or felony (depending on amount of poultry.)

B. *If Retailer Sells ''Kosher'' Poultry Must Label either ''Soaked and Salted'' or ''Note Soaked and Salted'';*

*See* §201–a(2).

C. *Fresh Meat as defined under Kosher Law:*

Section 201–a(3): ''Fresh meat, meat byproducts and poultry shall be defined as meat or poultry that has not been processed, except for salting and soaking.''

[Me: bolsters arguments that many different definitions of ''fresh''?]

D. *Labelling Requirement for Food First Offered for Sale as Fresh and than Frozen:*

Section 214–g provides that if any poultry, seafood, or meat was first offered for sale as fresh and then later frozen, it must bear label in form prescribed by commissioner informing that it was previously offered for sale in its unfrozen state.

10. *New Jersey* (kosher prohibitions):

Section 2C:21–7.2 Defines ''kosher'' as prepared in strict compliance with orthodox reabbinate.

Section 2C:21–7.4(b)(3) defines as a ''disorderly persons offense'' falsely labelling food product as ''kosher'' or otherwise if tend to deceive.

[Me: Note that (b)(1) and (2) seem to apply only to retailers (they exempt manufacturer or packer of food) but (b)(3) has no such limitation).

11. *Ohio* (kosher labelling prohibitions and requirements):

A. *Kosher Prohibitions:*

Section 1329.29 (A) No person shall do any of the following:

(1) Sell or expose for sale at retail, or manufacture, any meat or meat preparations or any fowl or preparations from fowl and falsely represent the same to be ''kosher'' or as having been prepared under, and of a product or products sanctioned by, the Orthodox Hebrew religious requirements;

(2) Falsely represent any food products or the contents of any package or container to be constituted and prepared as described in division (A)(1) of this section by having or permitting to be inscribed thereon ''kosher'', ''kosher style,'' etc.

[Me: Does this only apply to retail?]

B. *Kosher Requirements:*

§1329.29(B) requires that all prepackaged ''kosher'' meats/poultry must be ''soaked and salted'' and all fresh poultry marked ''kosher'' must either be labelled ''soaked and salted'' or ''not soaked and salted.''

12. *Oregon* (fresh; state of origin prohibitions):

Section 619.365 prohibits use of labels that say:

(A) misrepresent state of origin; or state that chicken

''(B) are fresh, if at any time after slaughter, they have ever been frozen''.

[Me: Where's definition of frozen? Federal definition or state? More research]

13. *South Carolina* (foreign origin requirement):

Section 47–17–310 requires all meat (poultry?) imported into state from outside *shall* be labelled ''imported'' in 24 point type.

14. *Washington* (frozen/thawed label requirement):

Section 69.04.333 requires that if poultry has been frozen at any time it must bear a label ''clearly discernible to customer that such product has been frozen and whether or not the same has since been thawed.''

15. *California* (organic).

Mrs. BOXER. Mr. President, I hope I have debunked the myth that this is a California issue. Certainly, there is support among parts of our poultry industry for this rule, but it is not universal. The main issue here is, do the consumers have a right to know? They already know the fat content, they already know the calorie content, they already know the minerals in products, they already know the vitamins, protein. For goodness' sake, they ought to know if a product has been frozen or deep frosted, and exactly what they are getting when they pay their hard-earned dollars.

I just have to say, again, I understand that colleagues must fight for their States, and I understand that completely. When you have a State that ships these products out, I understand why you would be here fighting for that industry and making sure that your State was not disadvantaged. So I have total respect, and if I was the Senator from Arkansas, who knows what I would be doing. So I am not being holier than thou in any way, shape, or form.

But I have to make the point that this is really about money; it is all about dollars. Otherwise, who would be opposing such a commonsense rule? You can get more money for a fresh product, so you market fresh. What is a little lie? You can ship your frozen product miles and miles into another State to compete with truly fresh chicken, and no one will know and you get top dollar, so what is a little lie? I say it is wrong.

I would like to take a little time to read a Washington Post editorial, or just portions of it. I ask unanimous consent not that we print this copy in the RECORD, but that a smaller copy be printed in the RECORD.

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

FAIR'S FAIR ON FOWL

''When I use a word,'' said Lewis Carroll's Humpty Dumpty, ''it means exactly what I want it to mean.'' Humpty Dumpty was an egg, but the observation applies especially well to a fight that's going on about chickens. Michael Taylor, acting agriculture undersecretary for food safety, recently tried to call a halt to 2½ years of squawking by issuing a rule that chickens and turkeys frozen rock solid and shipped that way, then thawed, may no longer be labeled ''fresh.'' At the last minute, though, a Senate subcommittee has come up with appropriations language that would block the rule, leaving frozen chickens and turkeys still eligible for the label of freshness.

The notion that fresh chickens aren't frozen, and vice versa, might at first seem uncontroversial. Consumers might like to know if a bird has been frozen and thawed, whether out of health or cooking preferences or because they prefer fresh meat. Small regional chicken companies see this preference for freshness as a possible selling point, since they, unlike the bigger producers, don't have to freeze their birds to ship them cross country. They have been wanting for some time to label their own birds ''fresh'' and to stop the national companies from so labeling theirs.

Inconveniently enough, however, the government at some point agreed that to be defined as legally ''frozen'' a chicken or turkey had to reach an internal temperature of zero degrees Fahrenheit, although the meat actually freezes solid at about 25 degrees above that. The big companies thus have been within their legal rights all this time to freeze their birds down to a point above zero

and label the meat ''fresh'' because it has technically never been ''frozen.'' The National Broiler Council beat back a California law that attempted to redefine ''fresh'' as having ''never reached an internal temperature of 25 degrees or below for more than 24 hours.'' The big birders successfully sued to establish that the state law was superseded by the less nature-bound federal version.

