

offshore, excess and non-admitted markets they can tap into, as well as other risk-spreading devices.

For the smaller companies, if coverage isn't available from standard private market insurers, most states have legislatively mandated market plans to provide workers' compensation and property insurance.

The insurance industry also has a long history of working together to form pools and reinsurance arrangements so risks that are too difficult for one company can be handled as they've done for aircraft, including those that were hijacked on September 11.

They can do this if we pass this bill to provide them the financial backstop they need.

The fact is that we do not have the expertise to step into this complex arena and set the controls to determine how coverage should be provided and to whom.

Since insurance regulation began, it's been the states that have done the job, and until such time as we're ready to change that and enact a federal regulatory scheme, we should be very careful about our involvement.

At the state level, insurance departments in each state are much closer to their markets, and they have the expertise and the leverage to assess the availability of insurance and to take appropriate steps if there are problems.

I am very disappointed in the failure to enact this legislation. I have supported my Connecticut colleague, Senator DODD, and will continue to work with him to enact this legislation as soon as possible in January. That we have failed to act in this session and may well see unfortunate consequences.

NEXTWAVE SETTLEMENT

Mr. HATCH. Mr. President, I rise to address the issue of wireless spectrum and the importance of its availability and utilization in a struggling economy. On November 28, 2001, the Administration forwarded proposed legislation to Congress to codify a proposed settlement in the NextWave wireless spectrum bankruptcy litigation. We needed to pass this legislation before December 31st in order to avoid nullifying the agreement. Unfortunately, it appears we will not be able to address this settlement before the end of the year because members of this body have expressed their intention to block its consideration on the floor. It is not certain that a similar settlement can be arranged next year—which leaves a significant financial return to the U.S. Treasury in doubt and denies viable industry actors access to essential wireless spectrum which could be a vital tool in jumpstarting the economy.

This is not the first time I have voiced my concerns about the NextWave spectrum controversy. In a

letter to then Chairman Kennard of the Federal Communications Commission in October of 2000, I warned him that a premature re-auction of the NextWave licenses would be imprudent while litigation was still pending in the D.C. Circuit. The legal questions went directly to the possessory interests of the spectrum and the validity of the FCC's action to automatically cancel NextWave's licenses upon filing for bankruptcy. The FCC ignored my warning and, in so doing, created untold practical problems and a myriad of legal liability issues.

On June 22 of this year, the D.C. Circuit ruled in favor of NextWave, holding that the FCC violated Section 525 of the Bankruptcy Code. This order essentially nullified Auction 35 in which the FCC preemptively re-auctioned the spectrum licensed to NextWave. Presently, both sides have filed for certiorari with the Supreme Court to ask for the final disposition of this case. However, there is no certainty that the Supreme Court will agree to review the case, or if it does, when or to whom it will ultimately award the licensing rights to the spectrum. In fact, given the D.C. Circuit's opinion and legal reasoning, there is a substantial likelihood that the FCC will not prevail, which may be why they were able to reach the settlement of this issue.

After extensive negotiations, the interested parties, including the Office of Management and Budget, the U.S. Department of Justice, and the FCC, reached a comprehensive Settlement Agreement to govern the disposition of the licenses in question and provide for their release into the marketplace and financial return to the Treasury.

This proposal is a chance to bring closure to litigation that has dragged on, and which, in all likelihood, could result in a net loss to the government if it were to continue. We have an opportunity to finalize this settlement, return money to the Treasury and release valuable spectrum for commercial use—something that is essential to help this struggling economy.

The current litigation has been prolonged unnecessarily. To continue it now, in my view would be a mistake, and the American taxpayer could be the loser. I certainly hope that the American taxpayer ultimately is not the victim of Congressional inaction.

FARM BILL

Mr. BAUCUS. Mr. President, I rise today to share my dissatisfaction about the farm bill with you. It is vital that we get a strong bill passed before we adjourn this year and, unfortunately, that isn't going to happen. To put it simply: Our farmers and ranchers deserve more from their representatives.

As long as I have been in the Senate, I have never seen the agricultural com-

munity more united than they were yesterday in invoking cloture and getting the Senate farm bill passed the floor this year.

