United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, FRIDAY, FEBRUARY 8, 2002 *No. 10*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

We are coming to the Lord,
Great petitions to Him bring,
For His grace and mercy are such
That we can never ask too much.

Let us pray.

Gracious God, we believe that in this time of prayer, our hearts will wing their way to Your generous heart and we will receive what we need from You, the very power that sways the universe. We pray not to get Your attention but because You already have gotten our attention. We do not seek to convince You to listen to our petitions because You have blessed and will bless the Senate through our prayers. We know You desire to provide the unity and oneness of purpose we need. Long before we ask for Your wisdom and guidance, You have motivated the request in us. Thank You for Your prevenient grace, offered even before we ask and provided way beyond our deserving. Out of Your immense desire to bless America, imbue the minds of the Senators with Your vision for what is best for our beloved Nation. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 8, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, we are going to renew consideration of the farm bill this morning. Senator CONRAD is here and is going to offer an amendment. There are other amendments that will be offered today. Senator SANTORUM should be here shortly. Senator FEINSTEIN will be here to offer an amendment. We hope others who are on the finite list of amendments will come over to offer their amendments. It is the intention of the two leaders that this legislation be completed no later than Tuesday night. That could be a long night or a short night, according to what the wishes of Senators are. Senator DASCHLE has made a commitment that we are going to go to the energy bill next week. We are very close to seeing the end of this legislation. I know Senator HARKIN and Senator LUGAR would very much like to complete this legislation. The two leaders want it completed. I am confident it will be completed. There will be no rollcall votes today. The next rollcall vote will occur Monday at approximately a quarter to 6 in the evening.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

Pending:

Daschle (for Harkin) amendment No. 2471, in the nature of a substitute.

Daschle motion to reconsider the vote (Vote No. 377—107th Congress, 1st session) by which the second motion to invoke cloture on Daschle (for Harkin) amendment No. 2471 (listed above) was not agreed to.

Crapo/Craig amendment No. 2533 (to amendment No. 2471), to strike the water conservation program.

Craig amendment No. 2835 (to amendment No. 2471), to provide for a study of a proposal to prohibit certain packers from owning, feeding, or controlling livestock.

AMENDMENT NO. 2836

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

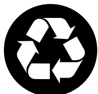
Mr. CONRAD. Madam President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. CRAPO, proposes an amendment numbered 2836.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CONRAD. Madam President, I am pleased to offer this amendment on behalf of myself and the Senator from Idaho, Mr. CRAPO.

The purpose of this amendment is to provide a predictable, transparent, and equitable formula for the Department of Agriculture to use in establishing beet sugar marketing allotments in the future. This is an amendment that enjoys widespread support within the sugar beet industry. Producers in that industry recall, as I do, the very difficult and contentious period just a few years ago when the Department of Agriculture last attempted to establish beet sugar allotments with very little direction in the law.

That experience left us all believing that there must be a better way, that we should seek a method for establishing allotments that is fair and open and provides some certainty and predictability to the industry. On that basis, I urged members of the industry to work together to see if they could agree on a reasonable formula.

I am pleased to say the amendment I am offering today with the Senator from Idaho reflects producers' efforts to forge that consensus. It provides that any future allotments will be based on each processor's weighted-average production during the years 1998 through 2000, with authority for the Secretary of Agriculture to make adjustments in the formula if an individual processor experienced disaster-related losses during that period or opened or closed a processing facility or increased processing capacity through improved technology to extract more sugar from beets.

In addition, the formula allows for adjustments in the reallocation of beet sugar allotments to account for such industry events as the permanent termination of operations by a processor, the sale of a processor's assets to another processor, the entry of new processors, and so on.

Taken together, these provisions offer the predictability, fairness, and transparency we all agree is much needed in the sugar beet industry.

I should emphasize that this amendment applies only to producers of beet sugar. It is not in any way directed at producers of cane sugar.

Again, I thank Senator CRAPO for his work in support of the amendment. I urge its adoption.

I would be remiss if I did not also thank the industry. This was not easy for them to do. As one who was centrally involved in 1995, when we last faced this problem, I can tell the Senate, this is a better way of dealing with the problem. Instead of waiting for the problem to develop and then having a chaotic situation on our hands when there was no formula, no agreement, this provides the means of a reasonable and fair distribution of allocation in the future.

I thank the Chair and yield the floor.

Mr. LUGAR. Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Minnesota.

AMENDMENT NO. 2835

Mr. WELLSTONE. Madam President, my understanding is there is an amendment that my colleague from Idaho has introduced, or will introduce—my understanding is he has introduced it—which deals with a ban on packer ownership, an amendment which was passed by this body on December 13. This was a Johnson/Grassley/Wellstone bipartisan amendment. It had the support of the Senator from Wyoming, Mr. THOMAS, as well.

My understanding is my colleague Senator HARKIN will soon do a second-degree amendment to the Craig amendment. I was concerned I may not be present when that happens, so I wanted to speak about this.

What the Craig amendment would do is nullify this packer ownership amendment and replace it with a study. The intent of this packer ownership amendment is clear. It restricts the major meatpacking firms from owning livestock in a 14-day period before taking livestock to slaughter. What we are talking about is a a tactic used by some packers. It is really their own form of supply management to reduce competition. This is an amendment intended to increase competition and the bargaining power of the independent producers.

This amendment has the support of the Nation's two largest farm and ranch organizations: the National Farmers Union and the Farm Bureau Federation. They have both expressed strong support for a ban on packer ownership of livestock, as have many other agricultural organizations across the country.

The meatpacking industry is busily working the Halls of the Congress to kill our amendment because, unfortunately, some of these firms want to give preference to their own livestock so they do not have to pay the farmers and the ranchers a fair price. What they do is they buy when prices are low, and then when prices start to go up for the independent livestock producers, they dump on the market to keep prices down. They are like a cartel.

A lot of the independent livestock producers in Minnesota and the country are sick and tired of these conglomerates muscling their way to the dinner table and using their raw economic and political power to push the independent producers out of existence. As a matter of fact, a lot of taxpayers are sick of it as well. That is why this amendment, which puts some limit on payments, passed yesterday. It was a very important reform amendment.

Some of these packers have even taken out attack ads against some of us who have supported this amendment. There is a dramatic attack ad by Smithfield in South Dakota—I am listed with Senator GRASSLEY, but it is aimed at Senator JOHNSON—where they basically say if this amendment stays in, they are not going to do any more investment in South Dakota or hint that they are even going to leave. I do not know whether one calls that blackmail or whitemail or threat of capital strike. I am not sure.

The major question surrounding the intent of our amendment concerns the meaning of the word ''control'' and whether the inclusion of that word in our language prohibits forward contracts or contractural marketing arrangements. While all the sponsors of this amendment have made it clear that the word ''control'' in the context of the ownership restriction does not prohibit such arrangements, Senator HARKIN's amendment today should leave no doubt. The amendment of the Senator from Iowa makes clear that forward contracts and other marketing arrangements do not give a packer operational control of the production process and makes it crystal clear what control is all about. We are not saying you cannot have contractual arrangements with other producers. We are talking about direct ownership.

I will discuss again the ''why'' of this amendment that passed in December. I have been having fun with this debate because it is serious but you have to have a twinkle in your eye. I believe the battleground is to call for more free enterprise in the free enterprise system. I am the conservative here calling for more competition in the food industry; the independent livestock producers want a fair shake. The packers have their own style of supply management. Again, they act as a cartel and jack the independent producers around. They buy when prices are low. When prices go up, they dump on the market to keep prices low. It is simply unacceptable.

We have had formal agriculture committee hearings in the State of Minnesota. This has been an issue for a number of years. Usually the processors with all of their power win the debate. Yesterday's vote in the Senate says, when it comes to income support in government payments, there have to be payment limitations. We are tired of it being in such inverse relation to need. That was a reform vote.

Country-of-origin labeling was a reform vote. The environmental credits in this bill that Senator HARKIN has

worked on is a reform vote. A strong energy section in this bill is a reform vote. Rural economic development is a reform vote. Getting the loan rate up, at least somewhat, is a reform vote. And this is a reform vote.

I join my colleague, Senator HARKIN, who will be introducing the second-degree amendment. I say to all Senators, this is a blatant effort on the part of these big packers, of these big processors, to go after the independent producers. They always think, because they have so much economic power and political power, that they will win these votes.

