

has responded to Congress' call for expedited nomination of a new drug czar. Gen. Barry McCaffrey is an impressive nominee with a history of courageous and energetic leadership. I am proud that he has been nominated. I look forward to the opportunity to discuss these and other issues with him before and at his confirmation hearings. I commend the President for finally grabbing the ball and doing something in this area.

I hope he will back General McCaffrey, who I do not think would take this job if he was not going to have the backing of the President. I hope the President will back him and help him to get out there and do what needs to be done.

Mr. President, in the area of drug use, we have our work cut out for us. The Senate Judiciary Committee has been holding a series of hearings to bring national attention to bear on just how bad this situation has become—and they are bipartisan hearings, I might add. We are going to begin the process of revitalizing the drug war.

Over the next 2 months I will be joining with Senators DOLE and GRASSLEY to look at specific approaches to dealing with the problem of drug use. By working together I believe we will be able to reclaim the ground that we have lost. But we cannot do it without people in America being aware of these problems that are just killing our country and killing our young people, and just satiating them with substances that are horrifying, debilitating and wrong, and that will lead them down the primrose path of drug abuse, drug addiction and ultimately death and degradation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, thank you. I just want to again thank my colleague from Utah for his very eloquent remarks on the drug problem, especially on marijuana. I say to my friend, I was listening, and he points out some very good things. I, being the parent of two teenage daughters, am as concerned as he is about the lyrics I hear on some of these songs promoting the use of drugs, such as marijuana.

I cannot add to anything my friend from Utah said, except I heard him say that hard-core drug users always start when they are young—and that is true—and they usually start with something like marijuana. Before that, they start on cigarettes. And unless and until we can get to that root problem of doing something about how these cigarette companies are pushing their products on young people we are fighting a losing battle. We have to get to that too and stop them from getting hooked on cigarettes, because it is cigarettes and alcohol and then right on to illegal drugs.

So I thank the Senator.

Mr. HATCH. I want to thank my colleague. I appreciate the kind remarks and hear him.

Mr. HARKIN. The Senator has been a great leader on this issue, and I commend him for it.

Mr. LOTT. Mr. President, will the distinguished Senator yield?

Mr. HATCH. I will be happy to do so.

Mr. LOTT. I wish to commend him for his remarks. I find them very interesting and informative. I think we can all make use of them.

ORDER FOR ALLOCATION OF TIME

Mr. LOTT. Mr. President, this has been cleared on both sides of the aisle. I ask unanimous consent that the time consumed by all previous quorum calls and any ensuing quorum calls during today's morning business be equally divided between both sides of the aisle.

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

Mr. LOTT. I thank the Chair.

FRAUD, WASTE, AND ABUSE IN THE MEDICARE PROGRAM

Mr. HARKIN. Mr. President, I came to the floor today to talk about a letter I received just yesterday from the inspector general of the Department of Health and Human Services.

Mr. President, over the last 6 years I have spoken frequently on the Senate floor about the problem of fraud, waste and abuse in the Medicare Program. For several years I chaired the appropriations subcommittee that funded the Health Care Financing Administration. Every year I would have one full day of hearings on fraud, waste and abuse in the Medicare Program.

Through the use of our subcommittee we have had a number of GAO investigations and the inspector general's investigations. I was wondering just what might be happening to these investigations because of some of the Federal Government shutdowns and slowdowns. As background, let me just say that the GAO has estimated that up to 10 percent of Medicare spending is lost to waste, fraud and abuse. And 10 percent out of a program running about \$180 billion a year means that is \$18 billion a year going for waste, fraud, and abuse. So it is not just a small item. It is a big item, and it is a direct hit to the pocketbooks of taxpayers.

One of the main activities and one of the main positive forces we have going after waste, fraud and abuse is the inspector general's office. It is our main line of defense against Medicare fraud. As I pointed out before, even at last year's level, they did not have enough resources to do the job. But it is absolutely essential in stopping this terrible waste of taxpayers' dollars and saving us money.

So I was concerned about the possible impact of the Government shutdowns and the low level of temporary funding

that the inspector general is operating under, and what that would mean in our fight against Medicare waste, fraud and abuse.