The farm bill we passed out of committee is a good bill. It is not a great bill. But it's a good step in the right direction. We had the opportunity to work together to make this bill as comprehensive, full of common sense, and strong as possible. My sleeves were rolled up and I was dedicated to passing the farm bill this year. And I'm still dedicated to passing a bill when we get back next month.

We need to support our Nation's agricultural producers. Now. We can't wait until the current bill expires. We rely on our producers for a safe and affordable food supply. Now they are relying on us for survival.

Our agricultural producers are suffering. Years of low prices and drought have made it nearly impossible for farmers and ranchers to break even.

Low prices and drought have been disastrous not only to agricultural producers, but also to the surrounding rural communities. When producers are hurting, they can't invest in our economy. Agriculture is the backbone of Montana's economy. And the backbone of rural America's economy. The ripple effect is being felt throughout the country.

To help with the ongoing drought, it is important that we provide our farmers and ranchers with natural disaster assistance. I included more than \$2 billion towards disaster assistance in my economic stimulus bill, but that bill has fallen to the same fate as the farm bill—it's at a stalemate this year. I'm dedicated to including disaster assistance in the farm bill, in another economic stimulus bill, or any other vehicle I see available. The assistance isn't something our ag community can wait for and I'll keep working to see that they don't have to.

The Senate's failure to pass a farm bill this year not only hurts our producers, it hurts our lenders and our rural businesses as well. The bill that we passed by the Senate Agriculture Committee includes a Rural Development Title that would have provided rural economies with much needed support. It's long overdue that we provide stability for our agricultural producers and our rural economies.

Lenders in Montana and across the country are getting nervous as the lean years of production are starting to add up. Their nervousness is compounded now that we failed to act this year.

The time has come. We can no longer wait to repair the current farm bill. The health and stability of our producers, of our rural communities, and of America is up to us. Our Nation depends upon our agricultural producers for a safe, affordable, and abundant food supply. Now our producers are depending on us to provide them with a

safety net they can rely upon. The time is now. We must all dedicate ourselves to getting back to work on the farm bill in January. We must work together to pass a strong, stable, and comprehensive farm bill quickly.

Mr. VOINOVICH. Mr. President, over the past 2 weeks, the Senate has engaged in what is probably a first in the history of this body: it has worked to complete a task before a deadline. Even as appropriations bills remained unfinished 3 months into the fiscal year, we have, for the past couple of weeks, debated a farm bill a full 9 months before the current authorization lapses.

As admirable as it is to work ahead of schedule, this has been an unnecessary exercise. There is no reason that the Senate has had to debate the farm bill when these programs don't expire until the end of the fiscal year.

I joined in the successful effort here in the Senate to postpone debate on the farm bill until next year. It is my hope that we will do a better job at writing a bill that will address the needs of our farmers in a fiscally responsible way, rather than rushing a bill through Congress for the sake of passing a bill.

The only reason we have debated this bill a year ahead of schedule is because some fear that the fiscal year 2003 budget resolution won't have enough room in it to load up whatever farm bill the Senate considers with all the spending the majority desires.

Indeed, according to an article in the December 8th edition of Congressional Quarterly, "lobbyists fear that if Congress waits until 2002, when the current authorization bill expires, then the \$73.5 billion in new spending for agriculture programs over the next 10 years that was set aside by this year's budget resolution might vanish."

Senator KENT CONRAD, the Chairman of the Senate Budget Committee, who clearly must understand our country's financial condition, has said, "the money is in the budget now. If we do not use the money . . . it is very likely not going to be available next year."

That does not sound like "need" to me, it sounds like opportunism, and opportunism is not sufficient reason for the majority to rush through a bill this important and this expensive.

I agree with the analysis of Senator LUGAR, the Agriculture Committee's Ranking Member, who correctly stated on the Senate floor last Tuesday, December 11, that, "Proponents of the bill, S. 1731, fastening on to a budget resolution adopted earlier this year, said we have pinned down \$172 billion over 10 years, \$73.5 billion over baseline, over the normal expenditures that have been occurring year by year in the agriculture bills . . . I and others have pointed out that [the money] really is not there."

Now, I take a back seat to no one in terms of my concern for the American

farmer. When I was governor of Ohio, agribusiness was my number one economic development initiative.

Many people, even Ohioans, don't realize that food and agribusiness means more than \$73 billion to Ohio's economy each year. In fact, one in six Ohioans is employed in one aspect of agriculture or another.