I like my colleague from Idaho. It is my nature to like people. With all due respect, the amendment of the Senator from Idaho does not represent a step forward; it represents a great leap sideways.

The independent producers are being squeezed out of existence. These big conglomerates are not interested in a study. They are interested in whether or not we are on their side. As a Senator from Minnesota, I can say with a great deal of good feeling and glee that I am on the side of the independent producers. I am on the side of our family farmers. I am not on the side of these big packers and these big conglomerates. They will not be able to muscle their way to the dinner table and push family farmers out of existence. They will not be able to muscle their way to the floor of the Senate to try to reverse a vote. We are not going to let them do it.

Mr. HARKIN. Will the Senator yield?

Mr. WELLSTONE. I yield.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Iowa.

Mr. HARKIN. I am pleased the Senator is pointing out what is happening. I specifically thank the Senator for pointing out the ad run in the Sioux Falls Argus Leader Editor, newspaper on Sunday, February 3. This is a paid advertisement, quite a big ad from Smithfield Foods, signed by Joseph Luter III, chairman and chief executive officer of Smithfield Foods. It is quite a lengthy ad. They are going after Senator JOHNSON for offering this amendment. I guess they are angry that his amendment passed.

In line with what the Senator from Minnesota said, this smacks of a powerful firm trying to use its economic power to blackmail. I have not seen in recent times a more blatant example of that than this ad put out by Smithfield Foods and Joseph Luter III. But let me read the last paragraph:

> If the Johnson Amendment becomes law, Smithfield Foods will neither rebuild the Sioux Falls plant, or build a new plant in South Dakota, nor will we make any further investment in South Dakota, or for that matter in any other state whose public officials are hostile to our ongoing operations and our industry.

Signed by Joseph Luter.

Now, that is economic blackmail.

We have more concentration in the meatpacking industry today than we had 100 years ago when this Congress began to break up the packers; they had too much economic power, too much concentration. We have more today than we did then.

This is economic blackmail. They are saying they will not do anything ''in any State whose public officials are hostile to our ongoing operations and our industry.''

Well, they have plants in Iowa, too. But I can tell you that I am not hostile to their industry. We need the meatpacking industry in this country. We would like to have another meatpacking plant in the State of Iowa, in fact. However, what we do not want to see is the vertical integration where the packers own the livestock and they are able to dictate to a farmer what that price will be for the cattle. It used to be in my State a cattleman would get, two, three, or four bids for his livestock. Now, with this kind of economic concentration, what happens is a packer goes out and says, this is what I will pay you. Take it or leave it. If they leave it, the packer says, that is all right, I have enough cattle of my own; I don't need your cattle. I have a captive supply.

That is what happens. They drive more and more of our cattlemen out of business. I am upset at some of the entities that are supporting this position, saying the packers should own this livestock.

This amendment is very simple. It says that the packers, prior to 14 days, cannot engage in ownership or control. As the Senator said, we will shortly have a second-degree amendment to the Craig amendment which undoes that, to specifically point out what control is and is not so it would not prohibit, for example, forward contracting. If they are hung up on the word ''control,'' we have an amendment that Senator GRASSLEY and I are working together on to make crystal clear what we mean so there will not be any ambiguity. I don't think there is in the present one, but we will make it even clearer.

I say to my friend from Minnesota, we ought to get even more votes now because of this kind of economic blackmail.

Mr. WELLSTONE. I ask my colleague if he will yield for a question. I say to my colleague from Pennsylvania, it won't be a 2-hour colloquy; maybe an hour and 50 minutes but not 2 hours. I say to the Senator from Iowa, I saw this last paragraph, too. It is worth reading again.

> If the Johnson Amendment becomes law, Smithfield Foods will neither rebuild the Sioux Falls plant, or build a new plant in South Dakota, nor will we make further investment in South Dakota, or for that matter in any other state whose public officials are hostile to our ongoing operations and our industry.

Earlier I was lucky enough—I don't consider it the price you pay. I think it is a privilege you earn, to be in small print. It says ''Johnson-Grassley-Wellstone,'' so I get included in this. But this is aimed at Senator JOHNSON.

This is like threatening a capital strike. That is what this is all about. This is absolutely unbelievable. I say to colleagues, now that we are going to have your language—and I want to be included as an original cosponsor as to the second-degree amendment, which makes it crystal clear what control means—we should get an even stronger vote for our amendment. Every Senator ought to stand up to this kind of blatant blackmail or whitemail or threats.

The processors and meatpacking companies in Minnesota have not engaged in these kinds of threats. But I tell you what, with all due respect for Smithfield, you are going to get fewer votes, Smithfield, because this is blatant. Everybody knows exactly what you are trying to do. You have a lot of power, you have a lot of muscle, you have been pushing a lot of our independent producers around for a long time, and we are now saying to you that you are not going to be able to do it in the same way. And you know what, you are not going to be able to push U.S. Senators around. We are going to get a strong vote for the second-degree amendment.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2542 TO AMENDMENT NO. 2471

Mr. SANTORUM. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up amendment No. 2542.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. DEWINE, Mr. KOHL, Mr. HATCH, Mrs. CLINTON, and Mr. JEFFORDS, proposes an amendment numbered 2542 to Amendment No. 2471.

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

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

The amendment is as follows:

(Purpose: To improve the standards for the care and treatment of certain animals)

On page 945, line 5, strike the period at the end and insert a period and the following:

SEC. 1024. IMPROVED STANDARDS FOR THE CARE AND TREATMENT OF CERTAIN ANIMALS.

(a) SOCIALIZATION PLAN; BREEDING RESTRICTIONS.—Section 13(a)(2) of the Animal Welfare Act (7 U.S.C. 2143(a)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(C) for the socialization of dogs intended for sale as pets with other dogs and people, through compliance with a standard developed by the Secretary based on the recommendations of animal welfare and behavior experts that—

''(i) prescribes a schedule of activities and other requirements that dealers and inspectors shall use to ensure adequate socialization; and

''(ii) identifies a set of behavioral measures that inspectors shall use to evaluate adequate socialization; and

''(D) for addressing the initiation and frequency of breeding of female dogs so that a female dog is not—

''(i) bred before the female dog has reached at least 1 year of age; and

''(ii) whelped more frequently than 3 times in any 24-month period.''.

(b) SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.—Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended—

(1) by striking ''SEC. 19. (a) If the Secretary'' and inserting the following:

''SEC. 19. SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.

''(a) SUSPENSION OR REVOCATION OF LICENSE.—

''(1) IN GENERAL.—If the Secretary'';

(2) in subsection (a)—

(A) in paragraph (1) (as designated by paragraph (1)), by striking ''if such violation'' and all that follows and inserting ''if the Secretary determines that 1 or more violations have occurred.''; and

(B) by adding at the end the following:

''(2) LICENSE REVOCATION.—If the Secretary finds that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12, has committed a serious violation (as determined by the Secretary) of any rule, regulation, or standard governing the humane handling, transportation, veterinary care, housing, breeding, socialization, feeding, watering, or other humane treatment of dogs under section 12 or 13 on 3 or more separate inspections within any 8-year period, the Secretary shall—

''(A) suspend the license of the person for 21 days; and

''(B) after providing notice and a hearing not more than 30 days after the third violation is noted on an inspection report, revoke the license of the person unless the Secretary makes a written finding that—

''(i) the violations were minor and inadvertent;

''(ii) the violations did not pose a threat to the dogs; or

''(iii) revocation is inappropriate for other good cause.'';

(3) in subsection (b), by striking ''(b) Any dealer'' and inserting ''(b) CIVIL PENALTIES.—Any dealer'';

(4) in subsection (c), by striking ''(c) Any dealer'' and inserting ''(c) JUDICIAL REVIEW.—Any dealer''; and

(5) in subsection (d), by striking ''(d) Any dealer'' and inserting ''(d) CRIMINAL PENALTIES.—Any dealer''.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to carry out the amendments made by this section, including development of the standards required by the amendments made by subsection (a).

MODIFICATION TO AMENDMENT NO. 2542

Mr. SANTORUM. Mr. President, I now send amendment No. 2639 to the desk and ask my amendment be modified with the text of this amendment.