Would a frozen chicken under the proposed rules now be referred to as ''frozen''? Heaven forbid. ''Frozen'' chicken and turkey—the kind chilled below zero—would continue to be ''frozen.'' The stuff that had been frozen to between zero and 26 degrees, previously called ''fresh,'' would be labeled ''hard chilled.'' For now, though, barring a Senate turnaround, the victory may remain with the broiler lobbyists who complain that it's too arbitrary to draw an either-or distinction between fresh and frozen at all. Seriously, you'd think this one would be easy.

Mrs. BOXER. Mr. President, the first paragraph says:

''When I use a word,'' said Lewis Carroll's Humpty Dumpty, ''it means exactly what I want it to mean.'' Humpty Dumpty was an egg, but the observation applies especially well to a fight that's going on about chickens. Michael Taylor, acting agriculture undersecretary for food safety, recently tried to call a halt to 2½ years of squawking by issuing a rule that chickens and turkeys frozen rock solid and shipped that way, then thawed, may no longer be labeled ''fresh.'' At the last minute, though, a Senate subcommittee has come up with appropriations language that would block the rule, leaving frozen chickens and turkeys still eligible for the label of freshness.

My friend, that is what this is about. Some of us are trying to stop that attempt by the Appropriations Committee to block a rule that is over 2½ years in the making and, by the way, which started under George Bush. He tried to resolve this problem. We are talking about an 8-year-old issue that has not been resolved. He goes into the rule, which I have explained already, that says that it can be labeled ''fresh'' if it is down to 26 degrees, and ''hard chilled'' between 26 and zero, and it must be labeled ''frozen'' if it is below zero. The person who wrote this article is critical. He says:

Would a frozen chicken under the proposed rules now be referred to as ''frozen''? Heaven forbid. ''Frozen'' chicken and turkey—the kind chilled below zero—would continue to be ''frozen.'' The stuff that had been frozen to between zero and 26 degrees, previously called ''fresh,'' would be labeled ''hard chilled.'' For now, though, barring a Senate turnaround, the victory may remain with the broiler lobbyists who complain that it's too arbitrary to draw an either-or distinction between fresh and frozen at all. Seriously, you'd think this one would be easy.

Mr. President, I echo that. I thought this one would be easy. This one is not easy; it is difficult.

Mr. PRYOR. I wonder if the Senator will yield for a question.

Mrs. BOXER. I would be happy to.

Mr. PRYOR. I wonder if the Senator from California would educate this Senator as to the California Legislature, I think in 1993, enacting the law only relating to poultry. Why is it that the State of California only objected to poultry labeling and not the labeling of beef, not the labeling of pork, and not the labeling of fish? Why is it that we are letting those groups off and concentrating only on poultry products?

Mrs. BOXER. I say to my good friend, I do not serve in the California State Legislature, and I do not always agree with them on things. I cannot answer for why they did this. I assume that one of the reasons they did this is because, clearly, the issue was brought to their attention. I say right now to my friend that I am very much in favor of doing more. He asked before, why are we not doing fish? As far as we know, that is under the FDA authority. I am happy to team up with my friend to work for truth in labeling on every conceivable product. That is what it is about to me, making sure consumers know what they are buying and what they are getting.

Again, I guess one of the problems I have is—and this Senator is certainly saying nothing ill about a frozen product. Some people prefer to buy a frozen product. All I am saying is that it ought to be labeled so we know what the truth is. In terms of the legislative agenda of the California State Assembly, remember, we have many thousands of issues that come before us. I would be happy to research the issue and come back with a specific answer. I can only speak for what I can do.

In this bill, the Appropriations Committee is stopping a truth-in-labeling bill that involves poultry. I would be happy to support my friend for truth in labeling in any and every product he would like to bring forward.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, if the distinguished Senator has completed her statement at this moment, I will be happy to yield such time as he may consume to the distinguished Senator from Arkansas [Mr. BUMPERS].

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, how much time is remaining for the Senator from Mississippi?

The PRESIDING OFFICER. The Senator from Mississippi has 24 minutes remaining.

Mr. BUMPERS. Mr. President, this is another one of those issues which, on its face, would appear to give the California Senators the high ground. But it does not. It is the phoniest issue I think I have ever seen come before the Senate. The Senator from Arkansas, my colleague, Senator PRYOR, has just asked a very relevant question. Red meat products are routinely shipped at below 26 degrees and sold as fresh. Listen to this. Whole hog sausage is packed warm into tubs, then exposed to glyco or brine to chill below 26 degrees.

I can tell my colleagues that any time you buy sausage in the fancy meat section of the grocery store, the chances are about 90 percent of the time you are getting sausage that has been previously frozen. It is thawed for display purposes. Pork and beef loins and other products of beef and pork are routinely brought below 26 degrees. Why? So it is easier to slice. You get a better consistency in the slice if the temperature of the bacon is much lower than freezing. Trim products. When you trim steaks and roast, pork chucks and pork roasts, they take the trimmings and freeze them—not to 26 degrees, but to zero. And then they are later thawed and put with whole hog, and you buy whole hog sausage, some of which is fresh and some of which has been frozen.

Frozen beef: Frozen beef is mixed with fresh beef. Do you know why? To give it a better consistency, because it forms a patty better if half of it has been frozen. When you buy beef patties and pork patties, you are getting formerly frozen product. Frozen lamb is routinely thawed at retail and sold fresh.