Last year I wrote to Inspector General June Gibbs Brown to ask her what the impact was. Mr. President, I received her letter yesterday. I want to share it with the Senate because it is absolutely shocking.

The inspector general has said that literally billions of dollars are to be lost to fraud and abuse if action is not taken now. Let me read some portions of this letter.

First of all she says:

DEAR SENATOR HARKIN: Thank you for your recent letter expressing concern about the extent to which the critical anti-fraud and abuse activities of the Office of Inspector General (OIG) in the Department of Health and Human Services (HHS) are suffering from the government shutdowns and under the current stop-gap spending bill. Specifically, you asked the following questions:

Were major enforcement initiatives, investigations, and audits suspended?

[Second,] [a]re fewer initiatives, investigations, and audits being initiated?

[Third,] [w]hat is the potential impact on Inspector General activities of being forced to operate under another short-term funding measure similar to the one currently in effect?

As I said, Mr. President, the answers are shocking.

I am not going to read the whole letter. I will put it in the RECORD. A few points need to be highlighted. On my question on investigations and audit activity, listen to this, Mr. President.

Cases to U.S. attorneys offices for prosecution dropped from 92 in the first quarter of last year to 51 in the first quarter of this year. Indictments fell from 50 to 34.

Criminal convictions dropped from 84 for the first quarter of last year to 36 for the same period this year.

Investigative receivables fell from approximately \$77.7 million for the first quarter last year to about \$30.8 million for the same period this year.

The Office of Inspector General issued 33 percent fewer reports, processed 30 percent fewer non-Federal audits, and identified 40 percent fewer dollars for recovery to the Federal Government compared to the same period last year.

The shutdowns [she went on to say] prevented us from excluding individuals and entities from participation in Medicare and Medicaid. Providers were allowed to continue to bill the Medicare and Medicaid programs even though they should have been excluded due to convictions or because they [have been] abusive to patients.

Understand what she is saying. She is saying that certain individuals and entities should be excluded from participation because they have been convicted of criminal activities. They could not even keep them out because of their lack of funds caused by the shutdown in the Government and because of their underfunding.

In comparison, she states that last year at the same time there were 493 health care exclusions versus only 210

exclusions for the same period this year. Starts on 100 audit assignments were delayed or postponed.

But here is really the central point of the whole letter.

. . . Under the continuing resolution scenario, [the Inspector General said] the number of completed inspections may drop to approximately half [of the number of last year, which was 68.] Considering the program savings generated in past years as a result of such reports, as much as \$1 billion could be lost from the drop in program inspections alone.

That is \$1 billion.

Program inspections identify sources of fraud and abuse and recommend program adjustments to prevent future occurrences.

That is what will not be done this year, as she said, under the continuing resolution scenario.

Mr. President, I ask unanimous consent that the full text of the inspector general's letter be printed at this point in the RECORD.

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL,

Washington, DC, January 24, 1996.

Hon. TOM HARKIN,

Ranking Minority Member, Subcommittee on Labor, HHS, and Education, Senate Committee on Appropriations, Washington, DC.

DEAR SENATOR HARKIN: Thank you for your recent letter expressing concern about the extent to which the critical anti-fraud and abuse activities of the Office of Inspector General (OIG) in the Department of Health and Human Services (HHS) are suffering from the government shutdowns and under the current stop-gap spending bill. Specifically, you asked the following questions:

Were major enforcement initiatives, investigations, and audits suspended?

Are fewer initiatives, investigations, and audits being initiated?

What is the potential impact on Inspector General activities of being forced to operate under another short-term funding measure similar to the one currently in effect?

SUSPENSION AND CURTAILMENT OF PENDING OIG WORK

[Note: Social Security related activities have been removed from FY 1995 figures because the Social Security Administration became an independent agency on March 31, 1995 with its own Inspector General. The FY 1996 figures include some activities funded by Operation Restore Trust—a limited Medicare demonstration project funded through the Health Care Financing Administration.]

