New Jersey on an unrelated matter, the Senate begin voting on the Lugar amendment.

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

The Senator from New Jersey.

(The remarks of Mr. TORRICELLI are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The question is on agreeing to the Lugar amendment No. 2827.

Mr. HARKIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM), the Senator from Tennessee (Mr. THOMPSON), the Senator from Arizona (Mr. MCCAIN), and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 11, nays 85, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—11

Chafee	Gregg	Santorum
Collins	Kyl	Smith (NH)
Corzine	Lugar	Voinovich
Ensign	Murkowski	

NAYS—85

Akaka	Dorgan	Lott
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Graham	Reed
Boxer	Grassley	Reid
Breaux	Hagel	Roberts
Brownback	Harkin	Rockefeller
Bunning	Hatch	Sarbanes
Burns	Helms	Schumer
Byrd	Hollings	Sessions
Campbell	Hutchinson	Shelby
Cantwell	Hutchison	Smith (OR)
Carnahan	Inhofe	Snowe
Carper	Inouye	Specter
Cleland	Jeffords	Stabenow
Clinton	Johnson	Stevens
Cochran	Kennedy	Thomas
Conrad	Kerry	Thurmond
Craig	Kohl	Torricelli
Crapo	Landrieu	Warner
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
DeWine	Lieberman	
Dodd	Lincoln	

NOT VOTING—4

Domenici	McCain
Gramm	Thompson

The amendment (No. 2827) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

VISIT TO THE SENATE BY THE PRESIDENT OF ROMANIA

Mr. HELMS. Mr. President, I ask that it be in order for the Senate to stand in recess in honor of the distinguished guest we have today. He is the President of Romania. He is in his second term. His name is Ion Iliescu. Welcome, Mr. President.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for about 6 or 7 minutes.

There being no objection, the Senate, at 4:05 p.m., recessed until 4:10 p.m. and reassembled when called to order by the Presiding Officer.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. HARKIN. 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. HARKIN. 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. HARKIN. Mr. President, I understand under the procedure agreed to earlier, this side will now be recognized to offer an amendment. I understand Senator CARNAHAN has an amendment to offer. I understand we are ready to proceed to the Carnahan amendment. I was going to ask for a time agreement, but obviously we cannot proceed with a time agreement at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2830 TO AMENDMENT NO. 2471

Mrs. CARNAHAN. Mr. President, 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 Missouri [Mrs. CARNAHAN], for herself and Mr. HUTCHINSON, proposes an amendment numbered 2830 to amendment No. 2471.

Mrs. CARNAHAN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To permanently reenact chapter 12 of title 11, United States Code)

At the appropriate place, insert the following:

SEC. . REENACTMENT OF FAMILY FARMER BANKRUPTCY PROVISIONS.

(a) REENACTMENT.—Notwithstanding any other provision of law, chapter 12 of title 11, United States Code, is hereby reenacted.

(b) CONFORMING REPEAL.—Section 303(f) of Public Law 99–554 (100 Stat. 3124) is repealed.

(c) EFFECTIVE DATE.—This section shall be deemed to have taken effect on October 1, 2001.

Mrs. CARNAHAN. I ask unanimous consent Senator HUTCHINSON of Arkansas be added as a cosponsor to this amendment.

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

Mrs. CARNAHAN. Mr. President, let me commend the two managers of this bill, Senator HARKIN and Senator LUGAR. Trying to forge a consensus on a farm bill is a daunting task. The work is absolutely critical for family farmers in Missouri and throughout the Nation.

This amendment is designed specifically to help ailing family farmers. It will make permanent chapter 12 of the bankruptcy law. Chapter 12 offers an expedited bankruptcy procedure to family farmers in an effort to accommodate their special needs. It was first enacted in 1986 and has been extended several times since then—in fact, twice last year.

The provisions of chapter 12 allow family farmers to reorganize their debts as opposed to liquidating their assets. These provisions can be invaluable to farmers struggling to stay in business during difficult times. Unfortunately, chapter 12 expired on October 1 of last year. The Carnahan-Hutchinson amendment seeks to make permanent these bankruptcy provisions and reinstates them retroactively to the date when they last expired. The retroactivity will ensure there are no gaps in availability of these procedures.

The larger bankruptcy reform bill currently pending before the House-Senate conference committee includes a permanent extension of chapter 12. Nevertheless, America's family farmers should not have to wait for us to complete our work on the bankruptcy reform bill. Farmers and farm groups across Missouri have urged me to try to get these provisions reenacted as quickly as possible. They stress how important chapter 12 can be during tough times.

This amendment is also important because the retroactivity will eliminate uncertainty for farmers who have cases already pending.

Legislation extending these provisions passed the House of Representatives twice last year by votes of 411 to 1 and 408 to 2. These laws were both subsequently approved by the Senate by unanimous consent. It is my hope we can approve this amendment and complete our work on the farm bill quickly.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I commend Senator CARNAHAN for her excellent statement and for introducing this amendment. I am proud to be a cosponsor.

Earlier today I filed amendment No. 2828 which did precisely this, making permanent chapter 12 provisions and making them retroactive. Obviously, there is no need to pursue that amendment. I am very pleased to be able to cosponsor this amendment with Senator CARNAHAN. I look forward to its quick passage as well.

I was very disappointed earlier today in the payment limitation amendment being adopted and the consequences I believe it will have for southern agriculture. I know other parts of the country do not face that problem and will not see the impact we will see in Arkansas, Mississippi, Alabama, and across the South. Consequences will be real and severe. That is why the permanent extension of the chapter 12 bankruptcy for farmers is so essential. It is unfortunate it is so essential.

We talk of our farm bill having a safety net. That safety net expired last year, and the enactment of chapter 12 bankruptcy is critical. The temporary basis of past law has Members again seeking to protect our Nation's farmers. This law was enacted on a temporary basis because Congress did not know whether it would work. We now know it does work and it should be permanently enacted. It was passed back in 1986. In the past 14 years, 20,000 American farmers have filed to reorganize their debts under its protection. It was designed to help farmers who receive more than half of their income from farming and have total debts of less than $1.5 million. It hopefully allows them to stay in farming. It has worked very well.

It is unfortunate so many of our farmers are being forced into bankruptcy. I join my colleagues in pointing out this disturbing fact. I ask those same colleagues to join me in doing something. Between 1999 and 2001, the Farm Service Agency in Arkansas has seen a 28-percent increase in filings for chapter 12 bankruptcy. I mentioned earlier I attended one of those farm auctions this weekend. The newspaper ad announcing the auction said: Three more farmers calling it quits.

That is what we are seeing over and over again across the South—calling it quits, not being able to make a go of it under the current commodity prices and in the absence of a predictable farm policy. There has been a 28-percent increase in filings for chapter 12 in Arkansas. Chapter 12 helps farmers get through bad times without having to give up the farm and helps them, hopefully, to get on their feet.

Before chapter 12, banks would not negotiate with farmers and they would be forced to sell the farm. Chapter 12 provides farmers the ability to have more flexibility to reorganize their financial affairs. Farming requires a tremendous amount of capital investment. Under most other provisions of bankruptcy, farmers would be required to sell a lot of their machinery and oftentimes sell their property also. This sends these farmers spiraling toward collapse because it nearly eliminates the chance farmers could work themselves out of their financial situation.

This legislation is currently tied up in the bankruptcy reform conference. It has been there now for 6 months. All the while, farmers are going out of business, forced to sell their equipment, and sell their assets, and sell their property.

Our country is in a recession. The agricultural community has been in a recession for several years. Many commodity prices are at their lowest point in nearly 50 years. In the past, we have supported short-term, short-sighted extensions. It is time to permanently enact these bankruptcy provisions. In this time of economic uncertainty, forcing farmers to liquidate their assets is not the answer. The answer is permanent enactment of chapter 12 bankruptcy, allowing farmers the ability and freedom to reorganize their debt and stay in farming.

Once again, I thank Senator CARNAHAN for filing and offering this amendment. I am glad to cosponsor the amendment. I hope for its quick passage this afternoon.

Mr. LEAHY. Mr. President, I am pleased to cosponsor this amendment by Senator CARNAHAN to retroactively renew family farmer bankruptcy protection and make Chapter 12 a permanent part of the Bankruptcy Code. I commend Senator CARNAHAN for her continued leadership in protecting family farms across the country.

Unfortunately, too many family farmers have been left in legal limbo in bankruptcy courts across the country since Chapter 12 of the Bankruptcy Code expired on October 1, 2001. Congress needs to move quickly to restore this safety net for America's family farmers.

This is the third time in the last year that this Congress must act to retroactively restore basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage into law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

In 2000 and into last year, for example, the Senate, then controlled by the other party, failed to take up a House-passed bill to retroactively renew Chapter 12 and, as a result, family farmers lost Chapter 12 bankruptcy protection for 8 months. The current lapse of Chapter 12 has lasted more than 4 months. Enough is enough. It is past time for Congress to make Chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our nation's family farmers.

In the current bankruptcy reform conference, I am hopeful Congress will update and expand the coverage of Chapter 12 as Senator FEINGOLD has proposed in the Senate-passed reform bill.

