

from Judge Roberts' years of service in the Reagan administration. These memos raise serious questions about the nominee's approach to civil rights. It is now clear that as a young lawyer, John Roberts played a significant role in shaping and advancing the Republican agenda to roll back civil rights protections. He wrote memos opposing legislative and judicial efforts to remedy race and gender discrimination. He urged his superiors to oppose Senator KENNEDY's 1982 bill to strengthen the Voting Rights Act and worked against affirmative action programs. He derided the concept of comparable worth and questioned whether women actually suffered discrimination in the workplace.

No one is suggesting John Roberts was motivated by bigotry or animosity toward minorities or women, but these memos lead one to question whether he truly appreciated the history of the civil rights struggle. He wrote about discrimination as an abstract concept, not as a flesh-and-blood reality for countless of his fellow citizens. The memos raised a real question for me whether their author would breathe life into the equal protection clause and the landmark civil rights statutes that come before the Supreme Court repeatedly. Nonetheless, I was prepared to look past these memos and chalk them up to the folly of youth. I looked forward to the confirmation hearings in the expectation that Judge Roberts would repudiate those views in some fashion. However, the nominee adopted what I considered a disingenuous strategy of suggesting that the views expressed in those memos were not his, even at the time the memos were written. That is what he said. He claimed he was merely a staff lawyer reflecting the positions of his client, the Reagan administration.

Anyone who has read the memos can see that Roberts was expressing his own personal views on these important policy matters. In memo after memo, the text is very clear. It is simply not plausible for the nominee to claim he did not share the views he personally expressed. For example, there is a memo in which he refers to the Equal Employment Opportunity Commission as "un-American." If Judge Roberts had testified that this was a 20-year-old bad joke, I would have given the memo no weight. Instead, he provided a tortured reading of the memo that simply doesn't stand up under any scrutiny.

In another memo, Judge Roberts spoke about a Hispanic group President Reagan would soon address and he suggested that the audience would be pleased to know the administration favored legal status for the "illegal amigos" in the audience—illegal amigos. After 23 years, couldn't he acknowledge that was insensitive, that it was wrong? The use of the Spanish word "amigos" in this memo is patronizing and offensive to a contemporary reader. I don't condemn Judge Roberts for using the word "amigos" 20 years ago

in a nonpublic memo, but I was stunned when at his confirmation hearing he could not bring himself to express regret for using that term or recognize that it might cause offense.

My concerns about these Reagan-era memos were heightened by the fact that the White House rejected a reasonable request by committee Democrats for documents written by Judge Roberts when he served in the first Bush administration. After all, if memos written 23 years ago are to be dismissed as not reflecting the nominee's mature thinking, it would be highly relevant to see memos he had written as an older man in an even more important policymaking job. The White House claim of attorney-client privilege to shield these documents is utterly unpersuasive. Senator LEAHY, ranking member of the Judiciary Committee, asked Attorney General Gonzales for the courtesy of a meeting to discuss the matter and was turned down. This was simply a matter of stonewalling.

The failure of the White House to produce relevant documents is reason enough for any Senator to oppose this nomination. The administration cannot treat the Senate with such disrespect without some consequence. In the absence of these documents, it was especially important for the nominee to fully and forthrightly answer questions from committee members at his hearing. He failed to do so adequately. I acknowledge the right—indeed, the duty—of a judicial nominee to decline to answer questions regarding specific cases that will come before the Court to which the witness had been nominated. But Judge Roberts declined to answer many questions more remote than that, including questions seeking his views of long-settled legal precedent.

Finally, I was very swayed by the testimony of civil rights and women's rights leaders against the confirmation. When a civil rights icon such as John Lewis, one of my American heroes, appears before the committee and says John Roberts was on the wrong side of history, I take note. Senators should take notice.

I personally like Judge Roberts. I respect much of the work he has done in his career. For example, his advocacy for environmentalists in a Lake Tahoe takings case several years ago was good work. In the fullness of time, he may well prove to be a fine Supreme Court Justice. But I have reluctantly concluded that this nominee has not satisfied the high burden of justifying my voting for his confirmation based on the current record.

Based on all these factors, the balance shifts against Judge Roberts. The question is close, and the arguments against him do not warrant extraordinary procedural tactics to block his nomination. Nevertheless, I intend to cast my vote against this nomination when the Senate debates the matter next week.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—Continued

AMENDMENT NO. 1747

Mr. DURBIN. Mr. President, I believe this has been cleared on the other side.

Mr. President, I send an amendment to the desk on behalf of Senator REID and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Mr. REID, proposes an amendment numbered 1747.

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

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

The amendment is as follows:

(Purpose: To provide for minimum prices for milk handlers)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_.(a) Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

“(M) MINIMUM MILK PRICES FOR HANDLERS.—

“(i) APPLICATION OF MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this section, a milk handler described in clause (ii) shall be subject to all of the minimum and uniform price requirements of a Federal milk marketing order issued pursuant to this section applicable to the county in which the plant of the handler is located, at Federal order class prices, if the handler has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases.

“(ii) COVERED MILK HANDLERS.—Except as provided in clause (iv), clause (i) applies to a handler of Class I milk products (including a producer-handler or producer operating as a handler) that—

“(I) operates a plant that is located within the boundaries of a Federal order milk marketing area (as those boundaries are in effect on the date of enactment of this subparagraph);

“(II) has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a milk marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases; and

“(III) is not otherwise obligated by a Federal milk marketing order, or a regulated milk pricing plan operated by a State, to pay minimum class prices for the raw milk that is used for the milk dispositions or sales.

“(iii) OBLIGATION TO PAY MINIMUM CLASS PRICES.—For the purpose of clause (ii)(III), the Secretary may not consider a handler of Class I milk products to be obligated by a Federal milk marketing order to pay minimum class prices for raw milk unless the handler operates the plant as a fully regulated fluid milk distributing plant under a Federal milk marketing order.

“(iv) CERTAIN HANDLERS EXEMPTED.—Clause (i) does not apply to—

“(I) a handler (otherwise described in clause (ii)) that operates a nonpool plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph));

“(II) a producer-handler (otherwise described in clause (ii)) for any month during which the producer-handler has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 3,000,000 pounds of milk; or

“(III) a handler (otherwise described in clause (ii)) for any month during which—

“(aa) less than 25 percent of the total quantity of fluid milk products physically received at the plant of the handler (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition or is transferred in the form of packaged fluid milk products to other plants; or

“(bb) less than 25 percent in aggregate of the route disposition or transfers are in a marketing area or areas located in 1 or more States that require handlers to pay minimum prices for raw milk purchases.

“(N) EXEMPTION FOR CERTAIN MILK HANDLERS.—Notwithstanding any other provision of this section, no handler with distribution of Class I milk products in the Arizona-Las Vegas marketing area (Order No. 131) shall be exempt during any month from any minimum milk price requirement established by the Secretary under this subsection if the total distribution of Class I products during the preceding month of any such handler’s own farm production that exceeds 3,000,000 pounds.”.

(b) Section 8c(11) of the Agricultural Adjustment Act (7 U.S.C. 608c(11)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subparagraph (C), by striking the last sentence; and

(2) by adding at the end the following:

“(D) EXCLUSION OF NEVADA FROM FEDERAL MILK MARKETING ORDERS.—In the case of milk and its products, no county or other political subdivision located in the State of Nevada shall be within a marketing area covered by any order issued under this section.”.

(c) Notwithstanding any other provision of this section or the amendments made by this section, a milk handler (including a producer-handler or producer operating as a handler) that is subject to regulation under this section or an amendment made by this section shall comply with any requirement under section 1000.27 of title 7, Code of Federal Regulations (or a successor regulation) relating to responsibility of handlers for records or facilities.

(d)(1) This section and the amendments made by this section take effect on the first day of the first month beginning more than 15 days after the date of enactment of this Act.

(2) To accomplish the expedited implementation schedule for the amendment made by subsection (a), effective on the date of enactment of this Act, the Secretary of Agriculture shall ensure that the pool distrib-

uting plant provisions of each Federal milk marketing order issued under section 8c(5)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(B)), reenacted with amendments by the Agricultural Marketing Agreement of 1937, provides that a handler described in section 8c(5)(M) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement of 1937 (as added by subsection (a)), will be fully regulated by the order in which the distributing plant of the handler is located.

(3) Implementation of this section and the amendments made by this section shall not be subject to a referendum under section 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(19)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

Mr. DURBIN. Mr. President, I urge adoption of the amendment.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1747.

The amendment (No. 1747) was agreed to.

#### AMENDMENT NO. 1748

Mr. DURBIN. Mr. President, on behalf of Senator INOUE, Senator FEINSTEIN, and others, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Mr. INOUE, for himself, Mr. AKAKA, and Mrs. FEINSTEIN, proposes an amendment numbered 1748.

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

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

The amendment is as follows:

(Purpose: To limit the use of funds made available to the Animal and Plant Health Inspection Service)

On page 101, line 10, before the period at the end insert the following: “: *Provided further*, That none of the funds may be used to demolish or dismantle the Hawaii Fruit Fly Production Facility in Waimanalo, Hawaii”.

Mr. INOUE. Mr. President, today, I offer an amendment that would prohibit the Animal and Plant Health Inspection Services, APHIS, from using appropriated funds to demolish or dismantle the Hawaii Fruit Fly Production Facility in Waimanalo, HI.