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

The modification to amendment No. 2542 is as follows:

Beginning on page 2, strike line 11 and all that follows through page 4, line 21, and insert the following:

''(C) for the socialization of dogs intended for sale as pets with other dogs and people, through compliance with a standard developed by the Secretary based on the recommendations of veterinarians and animal welfare and behavior experts that—

''(i) identifies actions that dealers and inspectors shall take to ensure adequate socialization; and

''(ii) identifies a set of behavioral measures that inspectors shall use to evaluate adequate socialization; and

''(D) for addressing the initiation and frequency of breeding of female dogs so that a female dog is not—

''(i) bred before the female dog has reached at least 1 year of age; and

''(ii) whelped more frequently than 3 times in any 24-month period.''.

(b) SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.—Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended—

(1) by striking ''SEC. 19. (a) If the Secretary'' and inserting the following:

''SEC. 19. SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.

''(a) SUSPENSION OR REVOCATION OF LICENSE.—

''(1) IN GENERAL.—If the Secretary'';

(2) in subsection (a)—

(A) in paragraph (1) (as designated by paragraph (1)), by striking ''if such violation'' and all that follows and inserting ''if the Secretary determines that 1 or more violations have occurred.''; and

(B) by adding at the end the following:

''(2) LICENSE REVOCATION.—If the Secretary finds that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12, has committed a serious violation (as determined by the Secretary) of any rule, regulation, or standard governing the humane handling, transportation, veterinary care, housing, breeding, socialization, feeding, watering, or other humane treatment of dogs under section 12 or 13 on 3 or more separate inspections within any 8-year period, the Secretary shall—

''(A) suspend the license of the person for 21 days; and

''(B) after providing notice and a hearing not more than 30 days after the third violation is noted on an inspection report, revoke the license of the person unless the Secretary makes a written finding that revocation is unwarranted because of extraordinary extenuating circumstances.''.

Mr. SANTORUM. Mr. President, the amendment and modification I just sent to the desk is an amendment that is referred to as the Puppy Protection Act that Senator DURBIN and I have introduced. The reason I brought this up is because of my continuing concern, and I know Senator DURBIN's continuing concern, about the treatment of dogs and puppies in some of the breeding facilities across the country. There are literally about 3,000 such commercial breeding establishments that breed puppies for sale into homes as pets.

There are, unfortunately, numerous reports and evidence of very bad conditions in these puppy mills. I have had an ongoing concern about it. We have been working for quite some time with USDA to improve enforcement. They have some 80 people to enforce the existing Animal Welfare Act. They simply are understaffed. The problem we are seeing is not only are they understaffed but there are some holes in the animal welfare law.

A lot of my colleagues have come to me because they have been hearing from some of their constituents who are saying: Why is RICK SANTORUM trying to expand the reach of the Federal Government to take care of breeding dogs? This doesn't seem to be something in which the Federal Government should be involved.

First off, the Federal Government is involved. In 1966, we passed the Animal Welfare Act. We have had several amendments to it since—I think four or five times throughout the 1970s or 1980s. Because these are commercial breeding establishments that breed animals, we, the USDA and the Congress, have seen fit to have the Department of Agriculture regulate these large facilities. We do regulate in the area of handling, housing, sanitation, feeding, watering, ventilation, shelter, adequate veterinary care, and exercise. Those are provisions already in the existing veterinary law here in Washington, DC, which the USDA is responsible for regulating.

But there are some areas we believe lead directly to not just the health of the dog but the suitability of the dog as a pet that results from, we believe, some bad practices.

Before I go into detail about what my bill does, I want to be very clear about what my bill doesn't do. One thing my bill does not do—and the amendment of Senator DURBIN and myself does not do—is expand who is covered under the Animal Welfare Act. We have heard from the American Kennel Club and some members calling my office, and I know other Members have gotten calls from AKC members within their States, saying this is a great expansion of reach; you are going to have all these breeders who are going to run afoul of the Federal Government now if this legislation passes.

According to AKC's own records from 1997, which are the most recent ones we have, 97 percent of their breeders are not covered under the existing Animal Welfare Act. And our act does not amend who is covered. It just says what will be looked at upon inspection. Ninety-seven percent of their members will not be covered. Why? Because the Animal Welfare Act only covers breeders who breed four or more females. If you breed less than four females, you are not covered under the Animal Welfare Act and you are not covered under this proposed amendment to the Animal Welfare Act.

Again, from their own numbers, only .04 percent of their members registered

more than three litters in a year. So I say as to a lot of these calls coming in, saying: You are going to be harming the mom-and-pop breeder here, the folks who have a female dog they want to breed for a little extra income as part of their experience with their animal, you are going to be affecting them, the answer is no, we are not. What we are talking about here are facilities that are in the commercial breeding. We want to make sure these puppies that are bred, when they go into the home, go into the home healthy, No. 1— I mean from disease and genetic maladies, but that they also go in properly socialized so they can be good pets.

The areas we have focused in on are really three. No. 1 is the area of socialization or interaction. It requires that the puppies in these breeding facilities have interaction with other dogs and with humans.

Can you imagine the situation where a dog is bred and put in a cage, basically isolated from human contact for several weeks and having no interaction with human beings and having no interaction with other dogs, and then placed in a home maybe with little children? The impact could be severe. In fact, there is evidence to suggest that that is one area.

We just require some interaction. It is not particularly an onerous standard. We think it is a rather commonsense standard. I find it difficult for anyone to find a problem with that.

The second area has to do with breeding. There is a lot of concern. One of the sponsors of my amendment is one of the two veterinarians in the Senate. There are two Senators who are veterinarians. But one of them dealt with small animals; that is, Senator ENSIGN from Nevada. He is a cosponsor of my amendment. He personally told me stories of the problems with large commercial breeders in overbreeding females and constantly breeding more than is healthy for the female. It has an impact, obviously, on the litter and the health of the litter with diseases and other complications.

Here we are talking about a standard, it is my understanding, according to all reputable breeders which they adhere to already. It is a standard that puts in place what we believe are sound breeding practices based on evidence of producing a line of healthy puppies.

I know Senator ENSIGN is planning on coming in next week to talk about this legislation. He will probably give many more good examples with a lot more technical expertise than I can possibly offer. But I wanted to make it clear that this is a problem.

It is a problem when you have a very excited family that brings a new puppy into the home. They find out that this puppy, because of improper breeding, tends to have a lot of problems, gets ill, and maybe dies. That is obviously terrible for the puppy, but it is also very traumatic for the family.

The last provision has to do with enforcement. Before I talk about this provision, let me make it clear that if the USDA goes in and finds a bad situation, they have the ability to revoke the license. These facilities are licensed by USDA. They have the ability to go in and immediately revoke the license if there is one severe infraction of the Animal Welfare Act. We don't change that. But we say under this legislation, if you have three such infractions within an 8-year period of time, USDA must automatically revoke the license. You can appeal and do all the things about the specific instances to get your license reinstated. But this ''three strikes and you are out'' provision really tries to suggest to USDA that when you have a pattern of mistreatment and violation of the law, that action should be taken.

Again, let me remind everybody that USDA can do it right now. They have the discretion to do it with one infraction. We are saying that upon three, the license will be revoked. We are talking about commercial breeders. We are not talking about breeders that breed fewer than four animals.

This is an amendment that has very broad support from over 800 animal welfare organizations, including the Humane Society and the American Society for Prevention of Cruelty to Animals.

Of course, this legislation is, frankly, a very modest amendment. I cannot tell you how many changes I have made. I think this is the fourth change I have filed with this legislation in an attempt to try to deal with the research community that is concerned about certain aspects of this legislation and their application. We have dealt with the small breeders, even though, frankly, they are not covered by it. But we have tried to ameliorate some of the concerns from the American Kennel Club.

We have really worked very hard to try to make sure that no one who is serious about the healthy breeding of puppies has a concern. It is not my intention to bring the dog police into every home in America that breeds puppies. The fact of the matter is there are large commercial establishments that, frankly, need to do a better job in breeding puppies for homes.

I am hopeful that we can have very broad support. I have been working with Senator HELMS. Senator HELMS has been very helpful. I appreciate this morning his suggesting that we can now be supportive of this legislation as we have made the additional change in the legislation.