I gave agriculture more attention and priority than any governor in memory, and I continue my close relationship with Ohio's agribusiness community.

Nevertheless, I could not support the majority's farm bill as written, and honestly, I am disappointed at the apparent lack of respect some of my colleagues seem to have for the American farmer.

Every farmer worth his salt knows that if he or she wants to stay in business, they have to be fiscally responsible and make tough choices. They know that the United States has to do so as well. They understand that the majority's farm bill did not focus on proper planning and making the right choices, but rather "getting while the getting is good."

Some here in Washington think that viewpoint epitomizes the American farmer, but for anyone in this body to think that the American farmer is only concerned about "what's in it for him," is an insult to their patriotism and their own understanding of fiscal responsibility.

Let me make it abundantly clear, this bill was written and has been debated without any regard for the other obligations our nation now faces. It is heedless of America's national security needs and it does nothing to acknowledge the long-term fiscal responsibilities of our Nation. Instead, the Majority's Farm Bill really just helps the nation's agricultural conglomerates.

When Congress passed the last farm bill in 1996, it did so with the intention that it would gradually phase out the heavy reliance on subsidies characteristic of previous farm bills and move towards a more market-oriented approach. That bill was named Freedom to Farm.

However, had S. 1731 passed, it would have increased federal spending by over \$70 billion over ten years, putting us back to where we were prior to Freedom to Farm, when farmers were more dependent on the federal government.

I remain supportive of market-based farm policies, but I believe important improvements must be made to the current system that will allow our farmers to adapt to a global marketplace. Unfortunately, that same marketplace has kept U.S. prices and income low for the past three to four years due to ever increasing world supplies coupled with low export demand.

The cost has been outrageous, with Congress appropriating more than \$32 billion in emergency spending since

Fiscal Year 1999 to offset low prices and assist farmers who suffered losses due to natural disasters. I have to ask: What happened to Freedom to Farm?

I have opposed these emergency measures, not only because they were not offset, which has added to our current budget crisis, but also because "stop gap" emergency measures only meet a temporary need, and do nothing to help the long-term outlook for the American farmer.

Unfortunately, the majority, in their bill, attempted to rectify this situation by making these emergency payments essentially permanent.

In a December 14 editorial titled "A Piggy Farm Bill," the Washington Post labeled S. 1731 "obscene," and pointed out that billions indeed have been made available in the past few years in "emergency" payments, however, the Post goes on to say "the effect of the new bill would be to regularize those [payments], thereby abandoning the five-year experiment in supposed market reform."

Another contention that I have with the majority's bill, is that passage of S. 1731 as written could very well have put the U.S. in violation of our obligations under the World Trade Organization and weakened our demands that Europe and other countries cut subsidy payments to their agricultural producers.

In an article that appeared in the December 18 edition of the Financial Times, former U.S. Secretary of Agriculture Mike Espy, noting Congress' apparent willingness to abandon a market-based approach to agriculture, stated "It's very awkward. Here we are involved in a global effort to reduce subsidies, and this [bill] flies in the face of that effort."

Current Agriculture Secretary, Ann Veneman, said in the same article that the legislation would "exacerbate overproduction and perpetuate low commodity prices," which would undermine our ability to expand into new foreign markets.

That's because the majority's farm bill would put in place counter-cyclical payments, which pay farmers a subsidy as the price of their commodity falls. This approach most assuredly would run afoul of the WTO treaty.

What's more, the subsidies under the majority's proposal would go to millions of farmers and quite a few wealthy individuals and even some Fortune 500 corporations.

Again, the Financial Times article references an organization known as The Environmental Working Group, which has on its web-site a compilation of more than 2.5 million farmers who receive subsidies. Of that total, the largest farms get the most amount.

To quote the news article, "just 1,290 farms have each received more than \$1 million in the past five years; Tyler Farms of Arkansas, which grows cotton, rice and soybeans, led the list at

more than \$23 million. In addition, 11 Fortune 500 companies, including Chevron and International Paper, also received farm subsidies. In contrast, the average farm in the bottom 80 percent got just \$5,830."

While I would have voted against the bill proposed by the majority, the Cochran-Roberts Amendment that was considered on Tuesday provided a workable alternative.