In the meantime, the Senate should take the lead and quickly restore and make permanent this basic bankruptcy protection for our family farmers across the country by adopting the Carnahan amendment.

Mr. GRASSLEY. Mr. President, I'm a strong supporter of Chapter 12. I wrote it; I believe in it. But I believe it belongs in the bankruptcy bill which is currently in conference. I hope that the Majority Leader will step up to the plate and help move this conference along. The bankruptcy bill contains many provisions that would make life better for farmers and it would be a serious mistake not to enact the bankruptcy bill soon.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I join with the Senator from Arkansas and the Senator from Missouri in supporting this amendment. I compliment both Members for addressing this issue. I compliment the Senator from Missouri for offering this amendment and the Senator from Arkansas. This is something sorely needed. I hope it will have strong support.

I hear a lot about this in the countryside. Quite frankly, in these tough times, more and more I think we will need the benefit of chapter 12.

As I understand it, this does go back retroactively to last September, if I am not mistaken, and it will cover a number of farmers using chapter 12 proceedings and making it permanent. At least it lets them know it is going to be there from now on and we will not have to keep reauthorizing it. I ask to be added as a cosponsor of the amendment.

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

Mr. LUGAR. Mr. President, I join the chairman in commending the distinguished Senators from Missouri and Arkansas for a very constructive amendment. I am hopeful it will have universal support.

Let me add a point of procedure. Senator HATCH wants to speak on the amendment. He is not visible for the moment. At a certain proper time, I will consult with the chairman. We may want to set this amendment aside so we have floor activity. I know of no opposition, but Senator HATCH is still to be heard from, so we want to reserve the opportunity for him to speak if possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that Senator LEAHY be added as a cosponsor.

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

Mrs. CARNAHAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. CARNAHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have conferred with Senators LUGAR and HARKIN, the two managers of this legislation. I ask unanimous consent that the vote on or in relation to the Carnahan amendment occur at 5:40 today.

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

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment, that of Senator CARNAHAN, be set aside and that Senator CRAPO be allowed to offer his amendment. For the information of Members, he would offer this amendment, speak until 5:40. There are other Members who probably wish to speak on this amendment. Then the agreement between Senator CRAPO and the two managers and I would be that when the debate is finished on his amendment this evening, the amendment would be laid aside and we would take it up again next week.

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

Mr. HARKIN. 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. CRAPO. 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. 2533

Mr. CRAPO. Mr. President, I call up amendment No. 2533.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO], for himself and Mr. CRAIG, proposes an amendment numbered 2533.

Mr. CRAPO. 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 strike the water conservation program)

Strike section 215.

Mr. CRAPO. Mr. President, this amendment strikes section 215 of the Water Conservation Program from this bill. I have introduced this amendment on behalf of not only myself but Senator CRAIG, Senator DOMENICI, Senator THOMAS, Senator ENSIGN, Senator ALLARD, Senator CAMPBELL, Senator HAGEL, Senator ENZI, Senator BURNS, and Senators HATCH and BENNETT of Utah.

This amendment is essentially a debate over whether the Federal Government should make an unprecedented move into the management, allocation, and use of water nationwide through the farm bill.

Historically we have had some very successful programs in the farm bill dealing with conservation. In fact, I have often stated, as I talk around the country about the farm bill, that in addition to creating our domestic farm policy, the farm bill has many other incredibly important provisions, not the least of which is its conservation title. It is probably the most important environmental piece of legislation this Congress considers on a regular basis.

One of those important environmental programs is the Conservation Reserve Program. This is a program that is time honored and has worked for many years in a way that has assisted farmers while at the same time assisted those who seek to improve the habitat for fish and wildlife around our country and to protect and preserve and strengthen our environment.

The Conservation Reserve Program is one which, in essence, allows a farmer to put his or her land into the program and idle it, allowing for more and better growth and development of habitat for wild species while at the same time allowing the farmer to receive some compensation for the agreement to do the effort of working to develop a habitat and protect it.

It is a program, as I say, that has been very successful and very well received, and in this farm bill there are proposals to improve and increase the availability of the CRP to those in the agricultural arena.

I have worked for months now on developing a very strong conservation title that can be a part of whatever we move forward on in the arena of our agricultural policy. In the proposals I have made, we have, indeed, added and improved the scope and reach of the CRP.

The water provisions we are debating today are an effort to link, if you will, administration of the Endangered Species Act with this very successful CRP, and to do so in a way that will intrude on State sovereignty over water and will create inappropriate pressures on our farmers, our agricultural producers, to give up their water rights and will not result in more effective benefits for the wildlife.

In essence, the language we are debating says, as to some of that increased CRP land we are proposing to be put into the new farm bill, about 1.1 million acres of it, that in order to participate in that new CRP land, a farmer would have to agree to give up either temporarily or permanently his or her water rights to the Federal Government.

First, this is creating a condition on our farmers for their participation in a portion of a very successful conservation program, a condition that is unnecessary and is harmful.

Second, it is walking all over States rights. Today States have sovereignty over the allocation, management, and use of water and water rights, and this is an unprecedented move of the Federal Government into the management, allocation, and use of water rights and, frankly, a move that will put the Federal Government in control of water rights in return for giving farmers the permission to participate in the CRP.

Third, the States already have programs and operations in place that enable them to address the questions of the need for water for species management. In fact, in my State of Idaho, we already are working very aggressively in salmon and steelhead recovery efforts to work with private property owners and water rights holders to make certain we are able to get water to the species that need it without harming the agricultural community and the other interests of water users, and we are doing so very successfully.

In fact, with permission, I would like to read briefly from a letter to me from former Senator Kempthorne, now Governor Kempthorne of the State of Idaho. I ask unanimous consent to read from this letter.

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

Mr. CRAPO. Mr. President, this letter, sent by Governor Kempthorne on December 11, says:

The water conservation program—

The water proposals I am talking about right now in this bill—

are not consistent with the laws of the 18 Western States, including those of the State of Idaho. In addition, the goal of implementing water quantity and water quality improvement demonstrated to be required for species listed under the Endangered Species Act can largely be achieved under existing State laws.

My point is that the objective of this language we are talking about is certainly worthwhile: getting water, quantity and quality, to the species that need them. But the States already have programs in place to achieve these objectives, and it is achieved very successfully in Idaho.

Governor Kempthorne goes on to point out:

In Idaho, the U.S. Bureau of Reclamation has been able to rent water from the State water supply bank from willing sellers pursuant to State law for almost a decade. More recently, the Bureau has rented water while in the Lemhi River, a tributary of the Salmon River, for the benefit of fish species. Again, this was done under the auspices of State law in cooperation with willing sellers.

My point again is that State law already provides mechanisms for the objectives of this water language to be achieved. We do not need to insert the Federal Government into the control of water rights, and we do not need to condition participation in a very successful conservation program and pressure being brought to bear to force farmers to give up their water rights either temporarily or permanently.

I will make another point and then yield the floor because I know there are other Senators concerned about this matter and who want to speak about it. The point is this: We have all had a lot of experience under the Endangered Species Act with its implementation and management. A very critical question has been raised about this language with regard to what happens if it is adopted and a farmer, in order to participate in this program, agrees to temporarily give up his or her water rights, thinking: I can get those water rights back at some point when I determine I would like to say it is time to return them to me.

What if a species has become dependent on that water? Under the Endangered Species Act, section 9, the question arises: Does that become a taking? Does there need to be a NEPA analysis before the Federal Government can return the water rights to this farmer? Does it have to go through an analysis of section 9 of the Endangered Species Act and under NEPA and other provisions of Federal law to determine whether other Federal law would be violated by the return which is contemplated by this very language?

Those are the kinds of questions that must be answered, but they are the kinds of questions that also raise clearly the problem that is addressed in terms of the Federal Government beginning to assert itself into this process.

Mr. President, I know we have a limited time right now, so I am going to conclude my remarks. I know there are a number of other Senators who will seek time. I have been told to remind them all we only have about 15 minutes of debate remaining.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I rise to support Senator CRAPO's amendment to strike the language in the Conservation Reserve Enhancement Program.

Before the holiday recess, we debated a slightly different version of Senator REID's proposal. The holidays gave us sufficient time to look over the language and to get feedback.

I can tell my colleagues that in my State our Governor, our attorney general, the Colorado Farm Bureau, and literally every rancher and farmer I talked to during the break strongly oppose this language.

Senator REID has included some very controversial language. I have great respect for Senator REID and consider him a close friend, but I think this is just dead wrong. The recent change cannot cure the flawed provision.

First of all, some might refer to Senator REID's proposal as a mere extension of CREP, a program that can only be extended if it already exists, but water rights should not be part of the Conservation Reserve Enhancement Program. Therefore, the addition of water rights is a fundamental change to the existing program. Such a change should require hearings, study, or some level of congressional inquiry, and yet there has been none to date.

Our constituents expect us to be fully informed. Since this is the first that most of us have heard of creating what is effectively a new program, how can we possibly be fully informed? We cannot, and I simply cannot vote for something that can hurt farmers in my State when we do not know the effects.

I carefully reviewed the language letting the States hold water rights rather than the Secretary of Agriculture, as Senator REID recently proposed.

At first glance, this might sound reasonable, properly deferring to the primacy of State water courts in the West. However, the new language requires the Secretary of Agriculture to review and approve the interested State's program.