This amendment, which is cosponsored by my dear friends, Senator AKAKA and Senator FEINSTEIN, is in response to a recent decision made by APHIS to dismantle the Hawaii Fruit Fly Production Facility in Waimanalo, HI and would preclude the agency from carrying out this decision until other alternatives have been articulated and analyzed. In addition, this amendment would provide the agency and the many stakeholders with additional time to examine the issue, to seek a more creative solution, and to have the Secretary recommend a plan that is acceptable to the agricultural represent-

atives of the State of Hawaii, California, and other impacted States.

Releases of sterile insects have played a prominent role in the success of most pest control or eradication programs. It is in this context that I have two main concerns with the agency’s decision. First, relying solely on Guatemala as a source of sterile Mediterranean fruit flies places the United States at risk if the supply from Guatemala were curtailed for any reason. In these times of terrorist activities and civil unrest, disruption is much more than an academic debate. I have been assured by other states impacted by the APHIS decision that they share my concern.

Second, from a Hawaii perspective the permanent closure of the facility in Waimanalo does not bode well for the future of diversified agriculture in Hawaii. Unfortunately, Hawaii is infested with four fruit fly pest species—not just the Mediterranean fruit fly. Any hope of area wide control or eradication of these pests requires efficient rearing of all four species for sterile release programs. It is my intent to seek support for a multiple species rearing facility in Waimanalo to address this problem that is unique to Hawaii. While suppression of all four of the fruit fly species in Hawaii is of great benefit to our State, such activities may be among the best mechanisms for avoiding inadvertent fruit fly infestations in other states where these alien pests can survive.

Given these concerns, I urge my colleagues to support my amendment that would prohibit APHIS from implementing its demolition decision and to provide additional time for the agency to work with all stakeholders in exploring and implementing a sound public policy on this issue of great importance to the State of Hawaii.

Mr. DURBIN. Mr. President, I urge adoption of the amendment.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1748.

The amendment (No. 1748) was agreed to.

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1749

Mr. DURBIN. I send an amendment to the desk on behalf of myself, Senator ENZI, and Senator KENNEDY.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], proposes an amendment numbered 1749.

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

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

The amendment is as follows:

(Purpose: To insert provisions related to conflicts of interest among members of advisory panels of the Food and Drug Administration)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_.(a) Subject to subsection (b), none of the funds made available in this Act may be used to—

(1) grant a waiver of a financial conflict of interest requirement pursuant to section 505(n)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)(4)) for any voting member of an advisory committee or panel of the Food and Drug Administration; or

(2) make a certification under section 208(b)(3) of title 18, United States Code, for any such voting member.

(b) Subsection (a) shall not apply to a waiver or certification if—

(1) not later than 15 days prior to a meeting of an advisory committee or panel to which such waiver or certification applies, the Secretary of Health and Human Services discloses on the Internet website of the Food and Drug Administration—

(A) the nature of the conflict of interest at issue; and

(B) the nature and basis of such waiver or certification (other than information exempted from disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act)); or

(2) in the case of a conflict of interest that becomes known to the Secretary less than 15 days prior to a meeting to which such waiver or certification applies, the Secretary shall make such public disclosure as soon as possible thereafter, but in no event later than the date of such meeting.

(c) None of the funds made available in this Act may be used to make a new appointment to an advisory committee or panel of the Food and Drug Administration unless the Commissioner of Food and Drugs submits a confidential report to the Inspector General of the Department of Health and Human Services of the efforts made to identify qualified persons for such appointment with minimal or no potential conflicts of interest.

Mr. DURBIN. Mr. President, the Scientific Advisory Committee system at the Food and Drug Administration is meant to provide the Agency with unbiased, independent, professional advice on the safety and efficacy of drugs, devices, biologics, food, and veterinary medicine.

To protect the objectivity and the integrity of advisory committees, members have long been subject to a number of conflict of interest laws and regulations. Unfortunately, the Food and Drug Administration has routinely granted waivers to scientists with financial ties to the manufacture of the products under consideration or their competitors. These waivers can compromise the integrity of this important advisory process. Let me give one example.

The February 2005 advisory panel considering whether painkillers, Celebrex, Bextra, and Vioxx, could safely be marketed to the public included 10 scientists who were granted conflict of interest waivers. Ten of the thirty-two members—that is 31 percent—consulted for or received research support from Pfizer, which makes Celebrex and Bextra; and Merck, which makes Vioxx; or Novartis, which

is seeking approval for a similar painkiller.

Had the votes of those 10 scientists been excluded, the panel would have favored withdrawing Bextra from the market and blocking the return of Vioxx.

As the New York Times pointed out in a March editorial:

Unless the FDA makes a more aggressive effort to find unbiased experts or medical researchers start severing their ties with the industry, a whiff of bias may taint the verdicts of many advisory panels.

I, along with two of my colleagues, Senators ENZI and KENNEDY, have offered this amendment to the Agriculture appropriations bill, a bill which funds the Food and Drug Administration. It will increase the transparency of the process. It will ensure the FDA has searched for experts without conflicts of interest.

Specifically, our amendment requires the FDA to disclose any conflict of interest waivers on their Web site 15 days prior to the meeting of the advisory committee. They must detail the nature of the conflict of interest and the rationale for the waiver.

The amendment also requires the FDA to send a report to the Health and Human Services inspector general after each new advisory committee is convened. The report must detail the steps the FDA took to find scientists who were free from conflicts.

Finally, Senators ENZI, KENNEDY, and I will request that the Government Accountability Office conduct an in-depth study of the waiver process and provide recommendations on how it can be improved.

My amendment will increase the transparency of the waiver process and require the FDA to report to a third party about their efforts to identify scientists without conflicts. I think this will create a powerful incentive for the FDA to find more scientists without the potential for bias.

Let me close by saying that, over the years, it has been my good fortune to work with this important agency, the Food and Drug Administration. The American people don't know how much we rely on this tiny agency to decide that what is sold to us in drug stores and other places in our daily lives must be safe and they must be effective as advertised. It is an arduous and important process, and they get it right so often, but occasionally they do not. We have to make certain that we try to take out of this decision process any question that would be raised about the integrity of the Agency or the means they are using to reach their conclusions. I hope this amendment moves us in that direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank the Senator from Illinois for his initiative on this issue and congratulate him for the final product that has been crafted. This could have been a

very controversial and contentious issue, but by compromise, conversation, and consultation among him and the other Senators he mentioned, we now have an amendment that is virtually noncontroversial.

It is important that we do not enforce the conflict-of-interest issue with such difficulty that ultimately the pharmaceutical companies are cut off from any opportunity of ever consulting with the best experts in the field because those experts want to also remain available to the FDA.

I think the compromise that has been reached is a sound one. I endorse the amendment and urge all Senators to vote for it.

I call for a voice vote.

The PRESIDING OFFICER. Without objection, the question is on agreeing to amendment No. 1749.

The amendment (No. 1749) was agreed to.

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 1750, 1751, AND 1752, EN BLOC

Mr. BENNETT. Mr. President, I have three amendments which I send to the desk and ask for their consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report the amendments en bloc.

The bill clerk read as follows:

The Senator from Utah [Mr. BENNETT] proposes amendments numbered 1750, 1751, and 1752.

Mr. BENNETT. I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1750

On page 93, line 9 at the end of the sentence insert the following:

“Provided further, That the Agricultural Research Service may convey all rights and title of the United States, to a parcel of land comprising 19 acres, more or less, located in Section 2, Township 18 North, Range 14 East in Oktibbeha County, Mississippi, originally conveyed by the Board of Trustees of the Institution of Higher Learning of the State of Mississippi, and described in instruments recorded in Deed Book 306 at pages 553-554, Deed Book 319 at page 219, and Deed Book 33 at page 115, of the public land records of Oktibbeha County, Mississippi, including facilities, and fixed equipment, to the Mississippi State University, Starkville, Mississippi, in their “as is” condition, when vacated by the Agricultural Research Service.

## AMENDMENT NO. 1751

At the appropriate place in the bill (page 173 after line 24), insert the following new paragraphs:

“SEC. . (a) Hereafter, none of the funds made available by this Act or any other Act may be used to publish, disseminate, or distribute Agriculture Information Bulletin Number 787.

(b) Of the funds provided to the Economic Research Service, the Secretary of Agriculture shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive report on the economic development and current status of the sheep industry in the United States.”

## AMENDMENT NO. 1752

On page 173, after line 24 insert the following:

“SEC. . The Secretary of Agriculture may establish a demonstration intermediate re-lending program for the construction and rehabilitation of housing for the Choctaw Nation: *Provided*, That the interest rate for direct loans shall be 1 percent: *Provided further*, That no later than one year after the establishment of this program the Secretary shall provide the Committees on Appropriations with a report providing information on the program structure, management, and general demographic information on the loan recipients.”

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENNETT. Mr. President, the first amendment is in regard to a study on the sheep industry in the United States by the National Academy of Sciences. The second authorizes a demonstration tribal housing program. And the third authorizes a land transfer in Mississippi from the Agricultural Research Service to Mississippi State University.

All three of these amendments have been considered carefully on both sides. They have been cleared on both sides. I ask that they be approved en bloc by a voice vote.

The PRESIDING OFFICER. Is there objection? Without objection, the question is on agreeing to the amendments en bloc.

The amendments (Nos. 1750, 1751, and 1752) were agreed to en bloc.