Instead of creating a counter-cyclical program, the Cochran-Roberts Amendment would have created farm savings accounts for producers to participate in on a voluntary basis, with matching funds provided by the USDA. This money would help farmers make ends meet during the lean years and would be a great improvement over the current practice of relying on touch-and-go so-called "emergency" supplemental farm spending bills.

While I am still concerned with the expense of the Cochran-Roberts Amendment, it evenly divides its spending over the first and last five years, and is thus more fiscally responsible than the Majority's proposal which frontloads \$45.3 billion of their \$73.5 billion bill in the first five years. Unfortunately, the Cochran-Roberts amendment was defeated along party lines.

So we were left with the bill pushed by the majority with a price tag we cannot afford. It will most assuredly exceed the \$73.5 billion, 10-year spending increase allowed by the fiscal year 2002 Budget Resolution.

As we near the end of this year, we find ourselves facing challenges that could never have been predicted a year ago. An economic slowdown that began in the spring of 2001 has now been deemed a full-fledged recession; a recession that was exacerbated by the events of September 11.

As Americans have responded generously to the needs of the victims and their families, the federal government has acted quickly and significantly as well. We've passed a \$40 billion emergency supplemental bill, as well as \$5 billion in grant funding to help prevent the collapse of the airline industry. In addition, we could spend another \$100 billion for an economic stimulus package soon after we return from recess.

Add all that to the \$25 billion that Appropriators and the White House agreed this summer to spend over and above the fiscal year 2002 budget resolution that Congress passed, and we could spend some \$170 billion over the budget resolution.

To put that in perspective, \$170 billion represents 30 percent of all the regular discretionary spending Congress enacted in fiscal year 2001.

Given this amount of spending, the Senate is poised to spend every last tax dollar, all of the Medicare surplus and the entire \$174 billion projected Social Security surplus. Even that won't be enough.

To cover all of this spending, including the spending in the majority's farm bill if it passed, the federal government would have to issue tens of billions of dollars in new debt this fiscal year depending on the size of the stimulus bill, any additional defense spending we pursue, plus the inevitable emergency supplementals Congress will pass between now and the end of the fiscal year.

It's amazing that a few months ago, people here were worried we would run out of debt to repay. Now, we are in a far different situation.

In fact, Treasury Secretary O'Neill sent a letter to the Majority Leader last week requesting that the government's debt ceiling be raised. The Secretary indicated that the current borrowing limit of \$5.95 trillion will be reached by February and that the administration requests that the national debt ceiling be raised to \$6.7 trillion.

As recently as August, the administration projected that the current borrowing limit would not be reached until September 2003. This is disturbing.

I am pleased we are not going forward with a farm bill that we cannot afford at a time of fiscal crisis, and that we are not going forward with a bill that is frankly not in the best interest of our farmers and definitely not in the best interest of the American people. It is unfortunate, though, that we spent two weeks debating the majority's farm bill, when there are three other pieces of legislation that I believe we should have been considering instead.

Our number one priority should be an economic stimulus bill, or "jobs bill" as it should be called.

Just last week, I was part of a six-member bipartisan group of senators who were invited to the White House by the President to discuss the stimulus bill and the package that the Centrist Coalition has been working on for the past seven weeks. After the meeting, President Bush announced his support for our stimulus package; a package that responds to the needs of those who are currently unemployed by extending benefits and health care coverage.

It also provides rebate checks to those Americans who pay Social Security taxes but who did not qualify for rebate checks earlier this year. It would truly be a wonderful holiday present for the working men and women of America as well as the nation itself since people would receive extra cash to help pay their holiday bills, and their spending would help spur the U.S. economy.

The bill also contains other stimulus functions, including 30 percent depreciation bonuses to encourage investment; a reduction in the 27 percent tax rate to 25 percent; and tax incentives to encourage small business owners to increase investment.

I won't sugarcoat the fact that it will take a lot of money to jumpstart our \$10 trillion economy, and our approach may cost up to \$100 billion. However, I believe that it is necessary to get our nation out of the recession we're in.

That's why I am somewhat dismayed that the Majority Leader did not bring the stimulus bill to the floor for consideration during these past couple of weeks. Early this morning the House passed a responsible bill based on the Centrist package which the President has agreed. It's a compromise package that reflects much of what the Majority Leader has said he wanted. However, that wish list seemed to shift when it became clear that a genuine willingness to compromise existed. The American public have expected us to pass such a bill, and I am disappointed that we have not yet done so.