Again, the United States waived its sovereign immunity and consented to deferring to State adjudication of water rights. In 1993, the U.S. Supreme Court reaffirmed that law ensuring that Federal claims are subject to State water courts.

Senator REID's language would make a change to CREP and would bring the Federal Government back into the equation. Whether intentional or not, the USDA review and approval requirement amounts to a sleight-of-hand Federal regulation of a precious State resource resulting in de facto Federal involvement.

Again, this dramatic change to the CREP creates way too many questions. First and foremost, of course, is why should water be included in this farm bill? Second, this new program would give priority to a State program that addresses endangered, threatened, or ''species that have been called threatened or endangered.'' Senator CRAPO alluded to this.

It may also include those that ''may become threatened.'' I do not have to remind my friends from the West of the controversy currently surrounding the Canadian lynx and the fish in the Klamath Basin and my State of Colorado, too, species that were actually endangered and, in some cases, we are finding out now, in the case of the lynx, they were not really endangered. There were dummied statistics to make them look endangered.

Before granting discretion to affect ''species that may become threatened,'' we should determine how many problems actually are there and what kind of corrective action should be taken.

Senator CRAPO mentioned the question, if we lease water to the Federal Government and they use it for a different purpose than the farmer used it, if it creates an area that may become an actual endangered species habitat, would that, under the Endangered Species Act, supersede the rancher's and farmer's ability to get the water rights back when the lease is over? That is a question we should ask ourselves.

My colleagues have stressed this language would not disrupt water rights because it only affects ''willing sellers.''

What about the downstream farmer? In the West, all of us know that water is used more than once.

I have a small ranch. I think I am about fourth in the use of the water. The wastewater is then filed on by people who are downstream or have areas of ranching territory lower than others. So you may have four or five people who use the same water. Of course, priority right is given by senior water rights or junior water rights, depending on how early they were on the claims in the filing. If a senior rights holder upstream leases from the Federal Government, where does that leave the junior rights holders who also rely on that water to feed their crops or their livestock? Could they be also in danger? I think they could.

In Colorado, much as in all the rest of the West, water is treated apart from the land. It is considered a property right. It can be taken from the land and sold separately, which it often is. So long as the change does not injure other water rights, I think this language, because of the way we reuse the water over and over, could certainly jeopardize junior rights holders.

Colorado is an arid State. Its strained water supply has been over appropriated. In other words, the demand for water exceeds our supply. That is what we are always in court about and always fighting about. Even more challenging, Colorado's population is projected to grow 63 percent in the next 25 years. The growth, in fact, is only superseded by the growth in Nevada and Arizona. We are the third fastest growing State. I certainly would oppose any action to jeopardize any State's rights to use the water it legally owns.

In order to meet water needs, communities have entered into water compacts. I believe this language leaves too many questions about what happens to inter-basin compacts, inter-State compacts, and international compacts. Both the Colorado and the Rio Grande headwaters are in Colorado. We have nine rivers that flow out of Colorado. All of them are subject to those compacts. The two major rivers I

mentioned are subject to compacts with another nation, Mexico, as they receive water from both of those resources.

In closing, many of my colleagues like to say they are moving a farm bill because that is what farmers want. The group, Environmental Defense, was quoted today in Congress Daily concerning Senator REID's language, and I would like to remind my colleagues they are purportedly acting pursuant to the farmers' interests and what the farmers want.

Well, I know the Farm Bureau has gone on record as opposing this language. The Farm Union was in my office also opposing this language, and I oppose this language. So I hope my friends recognize the real long-term dangers that could exist for water users in all the Western States if the Reid language is included.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am pleased to join with my colleagues from the West and my partner from Idaho, MIKE CRAPO, to support an amendment to strike a section from this bill that deals with the very critical issue of western water. This area is being called the water conservation program.

I will submit for the RECORD a letter from the President of the American Farm Bureau. Basically, he puts it rather clearly:

The American Farm Bureau Federation board of directors in a special meeting on Tuesday, December 18, 2001, voted to oppose Senate passage of the farm bill if it contains the water language that your amendment is intended to strike.

I ask unanimous consent that the American Farm Bureau letter be printed in the RECORD.

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

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, December 19, 2001.

Hon. MICHAEL CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CRAPO: I am writing to convey the strongest support possible of the American Farm Bureau Federation for your amendment to strike the Reid water rights language from the conservation title of S. 1731. This language poses an extraordinary new threat to agriculture and the ability of farmers and ranchers to remain economically viable.

The water provisions in the bill set a dangerous precedent that would erode historic state water law. Additionally, it will expand the scope of the Endangered Species Act to cover a new category of species that are not in fact threatened or endangered. These changes are unacceptable to agriculture and will affect agricultural producers well beyond those who participate in the Conservation Reserve Program.

The American Farm Bureau Federation board of directors in a special meeting on Tuesday, December 18, 2001 voted to oppose Senate passage of the farm bill if it contains the water language that your amendment is intended to strike.

Sincerely,

BOB STALLMAN,
President.

Mr. CRAIG. I am not sure one can get much clearer than the language of Bob Stallman as he talks for the thousands and thousands of members of the Farm Bureau across the Nation and, most importantly, in the 18 Western States that are most dramatically affected by the Reid provision.

A long while ago, long before the Presiding Officer or I ever thought about coming to the Senate—or maybe our parents even thought they might have sons that would come to the Senate—this Congress decided the best way to solve water problems in the arid Western States and western territories was to allow those States and their governments to make those determinations. Why? Because water was so very scarce, and only the Western States with their perspective could determine the allocation of water. It was never true this side of the Mississippi where there was 30 or 40 or 50 inches of rainfall on an annual basis. Water was viewed sometimes as a problem, not an asset or not a rare commodity, but that is not true in Idaho, Arizona, Colorado, New Mexico, California, or Wyoming where water is truly a scarce commodity. Over decades of time, our States have very carefully and cautiously allocated that water.

My colleague from Idaho, and the Senator from Colorado, spoke about some of the methods, the compacts, the water laws, and also the sensitivity that water had to be left instream to take care of endangered species, and those decisions had been made in the States where they most appropriately ought to be made to assure that critical balance in the aridness of the West, of where the water was, how it got allocated and how it got used.

Never before have we attempted to reach over State law by the character of the Reid amendment and create a rather perverse incentive that said we will reward you if you will take land out of production and, by the way, in doing so, you have to put your water in a waterbank to be reallocated.

I do not believe that is the right or the prerogative of the Federal Government in any of its policies under any incentive to do so. That is the right of the States, the State legislators, their State water boards of resources, and the methods by which they have established water allocation historically and currently. That is why it is critically important that the Crapo amendment pass. It is so very important for all of the West that that happen and that we never allow our Government in any way to infringe upon those rights.

We in Idaho, as is true of those other 17 States, are very sensitive to the needs of wildlife as it relates to the needs of the human species, as it relates to the needs of agriculture and the consumptive uses versus the conservation uses. We have worked constantly to strike that balance, and we do so today.

Water use and water allocation are a dynamic process in our States, as it must be because it is a rare commodity, constantly being demanded by someone for another purpose and another use. This city and those who work in these Halls do not collectively have the understanding that our colleagues in the West have for these unique purposes.

That is why I stand in support of the Crapo/Craig amendment this evening and hope our colleagues will join with us in its passage to change the provision of the Reid water language in S. 1731, better known as the water conservation program. I believe that proposal is a war on western water rights and western prerogative. Let us not get it started. Let us snuff it out before the first shot is fired.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I am opposed to the Reid provision in the farm bill and stand in support of the Crapo amendment to remove that provision.

May I inquire as to how much time remains?

The PRESIDING OFFICER. There is approximately 1 minute before the vote under the previous order.

Mr. ALLARD. Mr. President, I ask unanimous consent that I be recognized immediately after the vote to speak on the Crapo amendment.

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

Mr. ALLARD. Mr. President, briefly I want to talk about the fact we have not had any hearings on this particular issue. I do not know how many Senators who come from a different part of the country than those of us in the West have come up to me and said: We do not understand your water law. Granted, it is complicated and it varies a little bit from State to State. Due to that complexity, I don't think we are doing the Members of the Senate any service by rushing this matter through and not having proper hearings and giving everybody an opportunity to understand the full impact of this piece of legislation.

The U.S. Supreme Court has clearly given the States the sovereignty in the matter of water adjudication. We are talking about a property right. My State of Colorado has recognized water as a property right. We have sometimes referred to it as the ''doctrine of prior appropriation'' or perhaps simply the ''Colorado water doctrine.'' Many Western States have followed suit and the laws have been put in place in the State of Colorado.

VOTE ON AMENDMENT NO. 2830

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mr. GRAMM), the Senator from Arizona (Mr. MCCAIN), and the Senator from Tennessee (Mr. THOMPSON) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yea.''

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—93

Akaka	Dorgan	Lugar
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Grassley	Reed
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Helms	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—6

Bunning	Gramm	McCain
Domenici	Jeffords	Thompson

The amendment (No. 2830) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 2533

Mr. ALLARD. Madam President, before we had the vote, I was talking about my support of the Crapo amendment, of which I am a cosponsor, because of the need I felt to remove the Reid amendment from the farm bill. At the time, I was making the point that water issues in the West are very complicated.