Mr. BENNETT. Mr. President, I ask that the vote be reconsidered and that reconsideration be laid upon the table.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. ENSIGN. Mr. President, I ask unanimous consent that I may offer an amendment dealing with horse inspection and that no second-degree amendments be in order.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENSIGN. Mr. President, I withdraw my previous unanimous consent request and I call for the regular order with respect to amendment No. 1726.

The PRESIDING OFFICER. The amendment is now pending.

## AMENDMENT NO. 1753 TO AMENDMENT NO. 1726

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. BYRD, Ms. LANDRIEU, Mr. LOTT, Mr. GRAHAM, Ms. STABENOW, Mr. DEMINT, Mrs. FEINSTEIN, and Mr. LAUTENBERG, proposes an amendment numbered 1753 to amendment numbered 1726.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of appropriated funds to pay the salaries or expenses of personnel to inspect horses under certain authority or guidelines)

At the appropriate place, add the following:

SEC. \_\_\_\_\_. None of the funds made available in this Act may be used to pay the salaries or expenses of personnel to inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) or under the guidelines issued under section 903 the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104-127).

Mr. ENSIGN. Mr. President, I rise, along with my colleagues, Senators BYRD, LANDRIEU, GRAHAM, LOTT, STABENOW, DEMINT, FEINSTEIN, and LAUTENBERG, to submit an amendment to the 2006 Senate Agriculture appropriations bill.

The goal of our amendment is simple: to end the slaughter of America's horses for human consumption overseas.

I graduated from Colorado State with a degree in veterinary medicine. I have been concerned with animal welfare since my earlier days as a youth and pursued those interests as a practicing veterinarian.

Our Nation's history and cultural heritage is strongly associated with horses. George Washington is pictured many places with horses. We are reminded of the legend of Paul Revere's ride and the Pony Express in the West. The Depression era race between Seabiscuit and War Admiral raised the morale of our country during desperate times.

The owners who sell their horses at auction are often unaware that those horses may be on their way to one of the three remaining horse slaughterhouses in America. These slaughterhouses—two in Texas and one in Illinois—are owned by French and Belgium companies. They slaughter American horses almost exclusively for one purpose—exporting the meat overseas for human consumption.

Workhorses, racehorses, and even pet horses—many young and healthy—are slaughtered for human consumption in Europe and Asia, where their meat is considered a delicacy. The profits, along with the product, are shipped overseas. These horses are slaughtered in America and shipped to Japan, France, Belgium, Italy, Germany for human consumption.

Last year, nearly 100,000 American horses were slaughtered for human consumption overseas. Sixty-five thousand of these were sent to three slaughterhouses in the United States, and more than 30,000 were shipped across our borders to Canada and Mexico for slaughter.

Our amendment effectively stops this practice. It restricts the use of Federal funds for the inspection of horses being sent to slaughterhouses for human consumption. Without these inspections, required under the Federal Meat Inspection Act, horses cannot be slaughtered, or exported for slaughter, for human consumption overseas.

Strong support for our amendment is reflected in the House of Representatives, where an identical measure was passed by a vote of 269 to 158 this past June.

We have several articles and editorials from around the country that have been written in support of our amendment. Articles have appeared in the Washington Times, the St. Petersburg Times, the Charleston Gazette, and the Louisville Courier-Journal, just to name a few. I ask unanimous consent to have these articles printed in the RECORD.

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

[From the Washington Times, Sept. 15, 2005]

## SAVE THE HORSES

Most Americans would sooner starve than eat fillet of horse with cranberry chutney, or however they do it in Europe. It might then come as a surprise that 66,000 horses were slaughtered for consumption in the United States last year, and 20,000 more were exported abroad for the same purposes. Even more so when one considers that nearly none of this horse flesh ends up on American platters—and for that we are thankful.

While cattle and poultry are bred specifically for food, horses are not. Many of those sold to slaughterhouses are privately owned or caught in the wild by the federal Bureau of Land Management, which then tries to find adoptive homes. When it cannot, the horses go to the highest bidder, in this case either to one of the three Belgian- or French-owned plants.

Fortunately, there is growing opposition in Congress to this kind of thing. In June, the House passed by a bipartisan majority an

amendment to the agriculture appropriations bill banning the use of federal funds in the slaughtering of horses. The Senate is scheduled to vote on the amendment, sponsored by veterinarian Sen. John Ensign, next week. We encourage senators to support this ban.

Certain veterinary groups, rather ironically, oppose the amendment. They claim that it is humane to put aging or neglected horses out of their misery. But if anyone actually saw how these noble beasts are slaughtered—strung up by their hind legs and bled—they might think twice before supporting such conduct. The only problem with attaching the amendment to an appropriations bill is that it will expire next year.

So, Mr. Ensign has also introduced independent legislation that would ban the slaughter of horses entirely. Some critics contend an outright ban is an abuse of congressional power. But Cass Sunstein, the distinguished University of Chicago law professor, conclusively addressed those concerns a few years ago: "A ban on commercial slaughter of horses would be plainly within congressional authority, if accompanied by reasonable findings that such slaughter is often or generally a way of yielding products for interstate or international sale, and therefore has a substantial effect on interstate or international commerce." Few would argue that it doesn't.

We admit to a certain sentimentality in our appeal to ban horse slaughter. The horse has always held a hallowed place in our national identity, much like the bald eagle. And just as no American would consider ordering up a bald eagle, if only out of respect, so would none ask for a horse steak.

[From the Louisville Courier-Journal, Sept. 13, 2005]

#### HORSE SENSE IN SENATE

This week, the U.S. Senate may vote on an amendment to the agriculture appropriations bill that would outlaw the slaughter of horses for food. For most Kentuckians—in fact, for most Americans—it's shocking that such a vote would need to be taken. In this country, horses are raised to be companion animals. Most folks don't know that in three foreign-owned slaughterhouses within our borders, about 45,000 horses are killed each year.

The meat is then shipped to Japan and several European countries, where horse is served for dinner. In the international market, the meat of American horses is especially coveted, since most of them have been well fed and have received superior care.

This should be an easy vote for Sens. Mitch McConnell and Jim Bunning. Horses are central to Kentucky's culture. Our famous Bluegrass farms breed and raise them for higher purposes than ending up on some dinner table overseas.

And no horse is currently safe from that fate. Ferdinand, the 1986 Kentucky Derby winner, was killed in a Japanese slaughterhouse when his stud services were no longer needed. This past spring, 41 wild mustangs were slaughtered for food in a Texas plant after being purchased through a program meant to give them new homes.

That's why, in June, the U.S. House of Representatives overwhelmingly passed legislation identical to what the Senate is considering. Kentucky's own Rep. Ed Whitfield, R-1st District, led the effort.

Now the Senate should do the same, with Kentuckians again playing a leadership role.

[From the St. Petersburg Times, Sept. 13, 2005]

#### BRING AN END TO HORSE SLAUGHTER

Horse slaughter has no place in the United States. The House of Representatives con-

firmed that earlier this year by passing an amendment to the agriculture spending bill that would, in essence, stop the practice. Now it is the Senate's turn.

Currently, horses that are no longer wanted are sold to buyers who presumably seek them for recreation or as pets too often end up in slaughterhouses or in the hands of exporters who send them outside the country for slaughter. Sometimes the buyers hide their true intentions and make a profit by selling the horses for slaughter. Each year, nearly 100,000 horses are subjected to a cruel end to their lives.

Horse meat for human consumption hasn't been sold in the United States for decades and isn't even used in pet food here. If a horse is near the end of its useful life, there are more humane ways for an owner to get rid of it. Adoption groups offer horses a peaceful retirement, and if the horses need to be euthanized, it can be done painlessly and humanely for a couple hundred dollars.

The Senate vote could come up in the next few days, so those opposed to horse slaughter should contact their senators and tell them to support the amendment, which would deny the Agriculture Department taxpayer dollars for the inspection of horse meat. Without such inspections, legalized horse slaughter in this country will end. And good riddance.

[From the Charleston Gazette, Sept. 13, 2005]

#### SAVE HORSES—BILL WOULD STOP SLAUGHTER

Around 90,000 American horses are slaughtered each year for human consumption. Foreign-owned slaughterhouses on American soil kill about 50,000 of them; the other 20,000 are sent live to Mexico or Canada. Some are wild horses that still wander ranges of the West; others are unwanted, disposed of by their owners or unscrupulous dealers who promise they will go to good homes.

Many of these creatures undergo extreme suffering en route to their final destination. Transport law allows them to go for 24 hours without food, water or rest, even if they are badly injured or heavily pregnant.

West Virginia Sen. Robert Byrd plans an amendment to the Agriculture appropriations bill banning horse slaughter in the United States. All three of the state's representatives voted for a similar amendment in the House that passed, 269-158.

There are alternatives to the slaughter of unwanted horses. The recent auction of wild mustangs in Ronceverte resulted in new homes for horses trucked in and sold for a nominal amount. Many horse rescue operations work with retired racehorses, many of whom have tragically ended at slaughterhouses—even big-time steeds, including Kentucky Derby winner Ferdinand. The rescue organizations retrain them and find them new homes and careers. Horses that have truly come to the end of their useful or comfortable lives can be humanely euthanized, rather than having to endure the pain, panic and trauma of a trip to the slaughterhouse.

The bond between horses and humans is as close as the connection between dogs or cats and their owners. The horsemeat industry is not a vital part of the American economy. We hope the Senate will pass this humane amendment.