Why are those things not included here? Because the California Poultry Federation does not care about lamb, they do not care anything about beef or pork, and they do not care anything about fish. What they care about is the fact that they only have 25 percent, or less, of the poultry business in California. California, right now, has the highest poultry prices in the United States. And if the Senators from California prevail, it will go a lot higher, under the name of consumerism.

Do you know what this regulation of the Department of Agriculture says? It says exactly what the California Legislature said in 1993—that the California Poultry Federation went to the California Legislature and said, ''Look, we cannot compete with the Southern and Southwestern States, so here is the way we have conjured up to deal with the issue.''

So the California legislature says, ''Any poultry product coming into the State of California may not be below 26 degrees.'' What does this regulation say, after the court, incidentally, had ruled that one illegal? The very same thing. Dan Glickman did not think this up. The Department of Agriculture did not think this up. They never thought of it until the California Legislature told them to think of it. And when the Federal court declared that the Federal Government had preemption rights over the safety of food, they came to the California Senators.

I am not complaining about the California Senators going to bat for their State, and I hope nobody will blame me or Senator COCHRAN for going to bat for our States. So here we are on the floor of the Senate protecting the California poultry industry. Unhappily, this rule applies to the entire Nation.

Mr. President, I have watched this Congressman—I forget his name—over in the House. He got a lot of publicity. You have to do crazy things to get on the evening news around here. So he takes a chicken, frozen at zero degrees, and uses it for a bowling ball.

The ordinary citizen looks at that and says, ''You mean I have been buying chicken like that?'' The Senator from California came in here with a frozen chicken this morning. You can use that for a bowling ball, too.

That is not what the debate is about. You take a chicken frozen to 26 or 27 degrees and use it for a bowling ball, and you will get splattered. This chicken, when it leaves the plant to go to California or any other State, is usually at 27 or 28 degrees. When it arrives at its destination, there is a distinct possibility that over the course of that 2-day trip, that some chickens—they are in boxes; they are in what they call a ''chill pack''; they are in a tray and the trays are in boxes—some of the boxes in the middle of the load may conceivably be below 26 degrees, maybe 25 degrees when it gets there.

Now, how are you going to handle that, Mr. President? Are you going to make them unload the whole load and relabel every chicken? Obviously, that is not doable. Economically, that is not doable.

So, what do you do? Nobody can tell you what the Department of Agriculture Inspection Service is going to ask for. I can tell you one thing: The $25 million that we put in for the Food Safety Inspection Service in the bill before the House is not going to be nearly enough to hire all the inspectors to check every temperature.

Is this just me? Listen to this. The Agriculture Research Service, which does all of the research on these things in their laboratories—in the laboratories—the Agriculture Research Service allows a plus or minus 3 degrees because that is the best they can do.

Yet, the California Senators say it has to be 26 degrees, not 1 degree below. As high above as you want to go, but if you go 1 degree below 26 degrees, no plus or minus allowances. Even the Agriculture Marketing Service has a minus or plus 2 degrees. No mistakes for mechanical failures, no allowance for anything.

Mr. President, while, as I say, this looks good on its face, I want to remind my friends from the red beef and the pork States and the fish States, you are next. Whoever you may be competing with, you can depend on them going to their legislature, the Department of Agriculture, and saying, ''We want the same treatment.''

The poultry industry has been attacked as long as I have been in this Senate. It is, as Gilda Radner said, it is always something, is it not, Senator? It was always inspection. Now the poultry industry has agreed to what we hope will be the best and final inspection of a product in the history of man: a macro-organism inspection system that will pick up anything on the carcass of a chicken.

Do you know who is squawking now even though it will cost a lot of money to put it in place? The labor unions, because ultimately it will be labor saving. As I say, it is always something.

Who do you think, Mr. President, finally, has the most to lose by shipping a bad product? It is the industry, is it not? If they send a bad product, if somebody gets sick, they are the ones would pay the price.

Listen to this. Billions and billions and billions of chickens have been shipped to the State of California and all over this country, that left the packing plants at 27 or 26 degrees and when it gets there, maybe some of the chicken was at 25 degrees, some of it was at 26 and some of it was at 27.

Do you know something else? Not one complaint out of billions shipped all over the United States, not one single complaint from anybody but the California Poultry Federation. Does that tell you what this amendment is about?

I yield the floor.

Mrs. BOXER. Mr. President, my friend from Arkansas is a great debater. He says this is the phoniest issue he has ever seen come before the Senate. Let me tell you what is phony. What is phony is marking a frozen product fresh. That is phony. What this regulation is going to do is cure that problem.

To make this a California issue is misleading. Alaska: ''It is unlawful to sell previously frozen as fresh.'' Why not attack Alaska, I say to my friend? Arizona: ''Prohibits misbranding.'' Attack Arizona, I say to my friend. Delaware: There is a prohibition; you cannot misbrand a food. Illinois: If a meat or poultry product has been frozen, it cannot say fresh. It has to say ''previously frozen.'' Why not attack Illinois?

New York: There is a frozen labeling requirement. Oregon prohibits the use of a label that says ''are fresh, if at any time after slaughter, they have been frozen.'' Washington State: Poultry that has been frozen at any time must bear a label ''clearly discernible to customer that such product has been frozen and whether or not it has been thawed.'' We know that California has a law, as was mentioned here several times.

So, put to rest the claim that this is only about one State. This is across the country, and I think that we in the U.S. Senate should respect those States that have gotten out in front of a consumer issue.