We are trying to work through all of these matters. I would be very happy if we could get this in the managers' amendment. If not, I am certainly happy to take this to a vote. I think it will have very strong support from both sides of the aisle.

Who wants to have puppies in the home that are not socialized or that have diseases or that are not in the best position to be good pets for our families across America?

I thank the Chair for the time. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 2835

Mr. JOHNSON. Mr. President, I rise to express my strong opposition to the amendment offered by Senator CRAIG last evening which would eliminate a bipartisan provision in this farm bill that restores fairness, competition, and free enterprise into livestock markets.

In December, the Senate adopted an amendment to the farm bill based upon legislation I introduced 3 years ago which strengthens the Packers and Stockyards Act of 1921, by prohibiting large meatpackers from owning livestock—cattle, hogs, and sheep—for more than 14 days prior to slaughter.

Nearly every farm and ranch organization in the country supports a ban on packer ownership, including the American Farm Bureau, the National Farmers Union, R-CALF, the Livestock Marketing Association, the Organization for Competitive Markets, the Center for Rural Affairs, and the Western Organization of Resource Councils, just to name a few.

More importantly, every farm and ranch group in South Dakota supports my amendment, including Farm Bureau, Farmers Union, the Cattlemen, the Stockgrowers, Livestock Auction Markets, the Independent Pork Producers, and even South Dakota Governor Janklow.

Let me take some time to clarify what our amendment does, and, what it does not do.

The objectives of our amendment are to increase competitive bidding, choice, market access, and bargaining power to farmers and ranchers in livestock markets. Here are the facts about our amendment.

First, my language strengthens section 202 of the Packers and Stockyards Act of 1921—and 80-year-old law—by prohibiting meatpackers from owning, feeding, or controlling livestock for more than 14 days prior to slaughter. Currently, packers are already prohibited from owning sale barns and auction markets.

Second, it exempts producer-owned cooperatives engaged in slaughter and meatpacking, in addition to packing plants owned by producers who slaughter less than 2 percent of the national annual slaughter of beef cattle—724,000 head—hogs—1,900,000 head— or sheep—69,200.

Therefore, many of the innovative, start-up projects operating and being formed to give producers greater bargaining power in the market will not be affected by our amendment. Some have made very misleading and false statements about the Johnson-Grassley amendment and our intent. Let me try to clarify some of those issues.

This amendment does not prohibit meatpackers from purchasing livestock for slaughter. In fact, it promotes the

purchase of livestock in the cash market. Therefore, it promotes competition and bidding among a significant number of buyers.

Again, I say, this amendment does not ban packers from owning livestock for slaughter; it simply says they cannot own the livestock from birth all the way until slaughter, the vertical integration to which some aspire. It bans them from owning livestock prior to 14 days from the date of slaughter.

The amendment does not prohibit forward contracts wherein packers and growers work together to raise and market livestock as long as the livestock are owned by the individual farmer or rancher.

Senator GRASSLEY and I have taken significant efforts to make it crystal clear that forward contracts and marketing agreements are not prohibited under this amendment. We have entered into a colloquy making it clear that the word "control" only refers to substantial operational control and not contracts.

There are those who would prefer that this amendment did apply to forward contracts, and I respect those who hold those views. But the goal of this amendment is narrow. The goal of this amendment is focused exclusively on the actual vertical integration, the actual packer ownership from birth to slaughter of livestock.

Some have questioned whether contractual marketing arrangements known as forward contracts are permitted under the provision. The answer is yes.

Three of the most respected agricultural economists and legal counsel in America—Roger McEowen from Kansas State University, Peter Carstensen from the University of Wisconsin, and Neil Harl from Iowa State University—have completed an analysis that supports our intent that contractual marketing arrangements and forward contracts are permitted under this amendment.

These experts agree with us that the meaning of the word "control" in this amendment applies to a potential arrangement purposefully drafted by a clever legal counsel to give a packer control over the ownership of livestock from birth to slaughter, though a farmer may hold title to the livestock, by providing the packer complete operational control over these animals.

Operational control provides the packer the ability to dictate nearly every detail of production and marketing, such as the facilities, nutritional and veterinary decisions, as well as providing the packer 24-hour access to the livestock. Forward contracts and other marketing arrangements do not give a meatpacking firm managerial or operational control of the production-to-market process. Rather, such arrangements only provide the packer with a contractual right to receive delivery of the livestock in the future. The producer signing the contract still makes most of the production decisions. Therefore, forward contracts or contractual marketing arrangements are still permitted under the language of this amendment and the word "control" does not affect their use.

So Senator GRASSLEY and I have received assurance from legal counsel that "control" does not include forward contracts and marketing agreements. On the other hand, those expressing opposition have presented no legal analysis in support of their proposition that somehow the word "control" in this legislation means a prohibition on forward contracting.

While marketing arrangements such as forward contracts have caused or can cause problems in the market, they are outside the scope of this specific amendment.

In a December colloquy with Senator GRASSLEY, we stated the intent of the word "control" must be read in the context of ownership. In other words, "control" means substantial operational control of livestock production, rather than the mere contract right to receive future delivery of livestock produced by a farmer, rancher, or feedlot operator. "Control," according to legal dictionaries, means "to direct, manage or supervise." In the meaning of our amendment, the direction, management, and supervision is directed towards the production of livestock or the operations producing livestock, not the simple right to receive delivery of livestock raised by someone else.

There are two reasons that forward contracts and marketing agreements are not within the definition of "control." First, these contracts do not allow a packer to exercise any control over the livestock production or operation. Rather, the contracts merely provide the packer with the right to receive delivery of livestock in the future, and most include a certain amount of quality specifications. There is no management, direction, or supervision over the farm operation in these contracts.

The farmer or rancher makes the decision to commit the delivery of livestock to a packer through the contract without ceding operational control. In fact, the farmer or rancher still could make a management decision to deliver the livestock to another packer other than the one covered in the contract, albeit subject to damages for breach of contract. Even where such contracts include detailed quality specifications, control of the operation remains with the farmer. The quality specifications simply relate to the amount of premiums or discounts in the final payment by the packer for the livestock delivered under the contract.

Second, several States, such as Iowa, Minnesota, Nebraska, and South Dakota, already prohibit packer or corporate ownership of livestock.

The Iowa law, for example, prevents packers from owning, operating, or controlling a livestock feeding operation in that State. But packers and producers may still enter into forward contracts or marketing agreements without violating that law because operational control, in the context of ownership, is the issue. The term "control" is intended to be similarly interpreted and applied in this amendment.

Beyond the genuine concern about this amendment, a few in the meatpacking industry have hastily come to false, or at least erroneous, conclusions about its effect, and, frankly, they are busily working the Halls of Congress to kill this amendment due to those concerns. It may be that we simply have a profound philosophical difference between those of us who supported the amendment and others in opposition.

I believe our country is best served by a wide dispersion of independent livestock producers who have, in a free market, an opportunity to leverage a decent price for their animals and a decent opportunity to sell those animals in a competitive environment. I believe it is a disservice to rural America, a disservice to the livestock industry, if we wind up with a circumstance where our independent livestock producers increasingly become, in effect, low-wage employees of the packers on their own land—subject to all the risks of livestock production but very little of the occasional profit that can come about from a fair opportunity to sell their animals. So we have a profound difference of vision of what livestock production is all about and how our country is best served.

I believe in free enterprise. I believe in competition. I believe in independent producers having opportunities to seek out alternative buyers for their animals on an independent cash basis.

If some wish to forward contract and to secure its assurances, that is fine. That is a prerogative they have as well, at least under this amendment. But I do not believe we ought to have a total vertical integration of the livestock industry whereby a very small handful of huge agribusiness conglomerates control the production of livestock from birth all the way through slaughter, reducing livestock producers to simply low-wage employees, for all practical purposes. That is not my vision of rural America. That is not the vision shared by the people who supported this amendment.

So I think that while a lot of this debate is caught up in what may sound legalese to many, the actual consequences of what is going on here have profound effects on the look of rural America for all time to come.

There is a particular packer who has been running full-page ads in my State, apparently with an intent to intimidate me. They have the right to do that. It turns out that the packing company that does operations in my State is a pork production company which has never owned hogs, and has no particular immediate plan to, and would not be affected, at least for now,

by this amendment. They may wish to go into a different business plan than they have had in the past, and that may be the case.