Here is an issue that has come to the floor of the Senate that has not had any hearings in committee and has not had any kind of study.

Before we move forward with this kind of a proposal from the Senate, we ought to have thorough hearings and study so the Members of the Senate can understand the implications of this type of amendment, particularly out West where we deal with and are under a completely different set of water laws than those parts of the country that have more water.

For those of us in semiarid States, water is a property right. The responsibility of managing water has been made the responsibility of the States. This has gone to the Supreme Court. The U.S. Supreme Court has affirmed that, yes, that is a proper role; States should assume that responsibility.

The Reid amendment to the farm bill could literally devastate my State of Colorado. It is a very serious problem because we are a semiarid State, and farm country relies a good deal on agriculture.

One of the largest agricultural-producing counties in the country is in the State of Colorado. They rely on irrigated agriculture and having a reliable source of water.

The practical effect of this language could mean that farmers end up giving their water rights to the Federal Government when they sign up for participation in the Conservation Reserve Program.

This language, if it is left in the farm bill, could potentially dewater Colorado and other Western States. It would dewater States such as Colorado that rely on interstate compacts and State water laws to allocate a very scarce commodity—water.

Water is the essential substance of life. The farmer depends on it to grow enough food to meet our national food needs. The city depends on it to survive. Commerce depends on it to deliver goods to customers, to restock store shelves, and to continue as a viable business, providing jobs and security.

Colorado has a unique system in water law. We have our own water courts. We are the only prior appropriation State that does not have a permit system. Appropriators in Colorado must make a claim first and then seek a ''decreed'' water right in court.

In Colorado, we have actually even set up a different set of courts. It does not go through the regular court system. We have a different set of courts that just deal with water rights. When somebody applies for a right to use water, not only are there attorneys in that court but there are engineers, hydrologists, all sorts of scientists who come in and discuss the impact of the diversion of that water for one reason or another.

This requires considerable study. Each individual case is different. And these individual cases—usually the circumstances are never the same—have to be determined on a case-by-case basis.

Why many of us get so concerned about the Federal Government and a Federal law is that this treats everything as a blanket process. The Federal Government does not go through that process. They just collect the water off the CRP land, and there is no study as to what impact it has on private property rights.

The Colorado Constitution, which the Supreme Court has said has a sovereign right on water issues, says: ''The right to divert the unappropriated waters of any natural stream shall never be denied.''

These are not mere words. This is a collective ideology, molded from over 100 years of practical use. Many have brought an excellent point regarding beneficial use. Beneficial use is an integral part of western water law. When the farmer allows the Government to take the water, it is possible that the farmer could lose the water right under the State's beneficial use laws. It is possible that this law would result in an unintentional loss of water rights, water rights terminated through the operation of State law.

Let me offer a scenario. A farmer decides to go into the CRP, and it is the CRP where the Federal Government would take the water. Suppose he goes in it for 10 years. He has not been using that water so, under our State law, he would lose the right to use that water. Or the other question comes up, Does that right transfer to the Federal Government and remain with the Federal Government even though he has brought his land out of the CRP and back into production?

That is why it is very important that we proceed with hearings and study. The U.S. Supreme Court has clearly given the States sovereignty in the matter of water adjudication. This ill-founded amendment attempts to give the Federal Government a new water right that it simply is not entitled to, nor should it be granted by Congress.

My home State is united in opposition to this usurpation of water: the Colorado Commissioner of Agriculture, the Colorado Department of Natural Resources, the Colorado Farm Bureau, and the Attorney General. There is bipartisan concern in my State, and agricultural groups from all aspects of Colorado have raised concerns with me about this particular amendment.

The Colorado groups are not alone. The list of those deeply concerned with the negative implications of this language reaches the national level as well. We have heard from some of my colleagues and will probably hear more.

The Reid amendment ties the water rights to endangered species. We have

seen this combination before. Land, water, and the Endangered Species Act create a mix that is often disadvantageous for property rights and property owners. We have seen this, for example, in the Klamath River Basin in Oregon. Unfortunately, we are not sure what will happen with the water rights when the farmer's deal with the Government ends. I raised this point. We don't know because the proposal is silent on what has to take place upon termination of the enrollment period. Does the Government keep the water?

As we know, the Endangered Species Act requires consultation for any Federal action that affects species. That requirement could be applied to transfer of water rights back to the landowner on termination of the agreement.

Does the landowner have to establish that there is no longer a need for the water by the listed species? The landowner is placed in an expensive and dangerous position of proof—a difficult proposition that, if not answered, could mean the landowner loses his water right.

When water habits and availability of water to the land are changed, this alters the character of the land. In a region that receives far too little rain to depend on skies for moisture, a deprivation of water, no matter how permanent, could change the very nature of the ground itself.

Again, I would like to cite, in this context, my own personal experience. I grew up on a ranch. We had many hay meadows, and they were watered with flood irrigation. No longer is that ranch under private ownership. It is now owned by the Federal Government. They quit the surface right irrigation. It dried up all the springs that were feeding into this river that ran through the place. As a result, we see that that river dries up and is bone dry.

I see my colleague from Iowa wants to be recognized for a minute. I yield to my colleague from Iowa.

Mr. HARKIN. I thank the Senator for yielding without losing his right to the floor.

Madam President, I ask unanimous consent that the following list I will send to the desk be the only first-degree amendments in order to S. 1731; that they be subject to second-degree amendments which must be relevant to the amendment to which it is offered; that upon the disposition of all amendments, the bill be read a third time and the Senate then proceed to the consideration of Calendar No. 199, H.R. 2646, the House companion; that all after the enacting clause be stricken and the text of S. 1731, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and the Senate then vote on passage of the bill; that upon passage, the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees with a ratio of four to three; that S. 1731 be returned to the calendar, with this action occurring with no intervening action or debate.

Mr. REID. Madam President, reserving the right to object, for the information of Senators, tomorrow we have a number of people who have agreed to come and offer amendments: Senator CONRAD at 9:30; Senator SANTORUM at 10; Senator LINCOLN at 10; and Senator FEINSTEIN at or about 12.

I am not asking that this be part of the unanimous consent request but just to alert everybody, tomorrow there will be amendments offered. The two leaders will agree on when we will vote. There will be no votes tomorrow, as has been announced. Tomorrow we will be open for business to try to move this bill along.

I withdraw my reservation.

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

The list is as follows:

Baucus: Disaster assistance.
Bingaman: Peanuts (amendment No. 2573).
Bond: Relevant (2).
Boxer: Regional equity.
Boxer: Relevant (2).
Bunning: Relevant (2).
Burns: CRP (2).
Byrd: Relevant (2).
Carnahan: Relevant.
Collins: Relevant.
Conrad: Relevant.
Conrad: Sugar beet acreage allocations.
Craig: Strike packer ownership language.
Crapo: Strike water rights provision.
Daschle: Relevant to list (3).
Daschle: Relevant (2).
Dayton: Milk quotas.
DeWine: Food Aid.
Domenici: Dairy (2).
Domenici: Peanut.
Enzi: Lamb as food aid.
Enzi: Make livestock program permanent.
Feingold: Ag Fair Practices Act.
Feingold: Relevent (3).
Feinstein: Sugar Quota shortfall reallocation.
Gramm: Avocado checkoff.
Gramm: Immigrants/Food stamps.
Gramm: Payment limitation.
Gregg: Capitol gains.
Gregg: Tobacco.
Harkin: Managers' amendments.
Harkin: Relevant to list.
Harkin: Relevant (2).
Helms: Animal Welfare Act.
Helms: Relevant (2).
Hutchinson: Agro-terrorism.
Hutchinson: Predatory species.
Hutchinson: Relevant (2).
Inhofe: Peanuts (2).
Inhofe: Relevant.
Inhofe: Trade/Cuba.
Kerry: New England fishermen (amendment No. 2241).
Kyl: Death tax (sense of Senate).
Kyl: Water rights.
Leahy: Organics.
Leahy: Relevant (2).
Lincoln: Agro-terrorism.
Lincoln: Cormorants permits.
Lott: Relevant (2).
Lott: Relevant to list (2).
Lugar: Ceiling on farm spending.
Lugar: Relevant (3).
Lugar: Relevant to list (2).
McCain: Relevant.
McCain: S.O.S. farm.
McConnell: Bear Protection Act.
McConnell: Nutrition.
McConnell: Relevant (2).
Miller: Peanut quota holders.
Nickles: Relevant (2).
Reid: Relevant (3).
Reid: Relevant to list.
Roberts: Conservation.
Roberts: LDP graze-out.
Santorum: Puppy protection.
Santorum: Puppy mills protection.
Snowe: Commercial fisheries.
Stevens: Country of origin labeling.
Stevens: Organic labeling.
Stevens: USDA study/salmon.
Thompson: Relevant.
Wellstone: Relevant.

Mr. HARKIN. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, the point I was making is that we have to be very careful in how we use our water or we could have a lot of far-reaching ramifications that have had some inadvertent effects on fish and wildlife and plant species that survive in that particular area, which simply may not be met with a ready, easy transfer of water to the Federal Government without a serious study of those ramifications. There is a serious lack of fair and open discussion on this issue.