Now, I tell you something, I know these consumer groups and they do not get behind a phony issue. I do not know if you have ever dealt with them before, but I do not see Citizen Action standing up here on behalf of one industry. I do not see consumer unions standing up behind one industry. I do not see National Consumer League standing up behind an industry. I do not see Public Voice doing that, and I do not see the American Veterinary Medical Association doing that.

Clearly, this is not a phony issue. But if we do not defeat the committee amendment, a phony situation will continue.

By the way, do not be misled. They say the committee will put a rule into effect, but when we pass it, when we decide it. It has been 8 years since we have been trying to solve this consumer problem and it will be another 8, 10, and God knows how long, the consumers will not have their right to know. So I think the issue is drawn.

My friend says the price will go up. How does the price go up? It is the opposite. The price is artificially up now because a product that says fresh gets a higher price. And that is why the people in your State do not want to put an accurate label on there. They fetch a premium price for a frozen product. Therefore, they want to keep calling it fresh.

On the contrary, when this goes through—and I hope it will, and I do not know how we will come out on it—prices will go down and consumers who want to get a good price can buy a frozen product.

By the way, there is nothing wrong with that. Some prefer it. All we are asking for is truth.

Then my friend says the California Senator said ''26 degrees.'' We never said any such thing. The way the rule came about was because this Senate asked the Department of Agriculture to go hold public hearings, hear the experts, and they found out that the temperature in which it is frozen is 26 degrees. If they picked 24 degrees or 22 degrees, I could not challenge that, I say to my friend. It is a scientific determination. If it is rock solid it is rock solid at 25 degrees.

And he is right. He said a Congressman bowled a chicken down an alley to bring attention to this issue. He is right. It got the Congressman on the news. And sometimes people do that because they are so desperate that things like this will be legislated in the dead of night, in a committee, stuck into an appropriations bill, that they have to shine the light of day on this.

I hope every single consumer in America is watching this vote today. Because you will hear a lot of talk about pork, beef, fish—let us talk about that another time. I am with you. Let us have honesty in the way we sell products in this country. That is the way we are moving. We let consumers know a range of things about the products that they buy.

So, I am going to move, at the proper time, to table the committee amendment. As I understand the rules, and I ask the President if this is correct, the appropriate time would be just before the vote rather than at this time? Is that correct?

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator is correct.

Mrs. BOXER. Then I will at that time reserve my right to move to table the committee amendment. At this time I reserve the remainder of my time.

Mr. HELMS. Mr. President, on April 4, 1995, 19 Senators sent a letter to the U.S. Department of Agriculture in which we expressed our concern about

proposed changes in poultry labeling standards. The USDA has ignored our concerns and is preparing to impose unfair and subjective rules which will adversely and unnecessarily affect the poultry industry in North Carolina, indeed across this country.

At issue is the process by which the poultry industry labels its products—either ''fresh'' or ''frozen''—and whether the USDA will change the rules, unnecessarily and unfairly, on America's food producers. The losers, if the USDA prevails, will not be confined to America's chicken and turkey producers and processors, but also the consumers who are certain to be confused and misled by this USDA bureaucratic meddling.

Senators should be aware of some important facts when considering whether the Senate should allow the USDA to proceed with such unnecessary requirements.

First, the proposed rule change unfairly singles out the poultry industry. Currently, meat, fish, and poultry products are allowed by USDA to be preserved at temperatures below 26 degrees and be labeled as ''fresh.'' If the USDA has its way, the poultry industry alone must label its products as ''previously frozen'' when poultry products are stored at temperatures below 26 degrees.

Second, the proposed rule changes will hinder the growth of America's chicken and turkey industry. The USDA bureaucracy proposes to make permanent standards that the poultry industry already has had difficulty in meeting. Keep in mind, under the USDA's proposal, poultry companies will be required to process, store, and transport their products at specific temperatures beyond their control—and this bureaucratic meddling will automatically reduce the quality of food. This disservice to the consumer will also harm the poultry industry.

Mr. President, America's poultry industry is the envy of the world. Its further growth, and the confidence of the consumer, are at stake in this debate. The Senate should support Senators COCHRAN and BUMPERS in their efforts to prohibit funding for this unwise USDA rule change that will serve nobody's best interests—except, perhaps, the ego of the bureaucrats who came up with an idea whose time should never come.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am happy to yield time to my distinguished friend and colleague from Alabama [Mr. HEFLIN]. How much time would the Senator request, 5 minutes? Ten minutes?

Mr. HEFLIN. Mr. President, 5, 6, 7, 8, somewhere in that neighborhood.

Mr. COCHRAN. I am happy to yield the distinguished Senator 8 minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I appreciate that. I rise in opposition. But first let me say that no opponent is more formidable than the little package of dynamite from California. Senator BOXER is a tremendous opponent. They say dynamite comes in little packages. And she certainly works on every issue that she takes a stand on. Most of the time she is right. But every now and then she gets misled and this is one of those instances.

My colleague asked me how much time I wanted, 5 minutes, maybe? I said 6, 7, 8, somewhere around that so I got 8—but, you know, as I think about that, why did I not say a specific time? Well, it is because there may be some variances of thoughts that I had, and variances are very important.

What is lacking from this, in regards to fresh, is variance. Thermometers differ. I have been in a hospital a good deal, and they take my temperature one way and it is one figure and they take it another way and it is a different figure. Then they, all of a sudden, will get thermometers that they take it in the ear for a minute, and in the old days you take the thermometer and you kept it for 3 minutes in your mouth, and you are supposed to put it in a certain spot and everything else relative to that.