But I want to make clear that I believe someone has to stand up for livestock producers in our country. We see this continued concentration, this continued integration, going on in every sector of the economy, but certainly in agriculture it has been one of the harshest. For that reason, Senator GRASSLEY and I have offered this amendment. We have already passed this amendment on a narrow 51-to-46 vote earlier this past session of the 107th Congress.

I have no problem with an additional vote, an up-or-down vote. Let everyone stand up and be counted wherever they are. I respect my colleagues however they may come down on this issue. I do want to convey the real import, the real impact of this amendment, and make people understand what is, in fact, at stake.

The amendment being offered would reduce this antipacker ownership amendment to another study. Heaven knows, we have studies galore lining the shelves of every building in Washington, DC, many of them gathering dust. We have known USDA to conduct study after study after study not leading to any matter of practical consequence. I don't think our farmers and ranchers need another study.

It is incorrect to observe that no hearings have been conducted on the topic of packer ownership. Rather, the Senate Agriculture Committee has held three hearings on concentration in livestock markets, packer ownership, and other issues—in June of 1998, May of 1999, and April 2000—and the problems remain clear and the need to act remains real.

The percentage of hogs owned by packers rose from a small 6.4 percent, as recently as 1994, to 27 percent in 2001, from 6.4 percent to 27 percent packer ownership in a period of only 7 years, according to the University of Missouri. This increase in packer-owned hogs means that packers prefer to buy their own hogs instead of paying farmers a fair price, thereby depressing competition. Eighty-eight percent of respondents in the Iowa Farm and Rural Life Poll believed that meatpackers should be prohibited from owning livestock, and 89 percent believed that too much economic power is concentrated in a few large agribusinesses, according to studies done by Iowa State University.

When packers own their own farms and their own livestock, they do not make purchases from farmers who would otherwise be providing economic contributions to rural communities—main street businesses, school districts tax base, banks, car dealerships, feed stores, and so on. Those opposed to this amendment have a different vision for rural America, a far different vision than mine. I have a more optimistic view of what rural America could look like. I envision more farmers and ranchers being able to compete in a free market and a free enterprise system raising more livestock on family farms so local economies can grow and the environment can be safer for families to make a living.

I fear if we go the other direction, packer market power will grow, allowing packers to go to the cash market only during narrow bid windows or time periods each week rather than bidding all week, thus resulting in panic selling by producers.

A ban on packer ownership of livestock will not drive packers out of business. Most of their earnings are generated from branded products and companies marketing directly to consumers. Conversely, livestock ownership by packers could drive independent livestock producers out of business because they will simply be at the mercy of these large corporations.

I do not, again, have a problem with another vote. It was important to clarify the forward contracting component of this amendment to make it crystal clear that that is not the gist of it. The gist is not forward contracting. The gist is the vertical integration of the actual ownership, the birth and slaughter of livestock in America.

We have a very fundamental decision to make in this body. I don't underestimate the steep climb this amendment has to make. I know the packers have been active in their lobbying effort. I know the intimidation efforts have been extraordinary. I recognize that no such amendment is contained in the House version of the agriculture bill and that, even if we were to survive in the conference committee, an uphill fight would occur there relative to this amendment.

Nonetheless, it is important to lay out in a clear, concise fashion what is at stake, what my motives are, what the motives are of the bipartisan sponsorship of this amendment, and to reflect that that may, in fact, be why this amendment acquired the support of every single Republican and Democratic Senator on the northern plains where livestock production is such a key component to the economies of our States.

I look forward to continued debate and another amendment to vote on. We will see what the final product is, but I did want to make it very clear what this amendment does, what it does not do, and to make certain people understand that this is not some arcane agricultural issue; that this, in fact, is fundamentally crucial to the look of rural America for all time to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have conferred with the manager of the bill. I think it would be appropriate to ask for unanimous consent to speak for up to 8 minutes as in morning business.

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

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

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask that the pending amendment be set aside.

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

AMENDMENT NO. 2829 TO AMENDMENT NO. 2471

Mrs. FEINSTEIN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mrs. FEINSTEIN) proposes an amendment numbered 2829.

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

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

The amendment is as follows:

(Purpose: To make up for any shortfall in the amount sugar supplying countries are allowed to export to the United States each year)

Strike the period at the end of section 143 and insert a period and the following:

SEC. 144. REALLOCATION OF SUGAR QUOTA.

Subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following:

"PART VIII—REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS

"SEC. 360. REALLOCATING CERTAIN SUGAR QUOTAS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, not later than June 1 of each year, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that fiscal year, and shall reallocate the unused quota for that fiscal year among qualified supplying countries on a first come basis.

''(b) METHOD FOR ALLOCATING QUOTA.—In establishing the tariff-rate quota for a fiscal year, the Secretary shall consider the amount of the preceding year's quota that was not used and shall increase the tariff-rate quota allowed by an amount equal to the amount not used in the preceding year.

''(c) DEFINITIONS.—In this section:

''(1) QUALIFIED SUPPLYING COUNTRY.—The term 'qualified supplying country' means one of the following 40 foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

Argentina
Australia
Barbados
Belize
Bolivia
Brazil
Colombia
Congo
Costa Rica
Dominican Republic
Ecuador
El Salvador
Fiji
Gabon

Guatemala
Guyana
Haiti
Honduras
India
Ivory Coast
Jamaica
Madagascar
Malawi
Mauritius
Mexico
Mozambique
Nicaragua
Panama
Papua New Guinea
Paraguay
Peru
Philippines
St. Kitts and Nevis
South Africa
Swaziland
Taiwan
Thailand
Trinidad-Tobago
Uruguay
Zimbabwe.

"(2) CANE SUGAR.—The term 'cane sugar' has the same meaning as the term has under part VII.".

Mrs. FEINSTEIN. Mr. President, I offer this amendment to update and somewhat improve the so-called sugar program. The sugar subsidy program has been driving the domestic cane refinery industry out of existence, and it has eliminated thousands of good jobs. This amendment helps strike a new balance between saving our Nation's domestic refinery jobs and protecting sugar producers from foreign competition.

What this amendment does is ensure that the amount of sugar allowed to come into the United States actually makes it to the market. The amendment would reallocate the unfilled portion of a country's quota when that country doesn't fill its quota, which happens almost annually.

The Secretary of Agriculture does have the ability under present law to reallocate the quota, but it is a fight every year for domestic refineries to get enough sugar to refine, and it is also a fight to get the Secretary—regardless of whether it is a Democratic or Republican administration—to make this reallocation.

The amendment would allow refineries to obtain more sugar under the quota by taking some allocation from nations not exporting as much sugar as they are allowed and giving it to nations that would export more sugar to the United States.

The amendment is supported by the United States Cane Sugar Refiners' Association and the following independent refineries: C&H Sugar in Crockett, CA; Colonial Sugar in Gramercy, LA; Savannah Foods in Port Wentworth, GA; Imperial Sugar in Sugar Land, TX.

In the past, we have failed to balance the refineries and the growers of the sugar industry successfully. This farm bill represents an opportunity to make a change before more refineries are forced to close. This amendment will help the country's sugar refining industry. It will not strip the domestic producers of any benefits.

Something must be done to save our sugar refining industry. Since 1981, 13 out of 23 cane refineries in the United States have been forced out of business. Here they are on this chart: Hawaii, Florida, Massachusetts, New York, Illinois, Florida, Louisiana, Pennsylvania, Louisiana, Missouri, and Louisiana. The loss of jobs between 1981 and today is over 4,000. Those refineries that do remain open today struggle to survive under what are very onerous import restrictions.

At the end of the last year, we had a debate and the Senate overwhelmingly, regretfully, voted to continue the sugar subsidy program. I continue to oppose these sugar subsidies, but I recognize there are not the votes to eliminate the sugar program right now.

I first became involved in this issue when David Koncelik, the president and CEO of the California and Hawaiian Sugar Company, known as C&H, informed me in 1994 that his 88-year-old refinery in Crockett, CA, was forced to temporarily close because it could not get cane sugar on the market to refine.