CITY OF KAUFMAN,

Kaufman, TX, September 6, 2005.

Re Support Congressional efforts to end horse slaughter.

DEAR SENATOR: As the Mayor of Kaufman, Texas, I am all too well acquainted with an issue that has been getting plenty of attention on Capitol Hill recently: horse slaughter.

Kaufman is "home" to Dallas-Crown, one of only three slaughterhouses that continue

to operate in this country (the other plants are in Ft. Worth, TX and DeKalb, IL). Together, the plants killed more than 65,000 of our horses last year for human consumption abroad. All three plants, are foreign owned, and all three are out of step with American public opinion. Seventy-eight percent of Texans oppose horse slaughter and polls from other parts of the country reflect this sentiment. Both of the Texas plants operating in violation of state law which prohibits the sale of horsemeat for human consumption. And Dallas-Crown is operating in violation of a multitude of local laws pertaining to wastemanagement, air quality and other environmental concerns.

When the District Attorneys in the two Texas jurisdictions moved to prosecute under the state law, the plants filed suit and the District Attorneys were prevented from proceeding. Horses continued to be slaughtered while the case languished in federal court. Recently, the judge ruled in the plants' favor. The District Attorneys are considering an appeal.

When the city took action against the plant for releasing pollutants into the sewer system far in excess of legally acceptable limits, we ended up in court and are now forced to mediate on an issue that can't be mediated. Meanwhile, our municipal sewer system is overburdened, but we simply cannot afford to refurbish the system so that it can tolerate overload from Dallas-Crown. Nor should we have to.

Residents are also fed up with the situation. Long-established neighbors living adjacent to the plant cannot open their windows or run their air conditioners without enduring the most horrific stench. Children playing in their yards do so with the noise of horses being sent to their deaths in the background. Landowners have difficulty securing loans to develop their property. The residents have petitioned the city council to take corrective action against the plant. On August 15 the Kaufman City Council voted unanimously to implement termination proceedings against the plant.

But the ultimate remedy rests with the federal government, which has the authority—and opportunity—to close this shameful industry down. I urge you to cosponsor the American Horse Slaughter Prevention Act when it is introduced by Senator John Ensign, and to support the Ensign amendment to the Senate Agriculture Appropriations Bill for Fiscal Year '06 that will prohibit the use of federal funds to facilitate horses slaughter.

As a community leader where we are directly impacted by the horse slaughter industry, I can assure you the economic development return to our community is negative. The foreign-owned companies profit at our expense—it is time for them to go. If I can provide you with further information, please don't hesitate to contact me at 972-932-2856.

Sincerely,

PAULA BACON,  
Mayor of Kaufman, Texas.

Mr. ENSIGN. Mr. President, the Ensign-Byrd amendment also has strong support from some of the people most familiar with the slaughterhouses. Paula Bacon, the mayor of Kaufman, TX, which is home to the Dallas Crown Slaughterhouse, recognized the importance of ending this slaughter.

She stated:

My city is little more than a doormat for a foreign-owned business that drains our resources, thwarts economic development and stigmatizes our community. There is no justification for spending American tax dollars to support this industry.

That is Paula Bacon, mayor of Kaufman, TX, home to the Dallas Crown horse slaughterhouse facility.

Members of the local community would like to see this slaughterhouse closed, as well.

Concerns have been raised about what will happen if this slaughter is ended. Many of these horses will be sold to a new owner. Some horses will be kept longer by their original owner, others will be euthanized humanely by a licensed veterinarian, and still others will be cared for by the horse rescue community. Efforts are underway to standardize practices for horse rescue organizations. Guidelines for this ever-growing sector have been developed by the animal protection community and embraced by sanctuaries.

Statistics do not support claims that this legislation will result in more abuse and neglect of unwanted horses. In Illinois, the number of abuse cases actually dropped from 2002 to 2004, when the State's only slaughterhouse was closed due to fire. In California, there has been no rise in neglect cases since the State passed a ban on slaughter for human consumption in 1998.

Furthermore, it is illegal to "turn out," neglect, or starve a horse, so this amendment will not lead to more orphaned horses. If a person attempts to turn his or her horses out, animal control agents can enforce humane laws. These animals still can be euthanized and disposed of by a veterinarian for about \$225, a fraction of the cost to keep a horse. That cost is not too big of a burden to bear when no other options are available.

Our amendment is good for horses. That is why it is supported by many animal protection groups. The Humane Society of the United States, the American Society for the Prevention of Cruelty to Animals, the Doris Day Animal League, the American Humane Association, and Society for Animal Protective Legislation—all support our legislation. We have also received support from much of the horse industry and veterinarians nationwide. In fact, congressional measures to end horse slaughter are supported by Veterinarians for Equine Welfare, the National Thoroughbred Racing Association, Churchill Downs, Incorporated, and dozens of owners and trainers of champion racehorses, including Kentucky Derby winners.

The time to end this slaughter is now. Please join my colleagues and me in supporting this important amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senator be recognized to speak as in morning business. We are under the Agriculture bill, and no one seems to be coming forward under the Agriculture bill, so I obviously have no objection, but I think, to be clear, it should be as in morning business; therefore, I ask unanimous consent that the Senator be given the opportunity to do that.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. CONRAD. Mr. President, I thank my colleague from Utah for his graciousness, and my colleague from Wisconsin as well. I appreciate this opportunity to speak.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 1730 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, Winston Churchill said, "when you are on a great horse, you have the best seat you will ever have." Indeed, throughout the ages, the horse has carried mankind across continents, helped forge civilizations, and has been that beloved beast of burden that has borne the human race on its back.

In America, the horse was the primary source of transportation of our founding fathers, the vehicle of our Revolutionary soldiers, and a symbol of the majestic strength and character that this great country was based upon. Our fledgling urban centers rose with the help of the horse's brawn. Our American frontier expanded farther and farther west, with families traveling by horse-drawn wagons across mountains and valleys, the plains and prairies. The American cowboy, an indelible image of the fierce and undying determination of the American spirit, was never without his trusty four-legged companion.

But each year, 65,000 horses are slaughtered in this country for human consumption in Europe and Asia, where horsemeat is considered a delicacy. Another 30,000 horses are shipped every year to Canada and Mexico to be slaughtered.

These horses often suffer unnecessarily while in transit to slaughterhouses. Horses can be shipped for more than 24 hours without food, water, or rest. They can be transported with broken legs, missing eyes, or while heavily pregnant. The horses are kept in cramped conditions, in trucks with ceilings so low that they prevent the horses from holding their heads in a normal, upright position. The cramped nature of their transport often results in trampling, with some horses arriving at the slaughterhouses seriously injured or dead.

Even more cruel than the suffering these animals endure while in transit is their often injurious end. Improper use of stunning equipment at the slaughterhouse can result in the animal having to endure repeated blows to

head, meaning that horses sometime remain conscious throughout the slaughter process.

The market for horsemeat is not an American market. Horsemeat is shipped abroad. The three slaughterhouses in the U.S. are foreign-owned. Thus, American horses are sold to a foreign company, killed for consumption in a foreign market, and foreign-owned companies profit from the export of horse meat. Many Americans would be shocked to learn that our animals suffer such a fate, all in order to satisfy the tastes of those living in Europe and Asia. Indeed, many individuals who sell horses to slaughterhouses do so unwittingly. Slaughterhouses often send third parties, called "killer buyers," to auction to buy horses.

Senator ENSIGN and I have offered an amendment to stop the slaughter of horses for human consumption by preventing taxpayer dollars from being used to inspect the horses intended for slaughter. Without these inspections, which are paid for by the American taxpayer, it would be impossible for these companies to slaughter horses in the U.S., or to transport horses abroad for slaughter.

I ask my colleagues to support the Ensign-Byrd amendment to end the slaughter of one of the most precious American symbols.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand the Senator from Hawaii has some amendments to the Agriculture appropriations bill.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The Bennett amendment is now pending.

Mr. AKAKA. I ask unanimous consent to set the pending amendment aside.

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

AMENDMENT NO. 1729

Mr. AKAKA. Mr. President, I have two amendments to offer. I call up amendment No. 1729 to H.R. 2744, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 1729.

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

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

The amendment is as follows: (Purpose: To prohibit Federal funding of research facilities that purchase animals from Class-B dealers)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_\_. None of the funds made available by this Act may be used to provide funding to a research facility that purchases animals from a dealer that holds a Class B license under the Animal Welfare Act (7 U.S.C. 2131 et seq.).

## AMENDMENT NO. 1730

Mr. AKAKA. Mr. President, I call up amendment No. 1730 to H.R. 2744.

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

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 1730.

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

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

The amendment is as follows:

(Purpose: To ensure the humane slaughter of nonambulatory livestock)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_\_. None of the funds made available by this Act may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, or goats, or horses, mules, or other equines that are unable to stand or walk unassisted at a slaughtering, packing, meat-canning, rendering, or similar establishment subject to inspection at the point of examination and inspection under section 3(a) of that Act (21 U.S.C. 603(a)).

Mr. AKAKA. Mr. President, I rise to offer two amendments to H.R. 2744, the Agriculture appropriations bill for FY 2006, that will help protect the health of the American public. Amendment 1730, the downed animal amendment, would prohibit the U.S. Department of Agriculture, USDA, from utilizing funds under this act to approve downed animals for human consumption.