I remind my colleagues again, there was little congressional investigation or involvement when this language was inserted into the bill, and the committees responsible for many of the details simply were not involved in the discussion.

One must also ask the question: What is the purpose of the Conservation Reserve Program? Our debate is focused on many things, but not once have Members had the opportunity to discuss until now whether or not the purpose of the Conservation Reserve Program is for endangered species. This program also allows for a permanent transfer of water rights. CRP has always been limited to a certain number of years.

The Reid language also expands the basic coverage afforded to the protection of species under the Endangered Species Act. This is an important point. Not only will endangered species and threatened species be covered, but the Reid program would cover sensitive species, too.

What is a sensitive species? At this time everyone should be reminded that the Endangered Species Act has no classification or definition of sensitive species. What happens to the other uses of the water source? Participation in the program could lead to increased delivery costs to mutual users. The costs of operating ditch companies could increase as cost share participants leave the program. Downstream users could also be affected. Participation in the program could lead to underground recharge problems.

The language is simply too vague. It does not specify sources of water eligible to participate in the program. Not only would the language apply to surface water and CRP, but it could apply to ground water as well; a whole different set of issues become pertinent.

Ground water use and set-asides affect neighboring use.

My point is, this is a very complicated issue. It has a lot of ramifications. Without careful study, this could be the wrong action to be taken. It could have just the opposite effect of what the sponsor would like to accomplish.

I rise in support of the Crapo amendment. I thank my colleagues and yield the floor.

Mr. HAGEL. Mr. President, I rise to support the Crapo amendment to strike the proposed Water Conservation Program from the farm bill that we are debating today on the Senate floor.

The creation of the Water Conservation Program, as proposed in this current legislation, would set a very dangerous farm policy precedent. It would open the door to federal government infringement on state water rights. There would be many unintended consequences for the nation's agricultural producers—the people we are trying to assist today.

This provision is a threat to private property rights and conflicts with individual state water laws and programs.

As Nebraska Governor Mike Johanns said:

> To tie state-administered water rights into such a program creates another federal nexus whereby the federal government can leverage water away from our agricultural producers and water users permanently. . . . Nebraska simply cannot agree to any such program.

Governor Johanns clearly identified the dangers of the current legislation.

All states care about water conservation and wildlife protection. For example, the State of Nebraska is currently working with Wyoming and Colorado, and the U.S. Fish and Wildlife Service to craft a Cooperative Agreement for endangered species management on the Platte River. States do not need more federal dictates and regulation.

As one irrigation district manager in western Nebraska said, ''there could be significant consequences with this water conservation proposal as it is written in this legislation. The process of evaluating these impacts would be very complicated. Each state has different laws and issues.''

Additionally, the current proposal has not been debated in the House or Senate Agriculture Committees, or in the oversight committees responsible for the Endangered Species Act. This issue deserves significant study, review and analysis before we move forward with federal legislation.

There are too many problems in this proposal—too many questions yet to be answered. We should not impose additional, unnecessary restrictions on water and property rights for our states and our citizens. I urge my colleagues to support the Crapo amendment to strike the Water Conservation Program from the underlying bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I will be brief. I will come back on Monday or Tuesday and talk more about it. I rise, too, in support of the Crapo amendment.

Certainly for those of us in the West there is nothing more important than water rights and how we handle those water rights, nothing more important to us than to maintain the concept of State allocation of water adjudication. And this threatens that, it preempts State water rights. It has the possibility of doing that. That could result in permanent acquisition of the water rights, which is not something that any of us want to see happen.

It extends authority of the Endangered Species Act to USDA. Certainly we have enough difficulties with the way the Endangered Species Act is handled now.

This is the last one of the issues. It proposes radical changes to CRP without addressing the reform of the Endangered Species Act. These two issues do not fit together and are very inconsistent.

Furthermore, it never was discussed in the committee. I happen to be a member of the Agriculture Committee. This was never debated during consideration of the bill. There are a number of us on the committee who certainly would have fought vigorously to keep this language out of the bill.

Madam President, I will not take any more time. Some of my colleagues want to speak. I will be back to talk more about some of the impacts I believe this amendment will have. Again, I support the Crapo amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I rise to support the Crapo amendment. From the statements that have been made with regard to having water language in the agriculture bill at all, it is pretty indicative of what has happened since the legislation was introduced. There has been no hearing on this legislation. It started out as a version of S. 1737. The bill never had a hearing. It has never seen the light of day. It has never seen any lightbulbs. Any time that happens in the Senate, most of us fear not what is in it but what is not in it.

This summer, we had a crisis in the Klamath Basin in southern Oregon, southeastern Oregon, and northern California. Anybody who depends on water for irrigation and their farm operations should be very concerned about this amendment.

We have heard a lot of Western Senators make statements, but this is not only a problem that is confined to the West. We now have a little argument over a river that runs between Alabama and Georgia. As populations grow, we will hear of more conflicts in areas where water law or water policy has never before been considered.

Last weekend, of course, all the papers were full of Enron, but there was a very interesting article in Monday's Washington Post with regard to a National Science Foundation study that was released. It was very critical of the science that was a part of the decision to shut off the water to the agricultural interests in the Klamath Basin.

Madam President, 1,500 farmers were denied water for their irrigation projects. Crops burned up. We have seen filings of bankruptcy, people losing their farms because in farming, a tenuous endeavor, one cannot afford to see one crop missed or they will not have anything at all, all because of the Endangered Species Act.

That made me wonder about a lot of other studies the Government has done. Are they credible? And what kind of responsibility have we taken on as a Government to make sure that the science is correct to the best of our knowledge?

Ever since, any legislation that comes before this body that has to do with the Endangered Species Act as it relates to water raises many questions.

Congress has had a longstanding policy that water rights, even water rights for conservation, even water that would be classified as preservation, always had to come to terms with the States involved. It is a State's right of controlling and adjudicating its own resources. This Government has never even taken a look at that until the beginning of the last administration when we had a Secretary of Interior who was very forthright in his belief that the Federal Government should control all water resources across this country.

This is a part of the farm bill that is most troubling to most of us. We will have more to say on this before we vote on this amendment, which comes up on Tuesday. I assume that is the tentative schedule.

We see new terms entered in this issue. We know what an ''endangered specie'' is. We have a definition of a ''threatened specie.'' But this is the first time we have heard the term ''sensitive specie.'' Maybe that category is those who serve in this body.

As we look at what happened in the Klamath Basin, as we look at another little item that happened in Washington State when there was a deliberate planting of the Canadian lynx hair to prove this was habitat for another specie that is on the threatened list and yet has not been classified as endangered just to control the use of the land, we have to look with a very suspicious eye at what we are doing to this country and its ability to produce food and fiber for its citizens.

Can that agenda be so treacherous as to deny us, the American people, the ability to clothe and feed ourselves? Right now, with the attitude I see in some communities, I would say that is the case.

There are a lot of unintended consequences of this language that could happen later, and all of them are negative. There is nothing positive. This does nothing for agriculture, as we know it, and our ability to produce crops and fiber.

From that standpoint alone, I ask my colleagues who represent States where agriculture plays a major role in their economy to take a look at this and ask themselves: Is this farm policy? Is this food security policy? I can see no way that one can find a positive answer.

Any time we have big brother, who has the big checkbook, standing in the wings to control the lifeblood of any crop, whether it falls from the sky, whether it runs down our streams, or the capillary or the underground rivers of groundwater under their control, something so vital that it is even recommended we have eight glasses a day—or it used to be—something so vital to life, would we want that kind of control in the hands of a government, sometimes a government that is insensitive to what we have to put up with in the production of food and fiber for this country?

So as the weekend rolls on and as we take time to study this issue, I think that is a question for this body. Do we pass legislation that has never had a hearing, that has never been presented before any committee, and then wonder about the question that is being raised tonight? Remember, we are doing business that will affect people with real faces, with real investments, in the real world. It is not some harebrained idea that has been generated in this 17 square miles of logic-free environment because it does have a true effect on every person who lives in this country, not just us who live in the West but everybody who lives in this country.

I thank the Chair for allowing me this time. I will have more to say at a later date.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I rise to support the amendment that is offered by my colleague from Idaho, Mr. CRAPO, a water lawyer. Yes, water is important enough in the West that there are people who make it an occupation. It is that complicated and it is that important. His amendment would strike section 215 of the farm bill and leave intact the current conservation programs that are administered by the Secretary of Agriculture.

I commend the Senator from Idaho for his leadership in this matter and for the excellent foresight he shows in working to block the Federal Government when intervening into an area that is extremely critical to the survival of the Western United States.

Now one has probably noticed how many Western Senators have come to this Chamber. That is because we have some unique problems with water. We want to make sure those fights we have been having for a long time are still fights between States, because we know that is a fair fight and a fight with the Federal Government is not.

Mark Twain is the one who said in the West whiskey is for drinking and water is for fighting over. He was really right.

The first principle that must be understood in dealing with water in the West is that availability of water has always been the West's limiting factor for development. If one looks at a map of the private and Federal lands in the West, one will see a fairly good description of the region's water sources and productive lands. Early settlers built their homes where they could get water to plant their crops and raise their livestock; at least as soon as they understood the West, they did.