C&H is the largest refinery in the United States. It is the only such facility on the west coast. It refines about 15 percent of the total cane sugar consumed in the United States. The company is capable of producing and selling about 800,000 tons of refined sugar annually. It is currently producing about 700,000 tons.

Anyone who has driven from San Francisco to Sacramento and crossed the Carquinez Straits, as you go on to the bridge, you look down and you see this old, large brick refinery known as C&H. All of us grew up to the C&H commercial where they sang "pure cane sugar from Hawaii"—something like that—and I have seen the struggle go on year after year.

Hawaii is C&H's sole source of domestic raw cane sugar. But the Hawaii sugarcane industry has been in decline now for over a decade. In fact, from 1996 through 2001, cane acreage fell by 50 percent in Hawaii, according to the Congressional Research Service. C&H can only make up for the lack of Hawaiian cane output by importing cane from other countries.

There is the rub. Our Nation's restrictive sugar import quota limits the amount of sugar available for C&H to refine. Simply put, C&H has been unable to get enough sugar to refine and has been forced to send workers home on several occasions.

In 1981, C&H had 1,313 employees. It is a union plant. In 1995, the company had 812. By 1999, that number dropped to 580 employees. Today, the refinery employs 565 workers.

The U.S. sugar refining industry will continue to be at risk unless we adjust this imbalance in the industry and reform the sugar program. This amendment provides an opportunity to provide immediate relief to C&H and the other domestic refineries without compromising one single benefit to sugar producers. It is going to be interesting to see if we can get it through, because even though it does not take anything from them, they still oppose this. I have a hard time understanding why. This is not an attack. It is simply a way to update and improve the quota system.

Let me repeat that. This amendment is not an attack on the sugar program. Sugar imports have been restricted almost continuously since 1934 in order to support high prices for domestic sugarcane and sugar beet producers. The USTR, working with the Department of Agriculture, allocates shares of the quota among 40 designated countries. Since the 1994 Uruguay Round of trade talks, the United States has allowed the designated countries to export 1.256 million tons of sugar to the United States under the quota. Today's sugar import restrictions are based on a formula derived from trade patterns that prevailed over a quarter of a century ago, and therein lies the rub and the major problem for domestic refiners such as C&H. The quota does not accurately reflect how much countries are able to export to the United States.

Some of the 40 designated countries have even been forced to provide an export allocation when they do not export any sugar at all. Does that make sense? I think not. In fact, according to the GAO, on the average, from 1993 through 1998, 10 of the 40 countries were net importers of sugar. This means they do not export sugar to the United States if they need to import sugar to their own country. Therefore, that allocation, that part of the quota, goes unused. Our refineries that would like to buy that raw sugar on the open market cannot buy it. It makes no sense.

Other countries continue to export sugar, but they have substantially reduced their production. For example, since the allocations were made, the Dominican Republic has experienced a 50-percent decline in sugar production, and the Philippines, a 27-percent drop, but the allocation for both countries has remained the same. If the Philippines is not going to export and the Dominican Republic is not going to export their quota, all we want to do is let some country get that shortfall and put it on the market to give our domestic sugar refiners the opportunity to buy it.

Some countries have substantially increased their sugar production but not seen the amount they are allowed to export to the United States increase. For example, since the allocations were made, Guatemala, Colombia, and Australia have increased their production by 219 percent, 96 percent, and 61 percent, respectively, while their shares of the allocation have remained the same.

Some countries have similar allocations under the quota despite dramatically different levels of sugar exports. For example, Brazil and the Philippines are both allowed to export 14 percent of the total quota, but Brazil

exports 21 times more sugar than the Philippines worldwide. It is unacceptable that quota allocations have not been revised for 20 years, or 2 decades, despite dramatic changes in the ability of many countries to produce and export sugar.

Is there a way to update the sugar export amounts allowed into the United States without adversely impacting growers? I believe there is, and the amendment I have offered will provide the slight change to the sugar export quota that is desperately needed.

The United States has imported on the average about 3 percent less sugar than the quota allowed from the 1996-through-1998 allocation because some countries did not fill their allocations. So there is that 3 percent out there. Since the sugar quota does not reflect the current capability of many countries to produce and export sugar, the GAO has concluded:

The United States Trade Representative's current process for allocating the sugar tariff rate quota does not insure that all of the sugar allowed under the quota reaches the United States market.

There is the point. There is the differential. The sugar that does not reach the market in the quota should be made available.

I would like to read some of the July 1999 report on the sugar program issued by the GAO:

The current allocation process has resulted in fewer sugar imports than allowed under the tariff rate quota. From 1996 through 1998, the United States raw sugar imports averaged 75,000 tons less annually than the amount USDA allowed the United States Trade Representative to allocate under the tariff rate quota. According to domestic refinery officials, this shortfall has exacerbated recent declines in the overall availability of raw cane sugar on the U.S. market.

If there is a shortfall in sugar exported to the United States, and refineries are shut down because there is not enough cane to refine, we need to allow the quota to be flexible when there is this shortfall. The amendment I have offered will reallocate unused sugar in the quota to other countries when there is an export shortfall. This is exactly what the USTR did as recently as 1995. It is also the precise recommendation of the GAO in its 1999 report. In suggesting change to the sugar program, the GAO advised:

Changes could include such actions as providing a means of reallocating the current quota.

All this amendment does is ensure the amount of sugar allowed to come into the United States is actually making it to the market. How is that so threatening to people? This opportunity to reallocate the quota when there is a shortfall will not hurt growers because the shortfall does not represent enough sugar to affect price. Of course, that is what they will say, that this will affect price. It will not affect price. It has not affected price before. There is no reason to believe it will affect it now.

In the 1999 report, the GAO found:

Because the shortfalls in the tariff rate quota reduced total U.S. sugar supplies by less than 1 percent, they had a minimal effect on the domestic price of sugar.

If you do not trust me, trust the GAO. The inefficiencies of the current import restrictions demand that Congress accept this amendment.

I respectfully ask my colleagues to support this amendment. It will help make the sugar program operate more effectively and efficiently. If this body can't accept this simple amendment, it clearly tells me that not only is the sugar allocation outdated, but it is essentially controlled to manipulate so certain people can do business while others cannot.

These refineries are very important. My Crockett refinery is the major source of jobs in that entire Crockett community. Each year, the CEO has to come back here to plead with his representatives in Congress:

I can't buy enough sugar on the market to keep my people employed. I pay them good salaries. It is important I be able to operate and refine sugar. I want to buy it on the open market and I can't—is simply wrong.

It is flawed public policy. I ask for this body's support to pass this amendment.

I ask unanimous consent to have printed in the RECORD an article from the New York Times.

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

[From the New York Times, May 6, 2001]

SUGAR RULES DEFY FREE-TRADE LOGIC

(By David Barboza)

For anyone who thinks of the United States as a free-trade nation, the 10 story brick sugar refinery on Highway 90A here on the outskirts of Houston is startling.

The plant can produce up to 500,000 tons of sugar a year, enough to sweeten about 90 billion doughnuts. But while America has a sweet tooth, it does not need all that sugar. Indeed, America is swimming in sugar, largely because the sugar business is one of the economy's most protectionist niches. Sugar programs that protect growers from foreign competition cost American consumers almost $2 billion a year in higher prices for everything from candy bars to cold cereal, according to government studies. Artificially high prices have led to overproduction, leaving taxpayers the owners of one million tons of sugar that they pay $1.4 million a month just to store, some of it in Sugar Land.

Yet earlier this year the owner of the plant here—the Imperial Sugar Company, the nation's biggest sugar refiner—was forced to file for Chapter 11 bankruptcy protection, because it has lost so much money lately turning relatively high-priced raw sugar into the refined sugar it sells into a depressed, glutted market.

Now, refiners are demanding an overhaul of the sugar program. Consumer groups want it abolished. And even its backers and beneficiaries—big growers that are major donors to both political parties—are dissatisfied. They want more protection, complaining that new trade initiatives, like the North American Free Trade Agreement, threaten to undermine the industry and further depress the price of sugar.

Congress is now hearing testimony on these matters as it takes up a new farm bill. The conventional wisdom is that Washington is unlikely to scrap a program that has bipartisan support, any more than it has been prone to eliminate supports for other farmers.

But some lawmakers say sugar policy, in particular, is ripe for revision.