Downed animals are livestock such as cattle, sheep, swine, goats, horses, mules, or other equines that are too sick to stand or walk unassisted. Many of these animals are dying from infectious diseases and present a significant pathway for the spread of disease.

While I commend USDA and livestock organizations for their efforts to address the issue of downed animals, I am still very concerned about diseases such as BSE, more commonly known as mad cow disease, that pose a serious risk to the United States cattle industry and human health. A food inspection study conducted in Germany in 2001 found that BSE is present in a higher percentage of downed livestock than in the general cattle population. USDA stated that downed animals are one of the most significant potential pathways that have not been addressed in previous efforts to reduce risks from BSE. Stronger legislation is needed to ensure that these animals do not enter our food chain. My amendment is very simple. It would prevent downed animals from being approved for consumption at our dinner tables. This will allow USDA and other stakeholders to continue working on reducing and potentially eliminating the risk of BSE or any other prions from entering our food chain.

Currently, before slaughter, USDA's Food Safety Inspection Service, FSIS, diverts downer livestock that exhibit clinical signs associated with BSE or other types of diseases until further

tests may be taken. However, this does not mean that downed livestock cannot be processed for human consumption. If downer cattle presented for slaughter pass both the pre- and post-inspection process, meat and meat by-products from such cattle can be used for human consumption. Routinely, BSE is not correctly distinguished from many other diseases and conditions that show similar symptoms. This was demonstrated by the surveillance of a similar inspection process in Europe, showing that the process is inadequate for detecting BSE. Consequently, BSE-infected cattle can be approved for human and animal consumption.

Today, USDA has increased its efforts to test approximately 10 percent of downed cattle per year for BSE. However, it is my understanding that USDA is looking to revisit this issue. I do not believe that now is the time to lower our defenses. While I am not asking the industry and Federal Government to test every slaughtered cow, I am asking the Federal Government to address and reduce the real risks associated with BSE and similar diseases in the U.S.

Some individuals fear that my amendment would place an excessive financial burden on the livestock industry. I want to remind my colleagues that one single downed cow in Canada diagnosed with BSE this year shut down the world's third largest beef exporter. It is estimated that the Canadian beef industry lost more than \$1 billion as a result of the discovery of BSE and more than 30 countries banned Canadian cattle and beef. As the Canadian cattle industry continues to recover from its economic loss, it is prudent for the United States to be proactive in preventing BSE and other animal diseases from entering our food chain.

We must protect our livestock industry and human health from diseases such as BSE. My amendment reduces the threat of passing diseases from downed livestock to our food supply. It also requires higher standards for food safety and protects human health from diseases and the livestock industry from economic distress.

## AMENDMENT NO. 1729

Amendment No. 1729 is based on my bill, the Pet Safety and Protection Act, S. 451. It will protect family pets while allowing research on dogs and cats to continue in an environment free from scientific fraud and animal abuse.

This amendment prohibits Federal funds from being provided to a research facility that purchases animals from Class B dealers. Class B animal dealers collect dogs and cats from "random sources" and routinely violate the Animal Welfare Act. The Animal Welfare Act sets the minimum standards of care for animals and requires accurate record keeping on their acquisition and disposition. Dogs and cats are subjected to abusive handling and exposure to the elements while kept on the premises of Class B dealers. They are

routinely denied sufficient food, water, and veterinary care before they are sold off to laboratories.

Less than a month ago, one of the more notorious Class B dealers, C.C. Baird, pleaded guilty in a case before a U.S. District Judge. He had violated the Animal Welfare Act because he transferred the dogs and cats to research facilities with false acquisition records. During the search, approximately 125 dogs were seized by Federal agents as evidence of various violations of the Animal Welfare Act.

I recently sent a letter to all my colleagues in the Senate requesting support in passing the Pet Safety and Protection Act. On the front were pictures of a hound dog, Buck, who was in terrible shape—skinny, his ribs sticking out, pieces of his ear torn off—after being held by a Class B dealer.

There are only 17 Class B dealers selling random source dogs and cats for research. However, there are hundreds of suppliers to these dealers. Random source animals are dogs and cats that may be obtained by fraudulent means, through "free to good homes" ads, false animal origin records, and stealing of pet dogs and cats from their owners. The Department of Agriculture lacks the necessary resources to track the interstate activities of Class B dealers to ensure that they comply with Federal law. USDA cannot provide an assurance that illegal acquired pets are not being sold by Class B dealers. This is a problem that is certain to grow in the aftermath of hurricane Katrina with the thousands of animals placed in shelters.

From a scientific research point of view, Class B-acquired animals have not had standardized care nor is there any certainty of the history of the animals. These circumstances make them unsuitable as research subjects in any case, since they cannot be used as control cases or experimental animals. Valid scientific research relies on controlled experimental design and replicable results—two things highly questionable when using animals with unknown history and background.

This simple amendment prohibits funding in this FY 2006 appropriations bill from going to research facilities that purchase animals from a dealer that holds a Class B license under the Animal Welfare Act.

I urge my colleagues to support these two amendments.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Utah.

Mr. BENNETT. Mr. President, as near as I can tell, there is support for these amendments on both sides of the aisle. I ask they be considered en bloc by a voice vote.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to amendments Nos. 1729 and 1730, en bloc.

The amendments (Nos. 1729 and 1730) were agreed to, en bloc.

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

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, unless the Senator has an additional amendment—

Mr. AKAKA. Mr. President, I thank the Senator from Utah and the ranking member, Senator KOHL, for accepting these amendments.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

#### STORAGE OF NUCLEAR WASTE

Mr. BENNETT. Mr. President, one of the issues that has occupied this Chamber for some time and had a particular impact on those of us in the Western States is the issue of the storage of nuclear waste. The question of where nuclear waste should be stored has been before various administrations and various Congresses literally for decades.

The original policy decision made by administrations past and Congresses past was that there should be a single repository for nuclear waste. After a study by the National Academy of Sciences and others, the decision was made to put that repository in Nevada, in Yucca Mountain. Ever since that time, construction has gone forward at the Yucca Mountain facility.

All of that happened before I came to Congress. When I got here, the debate was going on, and we had a particular point where we had to vote, once again, on whether to put nuclear waste in Yucca Mountain.

At that time, as I looked at the various alternatives, I decided that the best scientific answer to the question of what to do with nuclear waste was to leave it where it was. I was assured by the scientists that it was safe in the dry cask storage that had been prepared for its transportation, and that it could be safely transported across the country to Yucca Mountain.

My reaction to that was, if it is safe where it is and if it is safe to transport, why transport it at all? Why not leave it where it is?

It was very clear that the Congress was not going to accept that position, that the President was not going to accept that position, and that we were going to go ahead as a matter of public policy and have a single repository for nuclear waste.

So I said: If we are going to have a single repository for nuclear waste, the most logical place for that is Yucca Mountain. And I voted in favor of Yucca Mountain.

Looking back on it, the keyword in that sentence is the word "if." If we are going to have a single repository for nuclear waste, it appeared that the logical place to put it was Yucca Mountain.

It is now clear that we are not going to have a single repository for nuclear waste. Yucca Mountain has been challenged on scientific grounds. Yucca

Mountain has been challenged in the court on legal grounds. And as we look at the present state of our need for energy, Yucca Mountain will be challenged on practical grounds because it is very clear that we are going to need more, not less, nuclear power.

Nuclear power is here to stay. The nuclear plants that we have are going to be recommissioned and relicensed, and Yucca Mountain will be full if we go ahead with the existing plans to send nuclear waste there. We will still need storage in place even if Yucca Mountain opens. It doesn't make sense from a practical point of view to move the material all across the country, store it in Yucca Mountain for the purpose of ending storage in place, and then have storage in place come back.

Those who saw this in advance—Senator REID and Senator ENSIGN—have the right to tell the rest of us, "I told you so," as it now becomes clear that scientifically, legally, and practically, Yucca Mountain is not going to become the single repository for nuclear waste. And we need to start thinking about new strategies and new places to deal with this issue.

I want to make it very clear that I am not opposed to nuclear power. Indeed, I am a strong supporter of nuclear power. I have supported Senator DOMENICI in his efforts in crafting the Energy bill to craft the bill in such a way as to encourage America to build new nuclear powerplants. We are behind the rest of the world on this issue. Go to Europe and you will find the French have something like 80 percent of their power generated by nuclear power. The British have large amounts of nuclear power.

With the price of natural gas going as high as it is, it becomes increasingly economically unwise for us to continue to build gas-powered electric plants. Nuclear power is something in which we should get involved in a big way in the future, and the Energy bill we passed prior to the August recess laid the groundwork for that.

The question is, of course, if we go in that direction, what do we do with the nuclear waste? If Yucca Mountain is not going to be available—and I am now convinced that it will not be—where should it be put? There is a proposal that it should be put in the State of Utah at an interim storage site that has just recently been licensed by the Nuclear Regulatory Commission.

I put stress on the word "interim" because the whole idea behind the proposed facility in Utah, in a place called Skull Valley, was that it would simply be a stopover for the waste on its way to Yucca Mountain, and so it has been designed and it has been licensed as an interim storage facility.

If it does not make sense for us to take this nuclear waste and put it in a permanent repository, which is what Yucca Mountain is, why does it make sense to put it in an interim repository that does not have the safeguards that are built into Yucca Mountain?

Yucca Mountain would put the waste below ground. It would put the waste in vaults that have been prepared for it. The interim facility in Skull Valley would leave the waste above ground. It would leave the waste in the dry cask receptacles that were built for transportation. Why ship it from its present site aboveground to another site aboveground to say, well, this is an interim storage site until we put it in permanent storage?