Investigations and audit activity—comparison of the first fiscal quarters of 1995 and 1996

Presentations of cases to United States Attorneys for prosecution dropped from 92 in the first quarter of Fiscal Year (FY) 1995 to 51 in the first quarter of FY 1996 while indictments fell from 50 to 34.

Criminal convictions dropped from 84 for the first quarter of last year to 36 for the same period this year with civil judgements going from 27 to 19.

Investigative receivables fell from approximately \$77.7 million for the first quarter last year to about \$30.8 million for the same period this year.

The OIG issued 33 percent fewer reports (54 reports compared to 82 reports), processed 30 percent fewer nonfederal audits (861 compared to 1,223), identified 40 percent fewer

dollars for recovery to the Federal Government (\$14.2 million compared to \$23.8 million), and is collecting 30 percent fewer dollars approved for recovery (\$83.2 million compared to \$120.1 million).

HHS financial statement audits

The Government Management Reform Act requires that agencies have financial statement audits beginning FY 1996. The HHS-wide financial statement audit requires audits of eight operating agencies accountable for about \$280 billion. The financial statements of the Health Care Financing Administration alone comprise expenditures in excess of \$230 billion that are material to the overall departmental financial statements and to the General Accounting Office effort to report on governmentwide financial statements. If travel funds are not obtained, all such audit work will be suspended with resultant impact on HHS-wide and governmentwide statements. Audit activity must be performed at multiple State agencies and Medicare contractor locations, all requiring substantial travel funds. In addition, funding must be sought for expert medical assistance to review medical claims.

Administrative sanctions—fines, penalties, and exclusions

The shutdowns prevented us from excluding individuals and entities from participation in Medicare and Medicaid. Providers were allowed to continue to bill the Medicare and Medicaid programs even though they should have been excluded due to convictions or because they are abusive to patients.

By comparison, there were 493 health care exclusions implemented for the first quarter of FY 1995 versus 210 exclusions for the same period this year. Approximately 400 exclusion cases are presently awaiting implementation.

IMPACT ON NEW OIG INITIATIVES

During the first quarter of last year, the OIG investigations component opened about 560 cases and closed about 605 cases. For the same period this year, under the continuing resolution, we opened only 425 and closed about 390. During the furlough period this year, we opened and closed only 2 criminal cases.

Starts on 100 audit assignments were delayed or postponed indefinitely because of the furlough. An example of this is the national review of prospective payment system (PPS) transfers. The United States Attorney in Pennsylvania proposed a joint review of PPS transfers based on prior audit work that identified over \$150 million of overpayment to hospitals. If we are able to follow the Department of Justice proposal, we anticipate recoveries of over \$300 million under the provisions of the Federal False Claims Act. The project has been suspended due to the furlough and lack of adequate travel funds.

POTENTIAL EFFECT OF CONTINUED UNDERFUNDING

Lack of funds for travel and other expenses of field work

For investigations, audits, and inspections not funded under Operation Restore Trust, travel has been reduced to about one-third of the prior year's expenditure for the same period. If the underfunding of OIG activities continues, most travel will be suspended and employees furloughed. Approximately 60 percent of ongoing or planned audits will be curtailed or severely reduced in scope because of travel requirements with the resultant loss in program savings. The FY 1995 audit-related savings totaled \$5.5 billion.

Last year the OIG issued 68 program evaluation reports. Under the continuing resolution scenario, the number of completed in-

spections may drop to approximately half that number. Considering the program savings generated in past years as a result of such reports, as much as \$1 billion could be lost from the drop in program inspections alone. Program inspections identify sources of fraud and abuse and recommend program adjustments to prevent future occurrences.

Effect on sanctions activity

The OIG expects a decline in potential settlements and exclusions as a result of fewer investigative and audit initiatives. In addition, since many of the false claim cases originating from the Department of Justice are generated through OIG investigations and audits, we expect a decline in that caseload as well.

Currently, the OIG administrative sanctions staff has under development 292 cases including false claims, Qui Tams, and civil monetary penalties, all of which will be put on hold during another furlough. Activity on them would be greatly reduced if we are operating under a continuing resolution with an inadequate level of funding.