A lot of the homesteaders came from the East. One of my old friends, one of the first people I met when I moved to Gillette, WY, was a homesteader. He has since passed away, but I loved him telling me about his first selection of land. There were people who could be paid who would help pick the best land. But nobody who came West had much money. So rather than pay one of these people this bounty to help him select the good land, he picked good land Pennsylvania-style. He picked the hills because he did not want to be flooded out every year.

After the first year, he gave up his first homestead and picked some good bottomland. Bottomland in Wyoming does not flood because we do not have that much water, and he learned that his first year. He tells about this piece of property on which he did finally homestead. He had to get water from a neighbor to drink. He had to haul the water by wagon 3 miles to get it to this place. We are talking some dry land.

In fact, availability of water was so important to early settlers, when Wyoming ratified its State constitution in 1890, the State claimed State ownership of all water rights as part of the State constitution, and that was accepted as part of our Statehood. The Federal Government said: Wyoming, we will let you own your water.

Later, when all the productive lands were settled, the bulk of the remaining lands were portioned out by the Federal Government mainly between the Forest Service and the Bureau of Land Management.

We also have a third category, and that is the national parks. The Bureau of Land Management and the national parks are administered by the Interior Department, and the forest lands are handled by the Department of Agriculture. There is a good reason for that. The national parks, of course, are very pristine. They are to be maintained in that condition, and I do not know of anybody who ever wants to change that. So those are not productive lands.

The Bureau of Land Management lands are the lands that were left over from homesteading. That means those are the lands people found were too dry or too rocky or too steep to be usable. So those are not productive lands.

Then, of course, there are the Forest Service lands. Those went under the Department of Agriculture because those were supposed to be productive. Those were usable lands, and usable for a number of activities. Besides the recreation we greatly enjoy today, there was grazing and timbering. When we created a new agency a little bit later then to develop the water resources on this public land, we had the Bureau of Reclamation to make sure there was enough water to use the vast resources found in places such as the State of Wyoming.

The next principle that must be understood as to why it is so important to strike section 215 is because of the scarcity of water in the West. Western water law was built on a much different foundation than the current laws enforced in the East.

We are amazed at the rain that happens out here. Washington, DC, occasionally gets more rain in a period of a few consecutive days than the State of Wyoming gets in an entire year. Almost all of Wyoming is considered desert, high desert, mountain desert. The desert definition is less than 15 inches of rainfall a year.

Part of the reason we do not get much rainfall, of course, is the mountain ranges that this water comes over before it ever gets to us drop out a lot of the moisture. I remember being in Seattle and seeing T-shirts that said: ''Here you can take your goldfish for a walk,'' or ''Kids here do not get a suntan, they rust.''

After I saw some of the rain, I realized it was a little different place than Wyoming where we are more interior and have a little less rain. While a good portion of the country, particularly the East, is trying to figure out how to drain the water off, we are trying to figure out how to save every last drop. We have come up with some rather innovative ways of doing that.

We are also in a drought, so water is even more important this year than it has been. This is the third year of a drought, though. There are some complications with the Federal Government when there is a continuing drought because we really only provide for—and can imagine—one year of drought. So if people are given advantages in one year of a drought, they are not eligible in the next year.

I mentioned that we are going into the third year. There are lakes in Wyoming that have dried up. Nobody gets any water out of them anymore. The streams are much smaller than usual. Wyoming streams and rivers are different than in some of the other areas of the country. We call it a creek or a stream when it is about 2 feet to 20 feet wide. Anything over 20 feet is a river in Wyoming.

We do not have much water. We are the headwaters of a lot of places, but when there is a drought every last drop is important.

I want to explain a little bit about the water law. Although there are variations from State to State, basic eastern water law follows a doctrine known as riparian rights. Under this doctrine, landowners who border waterways are granted certain rights that allow them

to use whatever amount of water they need for any reasonable use. Because riparian rights adhere to the ownership of the land, these rights do not need to be exercised to be kept alive. By simply obtaining a water use permit, much as someone would get a building permit, landowners can initiate a new water use at any time they want and in doing so can force other users to adjust to their needs. This is more or less the main water use principle that underlies the water law in 29 States.

Western water law, on the other hand, is based on a doctrine of prior appropriation. Under State law, an individual owns the right to use water based on the time the water was first appropriated and used, and then that interest is only valid for the amount of water appropriated for that particular use.

Let me give an example. Say that rancher one settles along Crazy Woman Creek at the foot of the Wyoming Big Horn Mountains. We have a lot of interesting creek names. He drew enough water in his first year to water 50 head of cattle and to irrigate two pastures. The next year his neighbor moved in and used enough water to irrigate his two pastures and to water his livestock. Now in this case, rancher one, settler one, would be able to claim a prior use and his neighbor would have to guarantee enough water remains in Crazy Woman Creek to ensure the first settler can irrigate his two pastures and water his 50 head of cattle before settler two gets any water.

Furthermore, if in the following year the first settler decided to irrigate a third pasture in order to feed an additional 25 head of cattle, his second appropriation of water would have to follow the appropriated rights already established by settler two the year before.

To add to this confusion, once a person puts water to a beneficial use, such as irrigating land or watering livestock, and complies with the statutory requirements, that water right remains valid only so long as it continues to be used. If a water right lays dormant for too long, the right is considered abandoned and is lost. All of those rights shift.

Do not worry if the system sounds complicated. After more than 150 years of more and more water users and more and more beneficial uses, the ability to sort out the rights of Western water users is a science all its own. And I have not even thrown in the complication of Indian water rights which have a historic precedent and are the subject of a lot of water law.

I will say, however, if you were to talk to any of the farmers and ranchers whose families first settled areas that still apply the prior use doctrine, you would quickly begin to grasp the fact that each one of them knows what their rights are under the law now, how much water they can use, how much water they will need, and how any disruption of the use system will decimate the ecosystem and the land's ability to sustain life.

What does this have to do with the amendment? It has everything to do with the amendment. As soon as the Federal Government intervenes in the State water law system and acquires the water rights under section 215, that water right under the supremacy clause of the U.S. Constitution would suddenly move to the front of the line for when that water right would be available for use. In other words, it would trump all other uses and put people selectively out of business.

The land use and water balance that had been established over the past one and a half centuries would then be completely turned on its ear. The impact would immediately be felt by family farms and ranches that would lose productivity, jobs, homes, and wildlife. Migrating birds would lose their habitat.

Don't let anyone kid you that ranches and farms are not habitat for wildlife. Private ranches and farms in the West are some of the most productive and vibrant wildlife habitat you will ever find. Every time we put a ranch out of business in Wyoming it turns into rich ranchettes, little 40-acre tracts. The people are so crowded together. Forty acres may seem to be a lot in the rest of the country, but for wildlife that is not a lot of room. It is not even a lot of room for people in our State. We would lose critical wildlife habitat. They would be overrun by people.

In addition, many streams in the West are currently overallocated with junior and senior water rights. Individuals with junior water rights would lose complete access to water if the Federal Government held senior water rights. Water delivery schedules would be upset; some areas could get flooded while others would come up dry at critical times. And just in case you do not believe that Federal ownership of water rights would have such a devastating impact, I will point out again the travesty that occurred in Oregon and California's Klamath Basin.

Farmers, whose rights to the water were established by Federal statute, had them taken away from them through a policy that the National Academy of Sciences reports was based on speculation. It was not based on science. It was not based on good policy. It was not based on practicality. I guess it was based on bad politics.

As I said at the beginning of my statement, water is extremely important to the future of the West and to Wyoming. I urge my colleagues to support the amendment offered by my colleague, the water attorney from Idaho, and to leave in place the conservation program as currently administered by the Secretary of Agriculture.

If we were to implement section 215 as it now stands, it would have a devastating impact on all the downstream water users, and it would preempt the balance carefully established in State water law. It would do so to satisfy a policy that not even the National Academy of Sciences claims is supported with adequate science.

I mentioned before there are fights between States. We just finished a 25-year fight with the State of Nebraska. It had to do with how much water we have to release from Wyoming into Nebraska. It is settled by a water compact that has a few intricacies that resulted in 25 years of legal battles. That particular compact would be upset, and most of the protection that is built in there is for migrating whooping cranes. Sometimes when we make an effort, we are not sure of the unintended consequences.

Once again, I remind Members what Mark Twain said: In the West, whiskey is for drinking and water is for fighting over.

We prefer to be fighting between States than fighting with an unfair Federal Government. Please help eliminate this unfair section.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I have been listening for the last good number of minutes as my colleague from Wyoming gave what was not only an eloquent but true and most entertaining explanation about the validity of the Crapo amendment and why this Senate should pass it.

There is no question in my mind or any westerner who lives in the high desert States of the Great Basin, all the way to the Mississippi River, of the criticality of water and why States over long periods of time have been very cautious in not only its allocation but its relationship to the human species. I hope the explanation of the Senator from Wyoming serves us all well as we consider this amendment.

It appears there is no one else in the Chamber at this moment to debate the Crapo amendment, so I ask unanimous consent it be set aside for the purpose of offering another amendment.