The reality is, if you do that, you are creating a permanent storage site because there will be no place to put it after it has been transported to the interim storage site.

There are those who say: You just don't want it in Utah. And that is true, I don't want it in Utah. But there is another factor that drives the reason I don't want it in Utah. This particular interim storage site is at the portal to the Utah Test and Training Range. Even most people in Utah have never heard of the Utah Test and Training Range, and they have no idea what it is. It is the largest land range for bombing practice in the United States. It goes all the way back to the Second World War. The crew that flew the mission over Hiroshima in the Enola Gay trained at the Utah Test and Training Range.

Today, it is still in use. F-16s from Hill Air Force Base fly over the Utah Test and Training Range and practice their bombing runs with live ordinance. I have flown over the Utah Test and Training Range in a helicopter and have been told: We have to get out of here because the F-16s are coming, and they are going to start bombing.

It clearly does not make sense to have an interim storage facility for nuclear waste in an area where F-16s with live ordinance are going to be flying.

There are those who say: The F-16s can change their flight pattern; they can go around this area; they don't need to pay attention to it.

One of the things we have learned from spending time with the BRAC process in determining which military facilities will be retained and which will not is that more military facilities have been closed by encroachment than have been closed by BRAC—encroachment being development or other activities that come close to the gate of the military base that make it impossible for the people on the base to do their job, and they ultimately say: When we built this base, it was surrounded by open spaces. Now activity has come in, development has come in, encroachment has happened, and we are going to have to close this base.

I do not want to see encroachment take away the last remaining large, land-based test and training range in the United States. We need to rethink this whole thing.

So, Mr. President, I am now making it clear that my support for Yucca Mountain, however well intended it was at the time, in my opinion does no longer hold in the situation in which we find ourselves.

I also believe the proposal that was made at the time we approved Yucca Mountain the last time, that of leaving the material in place until we can work out the economics and the technology of reprocessing it, is the right approach. That is what the future holds.

Right now people say: Reprocessing it is too expensive. But we know from past experience that technology will find a way around that. It will become cheaper and cheaper the more we do it. We are already involved in reprocessing warheads from the former Soviet Union as we go through the process of reducing nuclear weapons and nuclear stockpiles around the world. As that reprocessing activity goes forward, we will learn how to do it faster, we will learn how to do it cheaper, and reprocessing will be available for the nuclear waste that is currently being developed by our nuclear power facilities.

At that time, it would make sense for the nuclear waste that is stored onsite to be shipped to a reprocessing center, not to an interim storage facility.

There is one other factor that needs to be stressed. At the present time, the contract to take the nuclear waste and ship it to the interim storage facility in Utah—which, by the way, has not been built; there is still \$1 billion worth of investment that will have to go into that—the process by which that will go forward will be under the ownership of the utilities that run the nuclear plants.

The main difference between an interim storage facility and a permanent storage facility in the law has to do with titles. In the interim storage facility, the utility that created the waste and ran the nuclear plant retains title to the waste. While it is being packaged, while it is being shipped, and while it is in interim storage, it is owned by the utility. Under the Yucca Mountain proposal, the Federal Government would take title to the waste the minute Yucca Mountain would open so the Federal Government would be responsible for packaging it, the Federal Government would be responsible for protecting it while transporting it, and the Federal Government would be responsible for the security on the site where it would be located. If we leave it where it is while we work on the issue of reprocessing, title remains with the utility that produced it, but the security that the utility has already built into its plant is already there. It is not exposed to any terrorist attack while it is moving so that utility does not have to bear the expense of extra security in moving waste to which they retain title.

Then when we get to the point where we can move it to a reprocessing plant, once again the Federal Government may take title to it.

The Federal Government can provide the security during transportation. The Federal Government can see that it is kept safe from terrorist attack and bring it to the reprocessing facility.

One last point. One of the reasons we want to be sure the Federal Government is in charge of all of the reprocessing is that the end product after reprocessing is not only additional energy created by the process, but the residue that is left is weapons-grade plutonium. We do not want to run the risk of having weapons-grade plutonium in the hands of private entities. We want to be sure that the Government controls it.

What I think we need to do—“we” being the collective word for the administration and the Congress, generally—is to adopt some fundamental principles and then rethink the whole issue to come up with the appropriate details. The fundamental principles that I would recommend and that I embrace are, No. 1, we are in favor of nuclear power. We want more nuclear power in this country for all of the environmental reasons dealing with greenhouse gases, for all of the demand reasons dealing with the increased necessity for electric power, and for all of the legal reasons having to do with the control of the ownership of these facilities. So the No. 1 principle, I am in favor of nuclear power. No. 2, I am in favor of reprocessing. I think we should work toward that technical solution for the question of waste. And No. 3, while we are in the process of building new nuclear plants and working toward reprocessing of the waste, we should leave the waste where it is. If, indeed, as I say, it is safe to transport and it is safe to store in an interim facility someplace else, by definition, it is equally safe to store it where it is. That is cheaper, that is equally as safe, and that sets us up for the solution of our problem. I believe that if we rethink the whole issue as to how we are going to handle it and what we are going to do, there may very well be a useful purpose for Yucca Mountain. We have spent, as a nation, billions of dollars preparing that facility. We should review the facility and what it offers and see how it might be used at some particular point in the future and see how we might retain some of the investment we have made there.

I am not one who thinks we ought to fill Yucca Mountain up with dirt and walk away and leave it. There can be a win-win situation for all. Nevada can get some value out of the investment that has been made in Yucca Mountain if we think it through carefully. The Nation can get additional power without the greenhouse gas effect that comes from fossil fuels, and we can ultimately solve the problem of nuclear waste with reprocessing.

I have discussed this in general terms with Senator DOMENICI, who is the chairman of the Energy Committee as well as the chairman of the energy and water subcommittee of the Appropriations Committee, and I commend him for his original thinking of moving in directions that will make sense for the future. However, much as the idea of a single repository may have made sense

decades ago, it is now clear, as I say, that it does not make sense, and we need to move in some future direction. To the degree that Senator DOMENICI will allow me to participate in trying to find logical solutions under the three principles I have described, I will be more than happy to cooperate with him. To those who had the vision long ago who, as I say, have earned the right to say to the rest of us, “I told you so,” I say I will be happy to join with you, too, in seeing how we can think this thing through and get the best solution for our Nation and all of those who live in it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. 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. BENNETT. Mr. President, I ask unanimous consent that the Ensign amendment No. 1753 be modified to be drafted as a first-degree amendment, provided further that the vote in relation to the Ensign amendment No. 1753 occur at 4:45 today with no amendment in order to the amendment prior to the vote. I also ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1726

Mr. BENNETT. Mr. President, I believe that amendment No. 1726 is now the pending business.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. This is the managers' amendment that Senator KOHL and I introduced last Thursday. It makes some technical corrections in the bill regarding conservation technical assistance for DuPage County, IL. It also makes some technical corrections in the Rural Electrification Act of 1936. It has the approval of the authorizing committee, as well as the support of USDA, and there is no additional cost to the bill. Senator KOHL and I have taken the position that we will not offer any authorizing legislation on this bill that does not have the approval of the authorizing committee. And this one falls within that scope. So it has been cleared on both sides of the

aisle, and I believe we are now prepared to pass it on a voice vote.

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

The amendment (No. 1726) was agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote and ask that that be laid upon the table.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1763

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT], for himself and Mr. PRYOR, proposes an amendment No. 1763.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds to close or relocate certain local offices of the Farm Service Agency)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_\_. None of the funds made available by this or any other Act may be used to close or relocate a county or local Farm Service Agency office unless or until the Secretary of Agriculture has determined the cost effectiveness and enhancement of program delivery of the closure or relocation, and report to the House and Senate Committees on Agriculture and Appropriations.

Mr. TALENT. Mr. President, this amendment, which I am offering on behalf of myself and Mr. PRYOR, the Senator from Arkansas, is an attempt to address a development within the Department of Agriculture. The Department is proposing closing about a quarter to a third of the Farm Service Agency's local offices around the country, including, as far as we can tell, around 30 out of the 90 offices in Missouri, the object, according to the Department, being to modernize and consolidate functions and to provide better service.

Certainly nobody is opposed to better service. But I want to emphasize something here. The key with regard to how we handle FSA offices has to be service to the agricultural community and to our producers. The idea is accessibility. The idea is responsiveness. The idea is not necessarily somebody's planning in Washington about how they would organize everything in the United States if they could do it exactly the way they wanted.

I am a little concerned about changing our FSA offices when, from what I am told back in Missouri, there has been little or no consultation either with local FSA people or with producer organizations, more particularly farmers or the affected communities. I don't know how we can do this in a way that emphasizes service, acceptability, and accountability without having to talk to the people whom we are trying to serve.

The amendment basically says hold up on this until we have an opportunity for that kind of accessibility and that kind of accountability.

Again, I am not saying—and I don't think Mr. PRYOR is saying either—that no consolidation is possible. I imagine it is possible in Missouri. We certainly want to look at how we can modernize these offices so we can perform better service. But we have to remember that these are the offices our producers have to go to any time they want to deal with any of the Government's various programs that affect them. Some of them in Missouri are already driving 30, 40 minutes, or more than that, and if they drive and they don't have all the forms they need, or they left something at home, they have to go all the way home, get it, and turn around and come back.