The second bill we should consider is a terrorism reinsurance bill. This legislation would provide government backing to help cover the costs of damages incurred in the event of an act of terrorism. Without it, we are going to see many businesses with enormous increases in their insurance costs. And that's for companies that can get insurance.

As a result, projects that are on the table or in the planning process will not go forward and the economy will suffer.

There is a bipartisan proposal that is being worked on, and I can see no reason why we should not have pushed to get this bill onto the floor of the Senate before the end of the year.

The third bill is a comprehensive energy bill, one that will help our economy and harmonize our energy needs with our environmental needs.

While national energy policy is being held hostage to the demands of environmental groups, the United States must continue to rely on energy sources in the Middle East. Surely I don't have to remind my colleagues of the political instability that exists in this area of the world.

The most glaring example of how the lack of an energy policy is affecting us is the fact that we currently rely on Iraq for more than 750,000 barrels of oil per day. As my colleagues know, Iraq is a hotbed of terrorism, and I have no doubt the manufacturer of weapons of mass destruction, run by a man who would dearly like to inflict pain upon the United States if given the ability.

We have to put the interests of the American people in front of politics and special interest groups. I say to my colleagues that it is better to be able to know that we can rely upon ourselves to meet our energy needs than to rely on Saddam Hussein. We need to stand up and do the right thing and pass a comprehensive energy policy now, and to me, it is incredible that the Majority Leader placed it on the back-burner in favor of a farm bill that we can consider later this fiscal year.

Our farmers understand the need to enact these three bills because they use energy, because they feel the pinch of a soft economy, and, because farmers know the right thing to do.

It is my hope that we will be able to address these three issues quickly when we return next year and that we will do a better job of prioritizing all of the necessary work this body undertakes.

There was no compelling reason why we needed to consider the Farm Bill one week before Christmas. In fact, with one year left on the authorization of the Freedom to Farm Act, we will have almost all of 2002 to work on this legislation.

When we return next year, and after we take up the critical issues like energy, stimulus and terrorism insurance, we should follow the President's suggestion and sit down with real numbers and put together a farm bill that is fair to America's farmers, the men and women who really need help; fair to the American taxpayer; and fiscally responsible. I also would encourage my colleagues to take a look at other farm bill alternatives, such as Senator LUGAR's proposal, and the proposal put forth by Senators COCHRAN and ROBERTS. I believe they are on the right track.

Right now, we are facing tough times that affect all Americans, including farmers, and the Senate needs to make tough choices because that is what our constituents have elected us to do.

The majority's farm bill, S. 1731, was the wrong bill at the wrong time. We shouldn't have wasted precious time on flawed legislation. Our farmers deserve a bill that has been fully vetted, following a thoughtful and comprehensive debate. Sadly, S. 1731 offered our farmers precious little in that regard as the majority focused more on getting a bill done than getting the right bill done.

It is my hope that in the months ahead, we will craft a Farm Bill that will help farmers succeed while reflecting the other pressing fiscal needs that also face our nation. I look forward to working with my colleagues to enact such legislation.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Financial Times, Dec. 18, 2001]

US AGRICULTURAL BILL WILL GO AGAINST THE GRAIN WORLDWIDE

PROPOSALS TO INCREASE SUBSIDIES FOR FARMERS COULD VIOLATE WTO RULES

(By Edward Allen)

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U.S. AGRICULTURAL BILL WILL GO AGAINST THE GRAIN WORLDWIDE: PROPOSALS TO INCREASE SUBSIDIES FOR FARMERS COULD VIOLATE WTO RULES

(By Edward Alden)

Five years ago, when the US Congress last passed a major bill to reform its farm policy, it pledged to wean farmers from two generations of government subsidies and reintroduce market pressures into US agriculture.

This week, the Senate is set to follow the House of Representatives in declaring that experiment a failure. Instead, Congress is close to approving legislation that will increase federal subsidies to farmers by more than \$70bn over the next decade.