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

AMENDMENT NO. 2835 TO AMENDMENT NO. 2471

Mr. CRAIG. Madam 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 Idaho [Mr. CRAIG] proposes an amendment numbered 2835 to amendment No. 2471.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. 1022. STUDY OF PROPOSAL TO PROHIBIT PACKERS FROM OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the

Secretary of Agriculture shall complete a study to determine the impact that prohibiting packers described in subsection (b) from owning, feeding, or controlling livestock intended for slaughter more than 14 days prior to slaughter would have on—

(1) livestock producers that market under contract, grid, basis contract, or forward contract;

(2) rural communities and employees of commercial feedlots associated with a packer;

(3) private or cooperative joint ventures in packing facilities:

(4) livestock producers that market feeder livestock to feedlots owned or controlled by packers:

(5) the market price for livestock (both cash and future prices);

(6) the ability of livestock producers to obtain credit from commercial sources:

(7) specialized programs for marketing specific cuts of meat:

(8) the ability of the United States to compete in international livestock markets; and

(9) future investment decisions by packers and the potential location of new livestock packing operations.

(b) PACKERS.—The packers referred to in subsection (a) are packers that slaughter more than 2 percent of the slaughter of a particular type of livestock slaughtered in the United States in any year.

(c) CONSIDERATION.—In conducting the study under subsection (a), the Secretary of Agriculture shall—

(1) consider the legal conditions that have existed in the past regarding the feeding by packers of livestock intended for slaughter; and

(2) determine the impact of those legal conditions.

(d) EFFECTIVENESS OF OTHER PROVISION.—The section entitled ''PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK'', amending section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), shall have no effect.

Mr. CRAIG. Madam President, as we debated the farm bill before the Christmas recess, I voted to support an amendment offered by Senator GRASSLEY, Senator JOHNSON, and Senator WELLSTONE to ban packer ownership of livestock. Since that amendment passed, I and other Senators have had serious discussions, along with the livestock industry and the packing industry, as to what this amendment meant and what it will mean if it becomes law out in the marketplace.

As a result of that, I am offering an amendment tonight that would, in essence, set this provision aside. I am talking about that provision of the section entitled ''the prohibition on packer ownership feeding or controlling livestock.'' That is an amendment to section 202 of the Packers and Stockyards Act.

It is clear to me and to many others that there are a great many questions being asked at this moment about the scope of the language and its potential impact on the meatpacker and the livestock producer. In fact, much has been written on both sides with respect to the legal and economic ramifications of the language.

This fact lends greater credence to my suggestion in this amendment that we approach a complete study by USDA of the intent of this language and what it would mean in these kinds of new owner relationships.

Since the Senate approved the language in December, I am sure many have heard from those in favor of and opposed to the language. Seldom have I heard such impassioned opinions on any given issue. Indeed, the National Cattlemen's Beef Association and the National Pork Producers Council, both leading groups representing livestock producers, have policies opposing the proposed ban. Still other groups support the ban.

Meanwhile, eight of the Nation's leading agricultural economists released a paper that raised nine serious concerns about the potential negative consequences this ban would have. Among them is the damage that would be done by revising strategic alliances between packers and producers, taking us back to a time when meat was treated as a nameless commodity rather than a distinct, branded consumer food product.

The U.S. meat and livestock industries also would be at a distinct disadvantage, I believe, under the current language, to foreign beef and pork processing competitors with the production capacity and marketing ability to work with livestock producers to form the very strategic alliances, joint ventures, and ownership arrangements that this language seeks to make illegal in the United States. The advances we have made in foreign markets could be put at very serious risk.

These economists also point out that producers who enter into marketing agreements with packers are better able to obtain financing for their operations. I know of several instances of those relationships where those very contracts allow the producer to gain the necessary financing with his financial institution. Without these agreements, financing for growth and capital investment could clearly be threatened. Lenders would not have the assurances that producers seeking loans had a market for their animals.

Congress would be taking a critical risk management tool away from producers in certain instances. Is this what the ban's proponents hoped to accomplish for their livestock constituents? I really don't think that was the intent. And I must tell you, Mr. President, when I initially voted for the ban, that was clearly not my intent.

Still other legal analyses have offered a response to this economic analysis. The very intensity of the ongoing debate over this issue raises the question: Why throw support to a measure punctuated by so many question marks as this current language has?

Call me a pragmatist if you will, but when I hear such genuine concern expressed by so many of my constituents, by leading economists, and by legal experts about language that was never vetted through a committee, a hearing not held on it, and legal experts not allowed to give their opinion on it, it seems to me that we should not act as hastily as I believe we did, and as I know I did.

My concerns have been validated by the disparate positions taken by many farm and livestock groups. I have learned that large economic implications may exist for several States, including that of my colleague, Senator JOHNSON, from South Dakota. Reportedly at stake are about 3,000 jobs in a South Dakota packing plant, and 4,000 jobs associated with the Premium Standard Farms of Missouri. I also know of significant consequences to the economy and jobs in the State of Colorado. In this current time of such a sensitive economy in agriculture, I believe 10,000 more people without jobs is not a correct path to walk down.

In my State of Idaho, it could significantly impact the relationship between certain producers in my State and certain packers.

Given the questions I have asked about a ban on packer ownership of livestock, I cannot lend my support to the Grassley-Johnson-Wellstone language. I urge my colleagues to consider my amendment requiring a speedy but thorough review of the potential impact of a ban on packer ownership, control and feeding of livestock. The word ''ownership,'' and the word ''control'' are key to all of these relationships.

Under my amendment, the USDA would conduct a study in cooperation with the livestock industry—all of those within the industry—to determine the impact that prohibiting packers from owning, feeding, and controlling livestock intended for slaughter more than 14 days prior to slaughter would have on producers, rural communities, private or cooperative joint ventures in packing facilities, marketing prices for livestock, the ability of producers to obtain credit, specialized marketing programs, the ability of packers to compete in foreign markets, and future investment decisions by packers about plant locations. This study would be completed within 270 days of the date of the enactment of this law. I think it is important that we move timely to this. It is not my intent to stall it. It is my intent to get clear answers for all of us and for all of those associated with this issue in the livestock industry.

I have visited with Senator GRASSLEY. We have been working cooperatively to get language that is better understood and that we believe would meet the test of the court. Senator GRASSLEY is working with the Farm Bureau at this moment to do so. That amendment might well be available tomorrow or early next week, and I will take a look at it to see whether it fits my concerns and the concerns of a variety of other interests and relationships as they relate to the new dynamics of the livestock industry.

I am certainly willing to give Senator GRASSLEY and Senator JOHNSON and others the benefit of the doubt if that language can be arrived at. But if it can't be—and let me tell you, legal

language is left to the beholder and the interpreter at the time—it is clear that a test needs to be run. This Senate deserves a clear determination or interpretation of what all of this means. That is exactly the intent of the amendment that I offer this evening.

Let us act on this important issue with the foresight that a thorough review can offer rather than to seek to undo damage apparent in the glaring light of hindsight. Literally, we could destroy thousands of contractual relationships. We could even impact markets and future markets if this language is not clear and clearly understood in the law itself. Lawsuits, court orders, interpretations of or arbitrary decisions made as a result of language that is not clearly understood is not what this Senate should be about in the crafting of good farm policy for the livestock industry.

That is the intent of my amendment. I hope my colleagues will read it, understand it, and I ask their support.

Mr. President, I see the chairman of the Agriculture Committee is in the Chamber at this moment. With that consideration, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I support this legislation. I commend Senator HARKIN, Senator LUGAR and all our colleagues on the Agriculture Committee for their hard work on it and I welcome the opportunity to discuss its important provisions to deal more effectively with the challenge of nutrition and hunger in our society.

It is long past the time for Congress to end the gap in the nation's nutrition safety net. Hunger is a silent crisis affecting families across America today. No corner of our land is immune from this crisis.

Thirty one million Americans, including twelve million children, suffered from hunger last year. Over seventeen million Americans participated in the food stamp program but four out of ten of those who are eligible did not receive benefits. Last year, 23 million Americans, including 9 million children, sought emergency food relief through America's Second Harvest—an increase of more than 2 million and that increase took place during a time of unprecedented economic prosperity in the nation.

The average food stamp benefit is 81 cents a meal and it should be available to everyone who truly needs it. The need for action is especially urgent in this current serious downturn in the economy.

Too many individuals and families in America have trouble putting food on the table. Their plight is all too clear in the stories of real people:

A mother in Springfield, MA, asked, ''Should my kids sit in the dark or should they go hungry? One of my kids has multiple handicaps, so I have to pay the utility bills to have heat and light. But, then we have no food.''

Karen Norman, a mother in Worcester, MA, explained, ''I used to donate food to the food pantry. I always thought, 'There's someone out there who needs it.' Now all I have left is pictures of when I had a very nice life. Now I make brunch because I don't have enough to give my kids breakfast and lunch. When I leave the kitchen I can hear my five-year-old say to my eight-year-old, 'How come we can't have breakfast and lunch?' and my eight-year-old says, 'We have to stretch out the food.' Then at night she'll cry, 'I'm hungry! I'm hungry! I'm sorry, but I'm hungry.' ''

Their plight is unacceptable, but it is all too consistent with the national data collected in reports by the Greater Boston Food Bank, the Food Bank of Western Massachusetts, and America's Second Harvest.