When you are proposing eliminating some of those offices when they are already difficult to access, in many cases, I think that is something we need to look at. I certainly believe we need more consolidation, at least in Missouri, than we have had now.

That is all this amendment says. I appreciate very much the bill managers working with us. I understand they are going to be willing to accept the amendment. I appreciate that. I pledge to work with them in conference.

This language isn't necessarily the be-all and end-all with regard to this issue. I think they see what Senator PRYOR and I are driving at, and I think everybody would agree this is something we want to do with consultation and discussions with the affected communities—in particular the affected producer and producer groups. They are not opposed to making the Farm Service Agency work better. We all know the problems that have sometimes occurred. But we have potentially disaster relief coming down the pike, and I certainly hope so for producers who have been affected negatively by the hurricane, or by drought. We have another farm bill that is not that far away. We need to do this right, if we are going to do it. That is what the amendment says.

I appreciate the support of the Senator from Utah, and certainly pledge to work with him and his ranking member in conference on this amendment.

I yield the floor.

Mr. BENNETT. Mr. President, I share the concern and frustration of the Senator from Missouri with the proposal. We have had some of that same con-

cern and frustration in Utah. Charitably, I will say that the efforts to close these offices have been handled a little less wisely than might otherwise have been the case.

I hope that between now and the conference we can learn more about this proposal. I think the Senator's comments about getting information and input from those directly affected is very wise.

I pledge to work with all the Senators concerned on this issue between now and the time we get to conference. So knowing that this will be the vehicle whereby we can get to conference, I am willing to proceed now to a voice vote and urge Senators to support it. I understand it has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1763) was agreed to.

AMENDMENT NO. 1753

Mr. BENNETT. Mr. President, as we are approaching the hour of 4:45, which has been set as the time for the vote on the Ensign amendment, I say to my colleagues that Senator ENSIGN outlined the reasons for his amendment. I have heard others who for one reason or another have already been opposed to it. But so far, none of them have come to the floor to express that opposition.

I make it clear to anyone who is following the proceedings that one of the reasons we have delayed the vote as we have and kept the afternoon as open as we have has been to allow those who may be opposed to the Ensign amendment the opportunity to present their proposals.

We now are at 4:45. I expect the time is far gone and the vote will proceed. I didn't want anyone thinking we had made any effort to prevent anybody from presenting a different point of view than what Senator ENSIGN laid out when he proposed his amendment this afternoon.

The PRESIDING OFFICER. The hour of 4:45 having arrived, the question is on agreeing to the amendment of the Senator from Nevada.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. AL-EXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—68

Akaka	Bayh	Boxer
Alexander	Bennett	Bunning
Allen	Biden	Burr

Byrd	Hagel	Mikulski
Cantwell	Harkin	Murkowski
Carper	Hatch	Murray
Chafee	Hutchison	Nelson (FL)
Chambliss	Inouye	Nelson (NE)
Clinton	Isakson	Obama
Coleman	Jeffords	Reed
Collins	Kennedy	Reid
Dayton	Kerry	Santorum
DeMint	Kohl	Sarbanes
DeWine	Kyl	Schumer
Dodd	Lautenberg	Smith
Dole	Leahy	Snowe
Durbin	Levin	Specter
Ensign	Lieberman	Stabenow
Feingold	Lott	Sununu
Feinstein	Lugar	Vitter
Frist	Martinez	Warner
Graham	McCain	Wyden
Gregg	McConnell	

NAYS—29

Allard	Craig	Roberts
Baucus	Crapo	Salazar
Bingaman	Domenici	Sessions
Bond	Dorgan	Shelby
Brownback	Enzi	Stevens
Burns	Grassley	Talent
Coburn	Inhofe	Thomas
Cochran	Johnson	Thune
Conrad	Lincoln	Voinovich
Cornyn	Pryor	

NOT VOTING—3

Corzine	Landrieu	Rockefeller
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The amendment (No. 1753), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, I have been asked throughout the vote whether that is the last vote of the evening. That obviously is not my call. It is the responsibility of the leader to make that decision. At the moment, I don't know of any amendment that would require a vote. I would hope that our colleagues who have amendments would be aggressive in coming to the floor now and offering them. We could offer an amendment now, lay it down for a vote in the morning.

Mr. ROBERTS. Will the Senator yield?

Mr. BENNETT. I yield.

Mr. ROBERTS. I have an amendment. I would like to offer it.

Mr. BENNETT. The Senator from Kansas satisfies our request instantly. I am happy to yield the floor.

AMENDMENT NO. 1742

Mr. ROBERTS. Mr. President, I have an amendment pending at the desk numbered 1742. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 1742.

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

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

The amendment is as follows:

(Purpose: To modify the conditions under which the Federal Crop Insurance Corporation may offer crop insurance to single producers)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_\_. Section 508(a)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(4)(B)) is amended by inserting "or similar commodities" after "the commodity".

Mr. ROBERTS. Mr. President, this amendment is very straightforward. It has been cleared by both the chairman and ranking member of the Agriculture Committee, and I have also received word that the Risk Management Agency is supportive of this change.

Very simply, the amendment amends the section of the Federal Crop Insurance Act regarding the use of written agreements for commodities in counties where the crop has not yet been approved for crop insurance purposes.

The problem is that 3 years of cropping history is needed in order to issue a written agreement for coverage. However, producers cannot get a history of planting because the banker won't lend the money if they can't get insurance coverage. Thus, it is an endless cycle.

We have many counties where coverage exists for sunflowers, and we would like to use that data to expand coverage to canola. The Risk Management Agency has indicated that this would be an acceptable practice. However, the current law says that data must be used from the same commodity for which the policy is being issued. This amendment simply changes that language to allow data from agronomically similar crops to be used in providing written agreements.

The amendment has been given a score of zero by the CBO, and I urge my colleagues to accept it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have no objection to this amendment and believe we should move forward on a voice vote.

The PRESIDING OFFICER. Is there further debate on the current amendment?

Mr. BENNETT. Mr. President, I ask that we withhold from the vote, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. 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. BENNETT. Mr. President, we are now prepared to proceed to a voice vote on the Roberts amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 1742.

The amendment (No. 1742) was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1765

Mr. KOHL. Mr. President, on behalf of Senator HARKIN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Mr. HARKIN, proposes an amendment numbered 1765.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of Agriculture to provide notice to Congress before initiating any structural change in a mission area of the Department)

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_\_. 90 days before initiating any structural change in a mission area of the Department, the Secretary of Agriculture shall provide notice of the change to the Committees on Appropriations of the Senate and the House of Representatives.

Mr. KOHL. I ask for adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1765) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1766

Mr. KOHL. Mr. President, on behalf of Senator PRYOR, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Mr. PRYOR, proposes an amendment numbered 1766.

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

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

The amendment is as follows:

(Purpose: To provide a technical correction for the community eligibility for rural utilities programs in Arkansas)

On page 154, line 10, insert "Cleburne County, Arkansas," after "Montana".

Mr. KOHL. I ask for adoption of the amendment.

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

The amendment (No. 1766) was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KOHL. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DAYTON. 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. DAYTON. I thank the Chair. I ask unanimous consent that I speak in morning business for up to 10 minutes.

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

Mr. DAYTON. I thank the Chair. I also thank the distinguished Senator from Utah, in charge of the proceedings right now, for this opportunity.

RESPONSE FROM THE ADMINISTRATION

Mr. President, it has been 3 weeks now since the levees failed in New Orleans, and the Committee on Homeland Security and Governmental Affairs, on which I am a member, is tomorrow holding its second public hearing since those levees failed. The title of the hearing is, "After the London Attacks, What Lessons Have Been Learned To Secure U.S. Transit Systems?"

That is a worthy topic. I don't question that. But in the context of what is occurring in the United States, it is not, and should not, be the most pressing priority of that committee.

On this coming Friday, we are having the second hearing of that committee related to Hurricane Katrina. The witnesses, very distinguished individuals to be sure, are a county judge from Harris County, Texas; mayor of Baton Rouge, LA; mayor of Brookhaven, MS; and the mayor of Fayetteville, AR—no one from the administration with responsibility for the rescue-recovery efforts in Louisiana, Mississippi, and Alabama. No administration official is appearing, as last week when the hearing was held no one with any direct responsibility for Hurricane Katrina and the response to it by the Federal Government or any other level of Government was present.

Some would say we should not disrupt the relief efforts in that region, and I totally agree. I do not want any of us to be involved in any way that is disruptive. Lord knows, those relief efforts have been disruptive enough and continue to be by all the goings on down there. But last Sunday, Coast Guard Vice Admiral Allen, now in charge of the relief effort, found time to appear on four of the five major TV talk shows. Two weeks before, Homeland Security Secretary Chertoff found time to appear on all five of the major TV Sunday talk shows. If they are actually in Louisiana or its vicinity around the clock leading the recovery efforts, let's hook up a closed television system, communications system, and let them appear before our committee in a public session via that communication, but to appear before the committee which has, under the Senate authorizing resolution, the authority, not subject to some subsequent decision by the majority leadership with concurrence by a sufficient number of Members of the Senate to establish a select committee, but right now, here and now the authority and the responsibility to this body and more importantly to the American people to be conducting oversight and what is going on there, how the now over \$63 billion this body has appro-

riated, and necessarily so, with more requests to come soon, how that money is being expended, or not. These are vital questions that are relevant to decisions that are being made every day in expending those billions of dollars and affecting the lives of those people in that region of the country.