The point I am making is you have a hard and fast rule and you are crossing the desert in a truck, you set it at 26 degrees, but by the time it gets through west Texas, where you are going through some area where the temperature is about 105, and 106, and it varies. Then I think what this also is, it is that we are going to see the inspectors are going to be the thermometer brigade. The thermometer brigade will be coming around, checking.

What we need here is some flexibility, some variance, that will allow—if you have something at 26 degrees, why not have it, say, a 4-degree variance because of weather or whatever else, relative to this? Trucks will have to stop and check the temperature about every 5 or 6 minutes to see that it gets to be 26 degrees.

As you travel across the desert and everything else they will stop. Sometimes, when these truckdrivers stop, they might also have something else to quench the heat. So I do not know what might be occurring relative to this. But, I think there is certainly a need for variance.

I have the front page and the introduction of the California Poultry Workgroup, University of California, Cooperative Extension, called ''Turkey Care Practices.'' In the introduction it has this:

> The number of turkeys produced in California peaked at 32 million in 1990 and dropped to an estimated 24.5 million by 1993. The major causes for this reduction was the necessity to import feed grain and the unfavorable business climate in California. Production costs in California are higher than in other areas making it difficult for the California industry to competitively produce turkey meat products for the consumer.

That is said there. I assume feed is the same for chickens. The same climate is there for chickens as it is for turkeys.

When you get out there, this is a cost issue. It is basically a protectionist issue. It seems to me we are missing the point on all of this. The way I heard Senator BUMPERS talking about freezing various meats, and you freeze bacon to slice it and you freeze beef to do various and sundry things, but turkeys—I know very few people who, on Thanksgiving, do not have frozen turkeys. Most of the turkeys that you buy in the market are frozen. That is one of the delicacies of the American cuisine, is turkey on Thanksgiving. But how many live turkeys do you see? There is nothing wrong with frozen food. Frozen food has a lot of things.

We talk about diseases. It kills a lot of germs in a lot of things that might be flying around and get on to the meats. So this is a safety protection, a food safety provision that Senator COCHRAN has come up with as well, in regards to this.

So, there are a lot of things we feel that people are not reviewing, they are not thinking about in all of these. This 26 degrees that has been said is not any scientific number. A lot of the companies put it on the market at 26 degrees. It is pliable, it is soft, it is certainly, with the ideas we have on poultry and other things, this concept of fresh—if it is 25 degrees it is no longer fresh.

When you cannot tell the difference in the feel, you cannot tell the difference in anything else, even if it is 24 degrees instead of 26 degrees. The point I am making here is the Department of Agriculture has some 26,000 comments and 23,000 of them, as I recall, were against this proposal. But they have some zealots over there in the Department of Agriculture on certain issues who throw to the winds reason, who throw to the winds the logic that is necessary and the real facts that underlie all of this.

So I think this is a mistake on what the Department has done. We ought to adopt the Cochran amendment that is in the bill, send it back to them, and tell them, ''All right. Let us take another look at it.'' At that time, Senator BOXER, with her dynamite approach toward her issues, can argue with the Department of Agriculture, and the California turkey group that I quoted from here can make their arguments. I just think that we are reaching out and making a very unrealistic approach toward an issue that is not the problem that it is being made here today.

Mr. President, I oppose the motion to strike the provision in this appropriations bill. The purpose of the language is to ensure that new poultry labeling rules are meaningful to all consumers.

The rule promulgated by the Food Safety and Inspection Service on August 25, 1995, prohibits poultry products

that have ever been chilled below 26 degrees from being labeled ''fresh,'' products chilled above 0 degrees but below 26 degrees would have to be labeled as ''hard chilled'' or ''previously hard chilled.''

There is nothing special or scientific about the 26-degree threshold temperature selected for determining freshness other than the fact that it is low enough to permit certain regional poultry companies to process their products in accordance with accepted industry practices. At the same time, the temperature suggested by those who have benefited by this regulation is just high enough to interfere with competing poultry products transported from other States from reaching these regional markets without jeopardizing product quality. This is especially true since USDA did not provide any temperature tolerance in the final rule.

You will not find anyone who can tell you with a straight face that poultry products at 26 degrees are fresh while those chilled to 25 degrees are no longer fresh. There is absolutely no scientific evidence that poultry freezes at those temperatures. That is something that came from a Hollywood script and a bureaucrat's desire to develop a punitive and unreasonable regulation. This kind of irresponsible regulation cannot be tolerated.

USDA has succeeded in developing a labeling system that designates high-quality poultry products and will confuse consumers. Poultry consumers will be misled by a labeling requirement that a product is hard chilled when it is, in fact, soft and pliable to the touch at the retail counter. Many consumers may be led to believe that such product is of lesser quality, when, in fact, it is the same high-quality product they have been buying for years.

Not only will consumers be misled by this designated labeling, but the threat of such labeling may force companies to ship poultry products at higher temperatures to avoid being required to use the labeling USDA has mandated, even in the absence of any affirmative quality claim. Basic science provides that cooler temperatures enhance the quality of food products. Poultry, as well as beef, pork, or lamb products, shipped at 24 or 25 degrees will have a longer shelf life and maintain their quality longer than products shipped at higher temperatures—to the benefit of consumers. Because of USDA's denigrating labeling requirement, however, poultry companies will be forced to ship products at higher temperatures, to the detriment of product quality and consumers.