Since the furlough, we have not been able to respond to more than 2,217 inquiries from licensing boards and private sector providers, who are required by law to inquire about the exclusion status of a practitioner before hiring, concerning the current status of a health care practitioner.

The minimum funding that would allow the OIG to meet its basic obligations and maintain its infrastructure is the amount shown in the Senate markup of the HHS appropriations bill (\$75,941,000). We have enclosed at Tab A a copy of the Committee recommendation.

We sincerely appreciate the effort you have made toward achieving a level of funding for the OIG that would allow us to sustain basic services. We also appreciate your consistent support year after year toward curtailing waste, fraud, and abuse in Medicare, Medicaid and other HHS programs. The attention you give to our findings and recommendations and your enthusiastic encouragement assist us greatly in strengthening the integrity of these important programs.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

Mr. HARKIN. Thank you, Mr. President.

Much of the problem is they have no funds for travel. It is interesting that their auditors and their investigators can come to work and sit at a desk, but they cannot do anything. Much of the investigative work of the inspector general is involved in traveling and in investigative activities. So we have hundreds of these people sitting at their desks unable to do their jobs. Every day that the Government is either shut down or every day that they operate under the continuing resolution, with the short funding that they have, the crooks and the con artists are picking Medicare's and the American taxpayers' pockets costing us billions, as the inspector general said, if we fail to act.

So this is not just again some little item. It is very odd to me, Mr. President, we can pass a continuing resolution to provide a full year of funding to a number of important programs, including the Kennedy Center for the Performing Arts—that is fine—and yet we do not fully fund the inspector general's office that goes out after the

crooks and the con artists and stops them and recovers money for the taxpayers.

We cannot fund that. I just wish somebody could justify that to me. I do not understand it. I guess we are going to be considering a new continuing resolution tomorrow.

I want to take this opportunity today to let my colleagues know that I intend to insist that that continuing resolution provide adequate funding for the Office of Inspector General in the Department of Health and Human Services to fight Medicare fraud, waste, and abuse. If we do not, then it is the crooks and the scam artists who will be smiling as they rip off the taxpayers even further.

I just want to point that out, Mr. President. If there is a continuing resolution and they are going to fund some portions of the Government to go on, this is one portion of the Government that this Senator is not going to let sit there and not be adequately funded. People are talking about cutting Medicare and making our beneficiaries pay more for their monthly premiums to make up for Medicare shortfalls in the future. I say, wait a minute, if the General Accounting Office is saying that up to 10 percent of Medicare money is lost to waste, fraud, and abuse, that is \$18 billion a year each year for 7 years. We already have more money than we need right there to make up for the Medicare shortfall that we face.

So this is an important matter and I intend to pursue it. I hope Senators will do so on both sides of the aisle—I do not say this is a partisan issue. I just hope we pay some attention to this issue and make sure the Office of Inspector General is fully funded.

THE 1996 FARM PROGRAM

Mr. HARKIN. Mr. President, I know my colleague from Oklahoma is seeking the floor. I am going to take a few minutes on a different topic. I want to mention how greatly concerned I am that Congress appears to be set to go into recess for a month while the details of the 1996 farm program remain unresolved.

Farmers have been waiting for a long time to know what the program will be for this year. They need to be able to make plans to line up seed, fertilizer, chemicals, and credit. As we all know, and as I know the occupant of the Chair knows from representing his State and the farmers in his State, farming is a very capital-intensive business. Farmers need to know what type of Federal policy they are operating under so they know what they need in terms of capital in order to arrange the credit for this year's expenses.

Second, the farm bill is not just for farmers, it is for everyone. It is for our consumers as well as our farmers. It is for exports. It is for the whole infrastructure of processing, making and distributing our food products in this country. The fact that we do not have a farm bill has broad ramifications.

We should have had a full farm bill debate last year. I know of no one on my side of the aisle who either filibustered or in any way indicated that he or she would filibuster a farm bill. We had some committee meetings last year under the able leadership of the Senator from Indiana, Senator LUGAR. I will be very up front about it. Those on my side of the aisle, the Democrats, proffered a farm bill proposal. We debated it, we voted on it, and we lost. I understand that, but at least we had the opportunity to debate it and vote on it.