The sharp turnaround has undermined the Bush administration's preparations for the launch of a new round of world trade talks that is supposed to cut sharply government supports for agriculture. The increase in subsidy payments to farmers could put the US in violation of World Trade Organisation rules, and will seriously weaken the credibility of US demands that Europe cut its farm subsidies.

"It's very awkward," said Mike Espy, a former secretary of agriculture. "Here we are involved in a global effort to reduce subsidies, and this flies in the face of that effort."

Over the past decade, the US government has tried to persuade farmers that their future lies in opening up markets for farm products abroad.

But instead, US exports fell sharply following the 1998 Asian financial crisis and commodity prices plummeted. This led Congress to approve billions of dollars in emergency payments to US farmers over the past three years. "We have seen that export markets do not serve as a reliable safety net in and of themselves," said Tom Harkin, the Iowa senator who is the chief sponsor of the Senate bill. The new farm bill will entrench that philosophy by institutionalising so-called counter-cyclical payments—subsidies that rise as crop prices fall.

Such subsidies, which have the perverse effect of encouraging increased production when prices are falling, run directly counter to what the US has tried to achieve in the WTO. The Bush administration admitted earlier this year these counter-cyclical payments fall into the so-called amber box of subsidies that must be reduced under WTO rules.

If crop prices continue to fall, automatically increasing government payments to farmers, the US could run up against the Dollar 19.1bn per year that is the maximum allowed under these restrictions.

The administration and some critics in Congress have tried to fight back.

Ann Veneman, agriculture secretary, said earlier this month the new farm bill would "exacerbate overproduction and perpetuate low commodity prices", and would compromise US efforts to open new markets abroad. Pat Roberts, the Kansas senator who was the chief author of the 1996 farm reform, was blunter.

He charged last week that the powerful farmers who will reap a windfall in new subsidies "view the farm bill as an ATM machine", the American term for automatic cash dispensers. The administration and its outmanned supporters in Congress are hoping to delay final passage of the bill until next year when the government will produce new budget numbers. Those figures, which will show the federal surplus vanishing as a result of recession, tax cuts and the war on

terror, could create pressure to curb farm spending.

The bloated farm bill legislation has indeed cast an embarrassing new light on rural America's dependency on the federal government.

The Environmental Working Group, a non-profit organisation, last month posted on its website a comprehensive list of the subsidies received by more than 2.5m American farmers.

The data, obtained under US freedom of information laws, shows that a small number of large farmers gets the vast majority of federal payments. Just 1,290 farms have each received more than Dollars 1m in the past five years; Tyler Farms of Arkansas, which grows cotton, rice and soybeans, led the list at more than Dollars 23m.

In addition, 11 Fortune 500 companies, including Chevron and International Paper, also received farms subsidies. In contrast, the average farm in the bottom 80 per cent got just Dollars 5,830.

The new bill would only increase that trend by linking payments firmly to production, thereby rewarding the country's largest farmers.

Other agricultural exporting countries like Australia and many Latin American nations are dismayed by the direction of US farm policy. Warren Truss, Australia's agriculture minister, said during a visit to Washington last week that the new bill would "entrench a mentality of farm subsidies in the US."

"It is obvious that the US which once proudly boasted it had the most efficient farmers in the world, has now degenerated to a situation where US farmers are dependent upon the taxpayers for around half their income."

The European Union, however, has been noticeably quiet on the farm bill debate. As the world's largest provider of agricultural subsidies—at least for the moment—the EU has the most to gain from a bill that will do much to erase any US claims to free market virtue.

Said one EU agricultural official: "It has certainly taken the heat off us."

FAITH-BASED INITIATIVE

Mr. DASCHLE. Mr. President, unfortunately, during this holiday season there has been a decline in charitable donations. In the land of plenty, having children going hungry during the holiday season is simply heartbreaking. But today too many charitable organizations are facing new funding constraints and cutting back on items like food vouchers. Many of us in Congress have been interested in looking for ways to resolve these problems and strengthen the partnership between charities and the Federal Government.

Senators LIEBERMAN and SANTORUM have been working throughout the year to develop just such a solution. Throughout their process they have consulted with my staff and the White House to ensure that the final product would be a consensus bill that would enjoy bipartisan support. I am pleased that the outlines to an agreement are now within reach. Had the Senate had more time, I would be very interested in seeing the package that has emerged introduced and debated by the full Senate.