The fresh poultry regulation was designed by the California poultry industry to make it difficult for competing poultry products from other sections of the country to be marketed in California without jeopardizing product quality. When consumers in California have fewer choices in the marketplace, they will pay higher prices for poultry. That is the hidden agenda of the California Poultry Industry Federation. It's simple economics—less competition, fewer choices, and higher prices. The consumer pays and the California poultry products take it to the bank.

We should reject USDA's misguided and ill-conceived regulation and instead require the agency, as we have been forced to do before, to develop a rule that will not result in consumers paying more for the high-quality poultry products they buy today.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, might I ask how much time I have left in this great chicken debate?

The PRESIDING OFFICER. The Senator from California has 15 minutes and 53 seconds.

Mrs. BOXER. Let me say, Mr. President, to my friend, Judge HEFLIN, that he gave me a wonderful compliment. I really mean it. I want to give him one back. He is a powerhouse lawyer, judge, and Senator. He is very convincing. But on this one, I really believe fresh is fresh and frozen is frozen. You can talk about how to take the temperature.

By the way, while the Senator was speaking, I looked at who actually worked on this rule. Believe it or not—this is really interesting—this is an American Society of Heating, Refrigerating, and Air Conditioning Engineers. They actually made a decision that 27 degrees should have been the proper degree. But the Department of Agriculture gave the flexibility of a degree.

So there are scientists who worked on this. It had nothing to do with zealots. The National Institute of Standards and Technology came out with 26 degrees. So there was a disagreement. One said it is frozen at 27, and one said at 26 it is pretty frozen. But this is not about zealots. This is about common sense. The fact of the matter is we want to make sure our consumers know what they are getting.

I agree with my friend. There is nothing wrong with frozen turkeys, chicken parts, or anything. As I said, the Senator is right to say some people actually prefer to buy the frozen product.

All this rule says is you must clearly mark it as frozen if it is zero degrees or below, and you get to market hard chill if it is from zero to 26, which I think shows a great deal of flexibility.

On the inspection point, all the details will be worked out as they go into this rule with the industry. A lot of it is going to be self-enforcement, I might say to my friend. They are very aware, if there is a very large shipment, if one part of the shipment may have fallen below; it does not mean the entire shipment cannot be marked fresh.

So I think rather than saying that they are zealots over there, I think they have bent over backwards to be fair. They even have gotten criticized by some consumers for giving the folks a chance to have their product at 10 degrees marked ''hard chill.''

So my friend is a powerhouse. I have to say that respectfully I disagree with his conclusion on this one. I hope the Senate will support commonsense reform in this area. Again, the country is moving in that way. If people can know how much fat is in a product, how many vitamins are in a product, how many calories are in a product, how much calcium is in a product, and on and on, we have decided it is important for consumers to know this. They ought to know if a product is frozen or has been previously frozen. Eighty-six percent of the folks agree with that premise. We have a chance to stand with 86 percent of the folks.

I hope we will do that in defeating this particular committee amendment.

I reserve the remainder of my time.

Mr. COCHRAN. Mr. President, I yield 4 minutes to the distinguished Senator from Delaware [Mr. BIDEN].

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank my colleague, the distinguished chairman of the committee.

Mr. President, while we are exchanging compliments, I think this amendment is about the efficacy in the way in which the distinguished Senator from California protects her State. She does an incredible job. I do not know anybody since I have served here who looks out for California's interests better than she does. I think that is what this is all about.

We are very close friends, the Senator from California and I. I do not doubt for a single moment what she says about her concern about consumer interests. But I might say, if she prevails, California wins big in the marketplace. I am sure it is purely coincidental. But again, she is tenacious when it comes to California. She is too effective, as far as I am concerned, when it comes to California interests versus the interests of other parts of the country. I think that is what this is a little bit to do with.

She is also trying to influence my mind here by sliding something in front of me that has to do probably with something that says my position does not make any difference; I am not crazy about him anyway.

So, Mr. President, she will go to any lengths within the legitimate confines of the rules of the Senate to win, like just handing me that note.

This debate is not about health and safety. It is not about saving the taxpayers money. Let me state up front this amendment has absolutely no impact on Federal spending. Ensuring compliance will be essentially impossible. Literally one degree of variance would technically require a different label. A package placed, for example, near a refrigeration unit which cools to a temperature of less than 26 degrees would not be considered on par with poultry 10 or 15 feet away from that unit. That is hardly an efficient standard to impose on business. More importantly, the rule ignores the Agricultural Research Service study which

demonstrates that consumers cannot detect any quality difference between poultry chilled to 26 degrees and poultry at 2 or 3 degrees lower. Again, there is no difference between these two types of poultry.

It is not surprising to me, Mr. President, that virtually all consumers place poultry in the freezer for later use. I know that the sponsor of that amendment is not suggesting that the tens of millions of items that consumers take home and put in freezers all of a sudden make that chicken somehow, that poultry somehow, less palatable than if they did not take it from the grocery store to their homes. Interestingly, the Agricultural Research Service study concluded that under ideal laboratory conditions, poultry temperatures can only be controlled to plus or minus 2 degrees. Let me repeat that: Under ideal conditions, literally perfect conditions, we can only control it within 2 degrees.

What the distinguished chairman of the committee has done, he has not said we are not going to have a ruling. He has said look, let us go back and look at this. In fact, I respectfully suggest that many of the advocates of this amendment are more concerned about freezing the delivery of out-of-State poultry, and not actually freezing the product that is being allegedly frozen. This is about freezing out.

We sell a lot of chickens in California. I expect that California poultry producers do not like that. We have not figured how to make those birds fly from the Delmarva Peninsula to California, and then jump into a processing plant. We have not figured out how to do that. We have to put them in trucks. We try to do it at 26 degrees.