Then the majority party, the Republicans, offered their farm bill in committee. We debated it and we voted on it. They won. I have no problems with that. That is the way it ought to be. But then I expected the bill to be brought to the floor of the Senate so that other Senators who have equal interest in agriculture and agriculture policy could have their day to offer amendments, debate the bill, and then pass it. Maybe some of those amendments would have been adopted, maybe some would not have been, but that is the way the Senate should operate.

To this day, we still have not had an agriculture bill on the Senate floor for debate, amendments, and passage. What happened was—I do not cast any broad nets or use any broad brush, but some people in the majority party decided that they would sit down behind closed doors, write a bill, and put it into the massive budget reconciliation bill. Again, there was no realistic opportunity to debate, offer amendments, or to reach compromise and do what is right for rural America and our Nation.

Now I understand someone in the other body is saying that if there is going to be a continuing resolution, he wants to put his version of the farm bill on it. That proposal is basically the same as was put in the budget bill. Well, that is not the version I like. Maybe that is the version that might eventually get through. I do not know for certain, but I do not think so. I do not think it would have the votes to pass. But at least it ought to be debated, and we ought to have a full and fair opportunity to discuss it, vote on it, and amend it. That proposal should not be rushed through as part of a continuing resolution.

Farm policy is too important to be ramrodded through here without adequate time to debate it and amend it. We do not need much time. If we had a day or two to debate a farm bill, I think we could pass it. It probably would not be exactly what I want, but at least we would have our day to debate it, offer some amendments, and maybe we could reach some compromises.

All I can say about that so-called Freedom to Farm Act that the chairman on the other side wants to attach to the continuing resolution is that they ran that up and down the flagpole a number of times last year. It does not have the votes to get through. It can-

not pass either the House or the Senate on its own merits.

So on that so-called Freedom to Farm Act, we ought to just say the last rites, move on and try to find some compromises we can work from, and let us do it in a bipartisan fashion.

I have worked on a number of farm bills in the past. At times they have generated a lot of emotional and intellectual debate on farm policy. They have been good debates, some of them pretty tough, but in the end, we fashioned a bipartisan compromise, and we moved on. That is the way we ought to do it again this year.

So, Mr. President, there are steps we can take. It is getting very late in the year to try to fashion some entirely new program. I had hoped that we would have had a new program for this year, but we do not. More and more, it seems the only feasible thing to do appears to be extending the present farm bill for 1 year, and making some immediate changes that we can all agree on—planting flexibility, for example. Both sides agree it is needed. We agreed on that in committee. That is no problem. We can reach agreement on how to deal with the repayment of the 1995 advance deficiency payments. I think both sides agree on working that out. We could do that. So we could resolve those important issues, and at least farmers would know what to expect this year, and they could get on with their business.

If I had my druthers, I would rather we did not have an extension of the 1990 farm bill, but it is too late to do anything markedly different now. So that seems the most likely outcome we are faced with now, to extend the 1990 bill, make a few needed changes that we agree upon and then move on.

Mr. President, I thank you and yield the floor.

THE PRESIDING OFFICER. The Senator from Oklahoma is recognized.

MAJOR CONCERNS

WAR ON DRUGS IN AMERICA

Mr. INHOFE. Mr. President, I listened with interest when the Senator from Utah was talking about some of the drug problems that are facing this Nation and that concern all of us deeply. He made a comment that we are all pleased that Barry McCaffrey, if he is confirmed, will be taking over as drug czar to actually do something about it. It is long overdue.

I sat in the other Chamber and listened to the President during his State of the Union Message 2 days ago. He expressed this great concern about the drug problem in America. Yet he has done nothing for the first 3 years about the drug problem.

We did, I guess, have a drug czar, but the number of personnel who were supposed to be participating in the program to address the drug problem in America was cut by 75 percent, from 100 down to 25 people. The amount of money that was spent on the drug problem was actually cut in half.