''Events of the past year indicate that the sugar program is becoming increasingly unmanageable and that radical reforms are needed urgently,'' said Richard G. Lugar, chairman of the Senate Agriculture Committee and a longtime opponent of the program.

At the heart of the debate is a sugar policy that since the New Deal has held that domestic growers ought to be shielded from the vagaries of the commodity markets. The current program, put in place in 1981, promised that kind of stability by limiting imports and making loans to growers.

But in recent years, helped by technology and weather, production has exploded. And government policies and price supports, on balance, encouraged farmers to abandon even more seriously depressed crops in favor of sugar beets and cane.

Overproduction sent prices tumbling, hurting growers. But the hardest hit were cane refiners. At times, the prices they paid for raw sugar were higher than those at which they could sell refined sugar.

If nothing changes, industry officials fear a ferocious one-two punch: the possible loss of cane-refining capacity at home, which could hurt food producers, and a steady rise in imports, which could wipe out both domestic growers and refiners.

Free-market economists say that might be the most efficient outcome, but no industry disappears without a fight. The refiners are just one of the interest groups that have stormed Capitol Hill.

None are so powerful as the nation's largest producer of raw sugar, the Flo-Sun Corporation of Palm Beach, Fla., run by Jose Pepe Fanjul and Alfonso Fanjul, Cuban exiles who created a sugar empire in the Florida Everglades and who are now big donors to both Republicans and Democrats.

Flo-Sun and other giant producers want to strengthen the program by putting new restrictions on domestic production of sugar beets and cane. They also want to limit the scope of any future trade deal that might lead to what they consider unfair competition.

''We don't believe we ought to sacrifice the American farmer to bring in sugar that is subsidized by other governments,'' said Judy Sanchez, a spokeswoman at U.S. Sugar, one of Florida's biggest cane producers.

Critics of the program—from food producers to refiners to consumer groups—would like the program discarded or significantly weakened.

''We want the program phased out,'' said Jeff Nedelman, a spokesman for the Coalition for Sugar Reform, a trade group that represents food and consumer groups, taxpayer watchdogs and environmental organizations. ''This is corporate welfare for the very rich. The program results in higher prices for consumers, direct payments by U.S. taxpayers to sugar growers, and it's the Achilles' heel of U.S. trade policy.''

Chicago, home of Sara Lee cakes and Brach's Starlight Mints candies, has aligned itself with the critics. A few weeks ago, Mayor Richard M. Daley and other city leaders announced that they would lobby Congress to end the sugar program, which they said was hurting the city's makers of candy and food by inflating costs.

Indeed, the General Accounting Office says the sugar program cost consumer about $1.9 billion in 1998, with the chief beneficiaries being beet and cane growers.

Senator Byron L. Dorgan, a North Dakota Democrat who is a strong backer of the

sugar program, says Americans are not being overcharged. Rather, he contends, prices on the world market are artifically depressed by surplus sugar from countries that subsidize production.

''The world price has nothing to do with the cost of sugar,'' he said. ''And my contention is that the program causes stable prices.''

Americans' appetite for sugar is measured in pounds. The average person in this sugar-saturated country consumes more than 70 pounds a year of refined sugar and that does not include most soft drinks, sauces and syrups, which are sweetened with high-fructose corn syrup.

But even that appetite is no match for current levels of sugar production. A record 8.5 million tons of sugar was produced in the United States in 1999, and that sent raw sugar prices tumbling to 18 cents a pound, the lowest level in 20 years. The Agriculture Department stepped in last June to buy 132,000 tons, at a cost of $54 million, or 20 cents a pound.

Imperial Sugar—already burdened by $500 million in debt because of an acquisition spree—was hit harder than anyone in the industry. The company was forced to buy raw sugar cane at about the same price that it could sell the finish product.

''We're out of gas before we turn the lights on,'' said I.H. Kempner III, Imperial Sugar's chairman, whose family acquired its first holdings in 1907. Imperial filed for bankruptcy protection in January.

The New York-based Domino, a unit of Tate & Lyle of Britain and a leading supplier of pure cane sugar to grocery chains, is also ''in desperate shape,'' said Margaret Blamberg, a spokeswoman. C&H Sugar, a big California refiner, is struggling both with low sugar prices and the state's rising energy costs.

For growers, the biggest threat is the political tide favoring free trade. Under Nafta, Mexico is getting greater access to the American sugar market. And in 2008, the agreement will give Mexico unlimited access to the American market.

Just how much Mexican sugar can enter the American market this year is in dispute. American trade officials say that about 100,000 tons of surplus sugar is allowed in, while Mexican officials say the figure is 500,000 tons. Under an agreement reached at the Uruguay Round of global trade talks in 1994, the United States is required to import about 1.1 million tons of sugar a year.

The solution, the growers say, is more protection for the industry. Two weeks ago, the House Agriculture Committee heard testimony from the major sugar producers, who proposed stricter market and production controls at home and more restrictive trade policies.

''You have to fix the big trade problems,'' said Luther Markwart, chairman of the American Sugar Alliance, which represents the major growers.

Trade experts, however, say the sugar program makes free-trade talk seem hollow.

''Sugar is a nightmare in terms of trade negotiations,'' said Prof. Robin A. King, an expert on trade policy at Georgetown University. ''This is one reason other countries get frustrated with our position on free trade. They say, 'We want to trade, but the items were produce you won't let in.' ''

Mrs. FEINSTEIN. I ask that the amendment be set aside. 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. HARKIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

The Senator from Iowa.

Mr. HARKIN. Madam President, what is the regular order right now in terms of amendments?

The PRESIDING OFFICER. The pending amendment is the Feinstein amendment.

AMENDMENT NO. 2836

Mr. HARKIN. Madam President, I ask unanimous consent that the pending amendments be set aside and ask for the regular order with respect to the Conrad amendment No. 2836.

This amendment has been agreed to by both sides, and I urge its adoption.

The PRESIDING OFFICER. The Conrad amendment is now pending.

Is there further debate on the amendment?

If not, the question is on agreeing to the Conrad amendment No. 2836.

The amendment (No. 2836) was agreed to.

Mr. HARKIN. Madam President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2837 TO AMENDMENT NO. 2835

Mr. HARKIN. Madam President, I now ask for the regular order with respect to the Craig amendment No. 2835, and call up Senator GRASSLEY's second-degree amendment No. 2837, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. GRASSLEY, for himself and Mr. HARKIN, proposes an amendment numbered 2837 to amendment No. 2835.

Mr. HARKIN. Madam 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 make it unlawful for a packer to own, feed, or control livestock intended for slaughter)

Strike all after ''**SEC.**'' and insert the following:

10___1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(f)) (as amended by section 1021(a)), is amended by striking subsection (f) and inserting the following:

''(f) Own or feed livestock directly, through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the operation with respect to the production of the livestock, except that this subsection shall not apply to—

''(1) an arrangement entered into within 14 days before slaughter of the livestock by a packer, a person acting through the packer, or a person that directly or indirectly controls, or is controlled by or under common control with, the packer;

''(2) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

''(A) own, feed, or control livestock; and

''(B) provide the livestock to the cooperative for slaughter; or

''(3) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

Mr. HARKIN. Madam President, I will speak a little bit now on this amendment and what it pertains to, but I am offering this on behalf of Senator GRASSLEY, my colleague from Iowa.

This is an amendment to the Craig amendment. Senator GRASSLEY, unavoidably, could not be here today. He has to be back in the State of Iowa. But, obviously, we will not be voting on this until next week anyway. But we wanted to lay this down today.

I am going to take the time now just to talk a little bit about this amendment and what it does. And then, of course, my colleague, Senator GRASSLEY, will further elaborate on this when he returns after the weekend.

As my colleague from Idaho, Senator CRAIG, mentioned yesterday, there has been a great amount of hype surrounding Senator JOHNSON's amendment that bans packer ownership. I cosponsored that amendment. The chief cosponsor, of course, was Senator GRASSLEY from Iowa. Now, Senator CRAIG wants to replace the Johnson amendment which was adopted in the Senate, with a study because Senator CRAIG says he has some concerns about how the Johnson amendment will work.

The basic concern—as I understand it, and as I listened to the speech last night and have read the RECORD—is over the word, ''control''; that somehow there is a confusion about ''control'' and whether ''control'' would prohibit any kind of contracting relationships that a packer might have with a producer.