We do not want to be put in the position where my distinguished friend implies that the chickens we are sending, which are not below zero degrees, by the way, which is now frozen, is somehow less palatable.

I imagine my time is running out. I apologize for being so disconnected here. But how much time do I have left?

The PRESIDING OFFICER. Your time has just expired.

Mr. BIDEN. I ask for 5 additional seconds.

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

Mr. BIDEN. This is not about E-coli bacteria or cryptosporidium. The committee language is about simple fairness. It is about fostering competition and about improving the information available to consumers.

I hope we reject the amendment of my distinguished friend from California.

I yield the floor.

Mrs. BOXER. Mr. President, I want to say to my friend that he may be right that there is no difference to consumers. But 86 percent of the consumers think they ought to know what they are getting, No. 1. No. 2, the Department of Agriculture said they will be flexible in their enforcement. They have recognized the problem that my friend put out on the table, and I commend him for that. No. 3, back in October 1994, the Senate passed a unanimous vote, a sense of the Congress, that the Department of Agriculture should issue this rule.

We gave them guidance. We told them to hold public hearings all over the country. They did. We told them to publish a decision on the issue as expeditiously as possible. They did that. I thought they were a little slow, taking 2 years, but they finally did that. And we said that no person on the expert advisory committee could have a conflict of interest in the outcome.

Mr. BIDEN. Will the Senator yield for 1 second?

Mrs. BOXER. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mrs. BOXER. Yes, I will be happy to yield.

Mr. BIDEN. Will the Senator tell me whether she thinks consumers know what ''hard chilled'' means?

Mrs. BOXER. I say to my friend they are going to know because of all the publicity we are giving it. I would prefer that we were just saying ''frozen fresh,'' ''previously frozen,'' ''thawed.'' But what they tried to do in this rule, I say to my friend, is accommodate some of the producers in the Eastern States who did not want the word ''frozen'' placed on it, and so they said, OK, if it is between 26 degrees and zero degrees it is hard chilled, and if is zero degrees or colder it is frozen.

I think both of my friends who have spoken in opposition this morning said it is an arbitrary thing. The fact is right now the rules say if you are freezing below zero, you have to say frozen. No one has ever complained about that. Nobody ever said if it is minus 2 degrees, we should say fresh. So there has to be some cutoff point. And the science says it is 26 or 27 degrees and the rule came down at 26.

I would also say to my friend that Delaware has a law on the books that is called ''Misbranding of food: For the purpose of this chapter, food is deemed to be misbranded if is obtained by the dealer in frozen bulk form and is subsequently thawed and offered for sale in a package bearing a label 'fresh.' ''

So I think that the Senator's State, in looking at the overall issue, not necessarily poultry but the overall issue of fresh versus frozen, is one of the leading States here because there is only about 10 that have come forward with these kinds of laws.

Finally, I say to my friend—and we are in a mutual admiration society and I will not go into that—I do find myself fighting for my State, for the consumers of my State. The poultry industry in my State is split. The chicken people like the agriculture rule and the turkey people oppose it. So I have come down on the side of the consumers, which I believe is what we should really do.

I say to my friend, Citizen Action, Consumer Union, National Consumers League, the Public Voice, and many others believe that fresh is fresh and frozen is frozen, and that is why I feel very strongly we should strike the committee amendment.

The administration thinks it is wrong to derail this rule. Eight years ago we tried to resolve this issue. It has been hanging around for 8 years. We finally had it solved. I am really kind of sad that we might derail it because no matter what my dear friend says to me—and he has been around here a lot longer—I do not believe the committee is going to rush to get a new rule in place. I am putting it in the best terms. I think this is a way to put this rule into deep freeze for a long time, never to see the light of day. That is my own view.

Mr. BIDEN. Will the Senator yield?

Mrs. BOXER. I will be happy to yield.

Mr. BIDEN. Just for 10 seconds.

Mrs. BOXER. I will yield as long as my friend wants.

Mr. BIDEN. I say to my friend, the poultry industry in my State, which is divided, by the way—some of the poultry people who are in my State share the Senator's view—is not looking for there to be no rule. They are looking for some flexibility in the 26 degree mark—2 or 3 degrees either way. They are not asking there not be a demarcation. They are not saying that the rule should say zero and below is frozen, above that is fresh. They are not asking for that.

So I am not standing here making the argument that there is no rationale related to having a third category here. I am suggesting that it is not workable as the standard proposed by the Department now which, to use the term freeze, is being frozen by the committee until there can be some more rational way to look at this.

So I wish to make it clear, we are not asking and I am not of the view that there not be a distinction made among the categories of how a chicken or a piece of poultry is packaged and sold.

Mrs. BOXER. I might say to my friend, I am glad to hear that, but from the bottom of my heart, if this is killed, we are not going to see that happen.

Let me say this. This is a very difficult issue because there are special interests on all sides of it, as my friend knows. What my friend is trying to do, he has a situation in his State where some of the businesses are for it, some are against. He took a position he feels is correct. I took a position I feel is correct.

The Agriculture Department in writing this rule really went to the scientists to set the standard. They did not ask just the industry because each industry has a special interest. So they asked the American Society of Heating, Refrigerating and Air Conditioning Engineers. Clearly, this is a group that is not a household name, and they do not have a particular interest. They examined the problem, and they came

out and said at 27 degrees ice crystals begin to form on the poultry flesh. They believed that 27 degrees was appropriate. Another group said it is 26 degrees. That group that said 26 degrees is—let me find it. I had it in the RECORD before. It is a technology group that said it is 26 degrees. So they went with the more, if you will, liberal number of 26 degrees.