We have the right, the responsibility to be asking questions in public hearings and getting answers from those who are directly responsible in the administration. That is long overdue, and I urge again the leadership of the committee and the leadership of the Senate, majority leadership, to make the insistence and to assure that we get the proper witnesses at the highest levels of the administration who are responsible, and that we get answers in public settings.

Similarly, tomorrow we are informed that the Secretary of Defense, Donald Rumsfeld, and Chairman of the Joint Chiefs of Staff, Richard Myers, will be appearing before Members of the Senate to discuss the situation in Iraq and Afghanistan. Once again, that gathering is going to be in a closed setting, private, nonpublic, no press, and not the American people. This is a pattern that has been continued repeatedly over the last 3 months by the administration in not being willing to have its top people responsible for the war effort in Iraq and Afghanistan appear in a public setting before the Committee on Armed Services, of which I am also a Member.

The last hearing that the Senate Armed Services Committee held regarding oversight in Iraq was almost 3 months ago. It was June 30 of this year. Since then we have had, again, private top secret classified briefings but nothing in a public setting where we can ask questions and where we and the American people can hear the answers.

I call upon this administration and its responsible authorities, Cabinet Secretaries, those to whom the President has delegated responsibility to make these life-and-death decisions affecting our constituents, affecting the brave men and women who are serving in Iraq and Afghanistan, affecting the brave men and women who are involved in the rescue efforts down in Southern United States, who are making decisions affecting the lives of those of our constituents and our citizens, make those leaders available to us in public hearings starting now. We deserve the answers. The American people deserve the answers.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. THUNE. Mr. President, I ask unanimous consent I be permitted to

speak as in morning business for up to 10 minutes.

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

Mr. THUNE. I send the following bill to the desk.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

(The remarks of Mr. THUNE pertaining to the introduction of S. 1733 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PET IDENTIFICATION TAGS

Mr. HARKIN. I understand that the House report on this appropriations measure includes language that directs the APHIS to adopt a particular standard with respect to microchip identification tags for pets, but that the present measure does not include this language.

As the ranking member of the authorizing committee that has jurisdiction over this issue, I strongly disagree with this language being inserted in an appropriations report, and with a process that would dictate a standard for these microchips without fully considering alternatives. It is my understanding that pet animals with chips that conform to the standard included in the House report are a small fraction of all the pet animals in the U.S. that presently have a microchip identification tag implanted under their skin. These ID tags play a vital role in reuniting pet animals that have gone astray with their families.

Further, I understand that adopting this standard as directed would interfere with ongoing intellectual property litigation over patented technology incorporated in the most widely adopted microchip standard in the U.S. I think it would be improper for Congress to take this action at this time.

I do not advocate any action in the current legislation, other than to ensure that the language unfortunately included by the House is not included in the conference report. I would ask the subcommittee chair and the ranking member whether, since the Senate report is silent on this issue, this issue is preserved for our consideration as part of the conference, and whether they agree with me that this provision should be dropped from the conference report?

Mr. BENNETT. I would tell the Senator that I share his concern regarding this provision in the House Report. The report on the Senate version of this legislation is silent on this matter, but this matter will certainly be preserved for consideration in conference.

Mr. KOHL. I share the concerns of the Senator from Iowa and the observations of Chairman BENNETT and look forward to working with both of them on this in conference.

OCEANIC INSTITUTE (HAWAII) FINFISH HATCHERY TECHNOLOGY DEVELOPMENT AND TRANSFER

Mr. INOUE. Mr. President, will the distinguished Senators from Utah and Wisconsin yield? I would like to discuss

with them the tremendous potential of open ocean cage culture as a sustainable source of high protein seafood for the United States and the world, and the issues associated with advancing open ocean cage culture.

Mr. BENNETT. I am pleased to yield to the senior Senator from Hawaii.

Mr. KOHL. I, too, would also like to join in on the discussion of this matter.

Mr. INOUE. I thank my distinguished colleagues for yielding. Along with the increased demand for seafood, we have also witnessed the decline in natural fisheries. While we have, as a Nation, made great advances with land-based aquaculture to address the widening gap between seafood demand and supply, we are beginning to see the emerging potential of open ocean cage culture as a way to bolster supply without detrimental impacts on the marine environment. With the development of a viable open ocean cage aquaculture industry, we will have a valuable tool to assist our efforts to manage wild fisheries and ensure that United States consumers will have access to a range of high quality, environmentally responsible seafood products. I am proud to say that producers and the marine aquaculture research community in my State of Hawaii are among the leaders in the development of this new industry. To date, growers in Hawaii have demonstrated the commercial viability of open ocean cage culture for Hawaiian finfish and have small scale ventures that supply Hawaii as well as some mainland markets.

To move open ocean cage culture to the next level requires the refinement and transfer of finfish hatchery technology to the industry. The Oceanic Institute in Hawaii has been the leader in developing this technology but recently has encountered problems in scaling hatchery technology to a commercial level. To overcome these problems, this research organization has recently expressed a need to remove the nutritional and other constraints in the raising of finfish fingerlings destined for open ocean cages. This will involve some redirection of funds provided by this committee for the Oceanic Institute of Hawaii for a comprehensive aquaculture development research program. Specifically, there is a need to shift funds from more general feed issues to the myriad problems associated with raising fingerlings on a commercial scale for open ocean cages. I support such changes in the use of funds appropriated for the Oceanic Institute of Hawaii and seek your concurrence.

Mr. BENNETT. In developing a new industry, I fully understand the need to be flexible and recognize that all issues cannot be anticipated during the initial phases of a project. I fully concur with the request for flexibility in the use of the funds provided by this committee.

Mr. KOHL. I concur with my colleagues from Hawaii and Utah and en-

courage the Agricultural Research Service to work closely with the Oceanic Institute in utilizing funds appropriated for aquaculture development to specifically address finfish hatchery technology refinement and transfer to the industry.

Mr. INOUE. I thank my colleagues.

Mr. SPECTER. Mr. President, I wish to describe my amendment to the fiscal year 2006 Agriculture appropriations legislation. My amendment would extend the Milk Income Loss Contract, MILC, program for 2 years. It is imperative that we extend this crucial program for our dairy farmers that expires at the end of this month.

The MILC program provides a safety-net for farmers when the price of milk falls below a set price per hundred-weight, or 100 pounds of milk, roughly 11 gallons. Dairy farmers in Pennsylvania, and across the country, are an integral component of our rural economy. In Pennsylvania alone, agriculture is our No. 1 industry with dairy being the largest sector composing over 40 percent of the industry. We need to ensure that dairy farmers, like most farmers in America, have the protection needed when the price they receive for their milk falls.

During the consideration of the 2002 farm bill, I coauthored this program to provide payments to dairy farmers when the price of Class I fluid milk falls below \$16.94 per hundredweight. This program applies to all dairy farmers in the United States, from my former home State of Kansas to Oregon to Georgia and all the way up to Maine.

When the milk prices are low, as they were in 2002 and part of 2003, the MILC program partially supplements dairy farm income to bridge the gap until prices recover. When the milk prices are strong, the program is dormant. This was the case for most of 2004 and 2005. However, one payment of 3 cents per hundredweight was made in June.

However, dairy economists forecast that the price of milk will fall in 2006 below the set price established in the MILC program. Thus, there is an urgency to extend this program to ensure that our dairy farmers continue to have the safety-net of the MILC program. If prices fall and the MILC program is not in place, our farmers will suffer tremendous losses.

I urge my fellow Senators to support this amendment and America's dairy farmers.

#### NOTICE OF INTENT

Mrs. BOXER. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill, H.R. 2744, the Agriculture appropriations bill, the following amendment:

#### AMENDMENT NO. 1756

On page 173, after line 24, insert the following:

SEC. 7 \_\_\_\_\_. Notwithstanding the proclamation by the President dated September 8,

2005, or any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (and the provisions of all other related Acts to the extent they depend upon a determination by the Secretary of Labor under section 3142 of such title, whether or not the President has the authority to suspend the operation of such provisions), shall apply to all contracts to which such provisions would otherwise apply that are entered into on or after the date of enactment of this Act, to be performed in the counties affected by Hurricane Katrina and described in such proclamation.

Mr. BENNETT. Mr. President, in consultation with the Democratic manager of the bill, I now ask unanimous consent that all first-degree amendments to the pending Agriculture appropriations bill be filed at the desk no later than 4 o'clock tomorrow, Wednesday, with the exception of those managers' amendments that have been cleared by both managers.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### LORI CARPENTER AND CLAY COOPER—ANGELS IN ADOPTION

Mr. REID. Mr. President, I rise today to honor Lori Carpenter and Clay Cooper of Reno, NV, who were recently honored as Angels in Adoption by the Congressional Coalition on Adoption.

Lori and her husband, Clay Cooper, have adopted three daughters and one son from foreign countries. All four children have come from countries with high levels of poverty and a great deal of political turmoil.

Lori and Clay have made it a priority to keep the children's heritage and culture an integral part of their lives. They share stories and nursery rhymes from the children's countries of origin, cook native foods, and put the children in touch with people from their country in an effort to keep their native languages alive. And all four children are thriving both academically and socially.

The Angels in Adoption program provides an opportunity for all Members of Congress to honor the good work of their constituents who have enriched the lives of foster children and orphans. And I am pleased to highlight