Nationwide, participation in the Food Stamp Program has declined by 34 percent since 1996 four times faster than the decline in the poverty rate. This means that over 2 million fewer people who live in poverty are obtaining food stamps today. Over a quarter of the reduction in food stamp participation between 1994 and 1998 resulted from welfare reform and its elimination of food stamp eligibility for legal immigrants which made them ineligible for food stamps and discouraged their U.S. citizen children from obtaining food stamps.

The results are predictable. The Department of Agriculture has determined that 5 million adults and 2.7 million children live in households that experienced hunger last year. Women and children are disproportionately hurt. Last year, over half of all food stamp participants were children. Sixty-eight percent of the children were of school age and 70 percent of adult participants were women. The most vulnerable are recent immigrants, children, and the elderly, and they are the ones who face the greatest difficulty.

The nutrition provisions in this bill are a significant step to reduce hunger in America. It restores food stamp benefits for all legal immigrant children and persons with disabilities. It is clear that the people now most in need of nutritional assistance are immigrants who entered the United States legally. For the first thirty years of the Food Stamp Program, legal immigrants were eligible for food stamps. It was unfair for Congress to exclude them in 1996 and it is time for us to close this unconscionable gap.

While hunger and malnutrition are serious problems for people of all ages, their effects are particularly damaging to children. Hungry and undernourished children are more likely to become anemic and to suffer from allergies, asthma, infections, and other health problems. They are also more likely to have behavioral problems and difficulty in learning. When children arrive at school hungry, they cannot learn. If children are hungry, our investments in education and early learning will not have the full positive impact that they should.

The nutrition title of this bill includes a number of other important policy provisions, including changes in the Food Stamp Program to improve access and simplify administration. These reforms are vital to ensure that low income families receive the nutrition assistance they need. Excessive requirements for reporting income, counting assets, calculating expenses for deductions, and determining ongoing eligibility can be an overwhelming burden for families who lack transportation or child care, or who have inflexible work schedules. These requirements often make it difficult or impossible for low income families to participate. Given current economic conditions, an effective and efficient Food Stamp Program is now more important than ever.

The bill also provides states more options for helping families make the transition from welfare to work. Current food stamp law allows a 3-month state option for a transitional food stamp benefit. This bill reflects Medicaid's six-month Medicaid transitional benefit for food stamps. It simplifies state record keeping, increases state flexibility, and helps welfare families make the transition to work.

The bill ends the child penalty under current food stamp law. Just as the marriage penalty in our tax code unfairly penalizes some couples, the existing food stamp law unfairly limits nutritional assistance for many families with children. The bill corrects this problem by indexing the food stamp standard deduction to family size, so that every family in deep poverty will receive the maximum current food stamp benefit, regardless of family size.

The bill helps single parents struggling to make ends meet. It ensures that the food stamp law treats child support payments like income, by disregarding 20 percent of these payments when calculating benefits. This measure is consistent with last year's overwhelming approval of a plan by the House of Representatives to encourage states to see that child support actually benefits the children in low-income families. Parents who know that their children will directly benefit if they pay child support are more likely to pay the support and stay involved in their children's lives.

In addition, this bill improves access to food stamp information, helping to see that families are aware of the help available. Less than one-third of the people who seek emergency hunger relief are currently receiving food stamps

even though three-fourths are eligible for the relief. This bill will help rural families apply for food stamps online or by telephone. It eliminates the need to travel to food stamp offices. In addition, the bill also supports stronger public-private partnerships to distribute information about nutrition assistance programs.

Finally, the bill increases federal support for emergency food programs, which have had sharp increases in requests for help in the past year. Many food banks find themselves unable to meet the heavy new demands. America's Second Harvest reports that 23.3 million people—equal to the combined population of the 10 largest U.S. cities—received emergency hunger relief last year—two million more than in 1997. One-in-five local charitable agencies were already facing problems that threatened their ability to serve hungry people in their communities—before the current economic crisis.

For all of these reasons, it is critical that we maintain the $6.2 billion funding level for the nutrition title of this bill. This amount is urgently needed and it must be part of the final bill. The policy changes that will be accomplished will make an enormous difference in the lives of many families. Fewer children will go to bed hungry and arrive at school hungry and unfed.

The current downturn in the economy means that even more families, including farm families, are facing the impossible choice between feeding their children and paying the rent, a choice no person should have to make. We have the resources to make the modest investment that is necessary. Once again, I commend Senator HARKIN and Senator LUGAR for their skillful work and I urge my colleagues to support the needed funding levels for nutrition.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CAMPAIGN FINANCE REFORM

Mr. TORRICELLI. Mr. President, it would appear that after more than a decade of discussions about campaign finance reform, the House of Representatives and the Senate may be nearer an accord on a historic change of how Federal elections are conducted in the United States. It is none too soon. Confidence in our political process has been undermined, the integrity of the Congress itself has been questioned, and the system is badly in need of repair.

We are very indebted to a number of people in this institution and different institutions around the country, but in a strange irony, at a stroke before midnight, one of the elements that has been driving reform is undermining a critical component of the change.

Much of what America knows about the abuses of campaign reform has come through the media. Across the Congress today, the Broadcasters Association, led by scores of lobbyists representing millions of dollars of donations of the very type and scale that we seek to control, is undermining the bill.

Campaign finance reform, as passed by this Senate and the legislation pending in the House, includes a critical component for controlling and reducing the cost of television advertising.

The amendment, widely accepted in both Houses of Congress, is based on the proposition that controlling the amount of money raised must be met by an ability to control the amount of money spent. Controlling campaign fundraising without helping with the cost of campaigns will simply result in a diminished national political debate. Candidates will raise less money, and if the cost of advertising remains as high, we will lose the competitive debate, the exchange of ideas so vital to our democracy.

As any candidate for Federal office in the United States is painfully aware, the cost of campaigns is the cost of television advertising. Eighty-five percent of the cost of a Senate campaign goes to the television networks.

Under the amendment as passed by this institution, the networks would be required to sell time at the lowest unit rate available; that is, whatever rate they have set for their customers and sold at their lowest cost they must make available to a candidate for Federal office.

This provision was in previous Federal law since 1971, but in 1990 an FCC audit found that 80 percent of the stations had failed to give the lowest rate available. During the 2000 elections, a typical candidate had 65 percent of their advertising sold at above that lowest rate.

With my amendment now placed in the McCain-Feingold bill, passed by this Senate by a 69-to-31 vote on a bipartisan basis, that provision is now strengthened. It becomes mandatory, and it has the best chance of controlling these costs.

The chart on my left shows the scale of the problem: The percentage of ads actually sold at the lowest unit rate in the fall of 2000. Congress believed it made this a requirement before, but it has been evaded in the majority of cases.

Let's look at a few examples: Minneapolis, WCCO, 95 percent of the ads sold were not at the lowest rate; Detroit, WXYZ, 88 percent were not sold at the lowest rate. In my own market in northern New Jersey, WNBC New York, 78 percent were not sold at the lowest rate.

In the year 2000, the buying of these television ads cost candidates $1 billion. This chart indicates as well the deluge of these ads, the amount of them now being placed on television.

Very simply, if we cannot hold in the McCain-Feingold bill and the Shays-Meehan bill in the House this element of controlling cost, this vital compromise that is campaign finance reform will be broken. It must be raising and it must be spending, and I ask the television networks to forgo these excess profits on the Federal airways, licensed by the Federal Government for the public good. Be part of reform. Don't undermine the reform. Let's change the system now for everybody's benefit.

Mr. President, I yield the floor.

HAPPY BIRTHDAY, SENATOR HERB KOHL

Mr. BYRD. Mr. President, I rise today to offer a tribute on the occasion of the birthday of one of our colleagues in the Senate, that of Senator HERB KOHL, Senior Senator from the State of Wisconsin.

I have known Senator KOHL for many years, since he first came to the Senate in 1989, and over that period of time, my respect and admiration for Senator KOHL has grown as I have watched him learn the role of a legislator and master the methods and the means of becoming a fine United States Senator.

Senator KOHL is hard-working, tenacious, and will fight to the end for the interests of this institution and those of his state. A few years ago when the Senate was debating legislation regarding the dairy industry, I remarked that Senator KOHL was the Stonewall Jackson of Wisconsin, standing firm for the interests of the dairy farmers in his state. When it comes to fighting for his state, or other issues of importance to him, such as measures to help and protect our nation's children, there is no one to outshine Senator KOHL in his dedication for the values he holds dear. That is one of the distinguishing characteristics of a good Senator.

But HERB KOHL is more than just a fine United States Senator, he is a good and decent man. His hallmark is honest modesty, a man of few words, but words of great meaning and words that deserve being heard. He is consistently kind to the people who work around him, especially his staff, who will follow him faithfully through thick and thin. His word is his bond, and to this Senator, there is no greater tribute than recognition of that fact.

Senator KOHL represents what is best about Senators and about Americans generally. He is a self-made man whose parents came to this country during the last century without an ability to speak the English language. From those humble beginnings, they and their son and other family members worked to develop a family grocery business in Milwaukee, Wisconsin, that became successful and grew to have national recognition. If you drive around