Mr. BIDEN. Will the Senator yield for a brief comment?

Mrs. BOXER. I believe, if you leave it up to the businesses to come up with what they think is right, we are not going to have a fair rule. With all due respect to my friend, if we kill this today, I believe we are killing this for a very long time.

Mr. BIDEN. Will the Senator yield for another brief question?

Mrs. BOXER. Yes.

Mr. BIDEN. The experts in the refrigeration industry also point out that there is no way you can get that ideal number within less than 2 degrees. The science of refrigeration is not precise enough that you can get it within 2 degrees. So although they give you an ideal number of 26, they say that is when crystal began to form, they also say, if I am not mistaken, there are not refrigeration units made that can guarantee you can keep it at exactly 27 as opposed to 26 or 25 or 25 as opposed to 23.

So I would ask my friend the following question. Assume the issue here were to say 26 degrees plus or minus 3 degrees. Would she be willing to go along with that? Or is she stuck on precisely 27 degrees? Because the Senator from Delaware would be willing to go along with 26 degrees plus or minus 3 degrees, mainly because there is not the science in refrigeration that you can put a product in the back of a truck, send it off to be sold in California or anywhere else and be assured that for the duration of that trip it will not fluctuate several degrees above or below.

I might add, the reason why the producers are split in my State, the producers who sell only on the east coast think this is a good idea. The producers that sell in California say: I cannot get my product across guaranteeing it is exactly a certain temperature—I cannot assert, and the technology cannot guarantee me when I put it in the truck, that I can keep it within the rule no matter what I tell you.

Mrs. BOXER. May I say to the Senator I am down to 3 minutes.

Mr. BIDEN. I am sorry.

Mrs. BOXER. I have to say to my friend, this is exactly what I do not think we should get into: Will the Senator agree to 27 minus-plus. I believe if we start getting into that on the Senate floor, we are getting into minutia.

There is a science. Now, my friend may not believe it is accurate, but the other group that said it is 26 is the National Institute of Standards and Technology. The Agriculture Department said that flexible enforcement will be absolutely a defining goal. And today we enforce the law when it gets down to zero degrees. So at some point you have to have a cutoff with flexible enforcement, because clearly my friend makes a good point. But I never supported 26 degrees or 25 or 27. What I supported was science dictating when a product ought to be marked ''frozen.''

I think if we do not act today, I say to my friend—and I think he means it that he wants to work on something—it will be a long, cold month, 2 months and years before we get back to this issue.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Mississippi has 10 seconds, the Senator from California has 113 seconds. Who yields time?

Mr. BUMPERS. Mr. President, the Senator from California has generously yielded me 30 seconds, which may be kinder than I would be to her under the circumstances.

Mrs. BOXER. Thanks.

Mr. BUMPERS. I thank her very much. Mr. President, I want to make the point the Senator from Delaware was making. If the Agriculture Research Service has to have a plus or minus 3 degrees in highly controlled labs and highly controlled labs have to have a plus or minus 2 degrees, to ask for a plus or minus 3 degrees in this situation without devastating an industry seems to make eminent good sense. It seems to me if we can transport chickens 2,000 miles and still beat the California Poultry Federation's price, there may be something wrong with the California Poultry Federation.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, let me say to my friends, it is hard to know what to say to my friends at this point, because when we started this debate, we wondered if we could keep it together through the entire debate. I compliment all of us; we have kept it together.

Again, I am going to finish off where I started, and then you are going to have to hear it again for 2 more minutes before the vote.

If I told you that this desk is a chair, you would think I was kidding. And if I told you that winter was summer and summer was winter, and ice was hot and warm was cold, and freezers were toasters, you would send me to the nearest psychiatrist.

I have to say, everything stripped aside, because there is money in industry on one side and money in industry on the other side and we know that, the bottom line is what is fair and what is right and what is common sense and what is reality.

We can decide we are the scientists here, and we can decide at what degree it is frozen and what degree it is fresh. I do not think that is our job. We have a fine, I believe, Department of Agriculture headed by a very fine man from Kansas who knows agriculture. He stepped in and oversaw this rule. We have a good rule. I hope we support it and defeat the committee amendment.

I yield the floor and thank my friends.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, USDA's own study, conducted by the Agricultural Research Service, demonstrated that consumers cannot detect any quality differences between poultry chilled to 26 degrees and poultry chilled to lower temperatures.

The Food Safety and Inspection Service based its rule on assertions generated through a well orchestrated public relations campaign by those who would benefit from this new rule.

In effect, the agency is saying that although it cannot control temperatures under ideal conditions in a laboratory, the poultry industry must not let their products reach a temperature just 1 degree under 26 or the products will be declared out of compliance and mislabeled.

I urge Senators to vote against the California Senators' motion to table.

## RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:33 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. What is the pending business?

## FAMILY SELF-SUFFICIENCY ACT

The PRESIDING OFFICER. The clerk will report H.R. 4.

The legislative clerk read as follows:

A bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence.

The Senate resumed consideration of the bill.

Pending:

Dole modified amendment No. 2280, of a perfecting nature.

Gramm modified amendment No. 2615 (to Amendment No. 2280), to reduce the Federal welfare bureaucracy.

Dole/Daschle amendment No. 2683 (to Amendment No. 2280), to make certain modifications.

AMENDMENT NO. 2692 TO AMENDMENT NO. 2280

(Purpose: To provide a technical amendment)

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