Certainly, I believed when the Johnson-Grassley amendment was adopted that it was quite clear in the legislative language, and in the legislative history, that the amendment did not in

any way preclude various types of contracting arrangements, such as forward contracting, for example.

But those who are representing the huge packing industry have come in and kind of muddied the water. They have clouded it up and said: Oh, no, this may take away a farmer's right to contract. Of course, I have heard from some of my farmers in Iowa, who, first, do not want packer ownership of livestock because they know how badly that affects them, but, second, they do not want to have interference with contractual relationships they might want to make with packers.

So to take care of any lingering concerns about this issue of ''control,'' Senator GRASSLEY is offering a second-degree amendment to Senator CRAIG's amendment.

In essence, Senator GRASSLEY's amendment, which I have asked to be a cosponsor of, will make it clear that while packers will not be able to own livestock, farmers will still be able to use contracts if they want to.

As I said, there has been a lot of sort of hubbub going on around the Johnson amendment. Earlier this morning, I engaged in a colloquy with my friend from Minnesota, Senator WELLSTONE. And there were these egregious ads taken out in the Sioux Falls Argus Herald by one large packer, Smithfield Foods, Incorporated. The person who signed that was Mr. Joseph W. Luter, III, chairman and chief executive officer of Smithfield Foods, Inc. We talked about this ad and how egregious, how bad it is. It really is economic and political blackmail in the way this ad was written and what they are threatening to do. So again, to clear this up, Senator GRASSLEY and I have offered this amendment to help address this type of economic strongarming.

What the bill said, and what the legislative history made clear, is that packers could no longer own livestock, but the farmers could still contract and enter into these marketing agreements.

Well now, how did the industry, the packing industry, create all this fuss? They did everything in their power to confuse and scare farmers, by making the conclusory statement that the Johnson legislation would ban contracting. In one paper, which Senator CRAIG referenced last night, eight economists made the same false assumption that the prohibition of packer ''control'' of livestock would affect contracting.

Why the economists assume this, I do not know. The economic paper provided no legal analysis. I am told that none of the eight economists is a lawyer or has had any training in the law. The economic paper provided no legal analysis. In fact, to my knowledge, the opponents of this ban, the big packers, have never released any type of legal analysis to the public. They have just said this as a scare tactic. I guess the reason they have not released any legal analysis is because it would not survive legal or public scrutiny.

The economists relied on an incorrect legal assumption. So they relied on an incorrect legal assumption, and they provided a detailed analysis based on that incorrect legal assumption. And, of course, the packing industry and the press ran with it.

Thankfully, three lawyers who have worked in agriculture for years and are some of the best known in the field pointed out the fallacy of the economists' assumption. Roger McEowen of Kansas State University, Neil Harl of Iowa State University—whom I know personally is both a lawyer and an economist—and Peter Carstensen of the University of Wisconsin Law School, the three of them thoroughly explained that the word, ''control,'' has a very predictable meaning in the law and that it does not affect contracting.

Madam President, I will not read it, but I ask unanimous consent to have printed in the RECORD the analysis and statement by these three individuals regarding the legal standpoint issue of ''control.''

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

From a legal standpoint, ''control'' issues arise frequently in an agency context in situations involving the need to distinguish between an ''independent contractor'' and an ''employee'' for reasons including, but not limited to, liability and taxation. Typically, the existence of an agency relationship is a question of fact for a jury to decide. At its very essence, whether a relationship is an independent contractor relationship or a master-servant relationship depends on whether the entity for whom the work is performed has reserved the right to control the means by which the work is to be conducted. Under many production contract settings, the integrator controls both the mode and manner of the farming operation. The producer no longer makes many of the day-to-day management decisions while the integrator controls the production-to-marketing cycle. The integrator is also typically given twenty-four hour access to the producer's facilities. Conversely, forward contracts, formula pricing agreements and other types of marketing contracts typically do not give the integrator managerial or operational control of the farming operation or control of the production-to-marketing cycle. Instead, such contracts commonly provide the packer with only a contractual right to receive delivery of livestock in the future. While it is not uncommon that livestock marketing contracts contain quality specifications, most of those contract provisions relate exclusively to the amount of any premium or discount in the final contract payment for livestock delivered under the contract. Importantly, the manner in which quality requirements tied to price premiums are to be satisfied remains within the producer's control. Accordingly, such marketing contracts would likely be held to be beyond the scope of the legislation's ban on packer ownership or control of livestock more than two weeks before slaughter. Thus, a packer would still have the ability to coordinate supply chains and assure markets for livestock producers through contractual arrangements provided the contracts do not give the packer operational and managerial control over the livestock producer's production activities.

Mr. HARKIN. So even with the assurance from these three legal experts, the opponents continue to raise doubts about the Johnson amendment's effect on contracting, even to the extent that some of the original supporters of the ban now want to set it aside because they, too, are concerned about this control issue. We cannot take this step backward.

Recently, Senator GRASSLEY and I, and others, have been working with some of these legal experts, as well as the American Farm Bureau, to develop an amendment that takes away any need to delay further any ban on packer ownership. This amendment makes it even clearer that while packers cannot own livestock, farmers still have the ability to forward contract and enter marketing agreements.

Let me describe how this amendment works.

Essentially, this amendment says that a packer can forward a contract or enter into any type of marketing agreement as long as the producer continues to materially participate in the management of the operation with respect to the production of the livestock. The key phrase here is, ''materially participate.''

Why do we choose those words? Because there is a well-established definition to the phrase. Every farmer knows the phrase. Every attorney who works with the farmers knows well the importance of the term. That is because a farmer who materially participates in the farming operation must pay self-employment taxes. Those who do not materially participate do not have to pay self-employment taxes.

The phrase has appeared in the IRS Code, section 1402(a) since 1956. To say that there is overly abundant case law and administrative comment and law review articles about the term would be an understatement.

The legal community, the tax community, and the farm community know the difference because it is simply the difference between having to pay self-employment taxes or not paying them.

What does this mean for forward contracts and marketing agreements? This amendment does not affect them. I know that farmers in Iowa who sell hogs under marketing agreements or who sell cattle under forward contracts materially participate because they pay self-employment taxes. Because the farmers materially participate in the management of their livestock production, this amendment will not affect their contracts.

This amendment takes care of any concern that people had about the original law being unclear. It definitely takes care of anyone's concern about the law's effect on contracting. This amendment also maintains the same exemption from Senator JOHNSON's original amendment; that is, it exempts cooperatives as well as small packers who slaughter less than 2 percent of the national slaughter.

Therefore, many of the innovative startup projects operating and being

formed to get producers greater bargaining power in the market will not be affected by this amendment.

I have to say something about Senator CRAIG's amendment in which he wants further study. Around here we know that an amendment to do a further study is killing the amendment—especially this one. Senator CRAIG says we need more information. We have been there. The USDA has released a number of studies and papers on the issue of packer ownership and captive supply over the years, and the only thing that is clear is that the issue begs for policy clarification from Congress.

Just in the past few years, the USDA released a major study on the procurement practices in the Texas panhandle as well as a recently released paper on the captive supply of cattle. This paper, which was released on January 18 of this year, included a 15-page appendix that lists the numerous studies already conducted. Senator CRAIG wants more studies.

What do these studies find? They find a strong correlation between increased captive supplies and lower prices. The correlation is there. But the studies usually find that it is too hard to tell for sure whether one causes the other.

It seems that the USDA is never going to be able to tell for sure. Someone can always create doubt. It is precisely in these types of situations that Congress should step in and clarify that certain practices such as packer ownership are illegal, to clarify it once and for all.

It really boils down to this: If you believe that the top four packers of cattle in this country who control 81 percent of the market should be able to own livestock in a captive situation—if you believe that—you want to vote for Craig. You don't want to vote for the Grassley amendment. But if you believe that those independent cattle producers in Missouri, Iowa, South Dakota, Nebraska, Texas, and Kansas—all over the Midwest and the West—if you believe those independent producers ought to have some bargaining power and be able to bargain and negotiate with those top four packers on prices and have some independence and be able to own their livestock or to contract it, then you will want to vote for the Grassley amendment.

That is what it is all about. You have huge packers who want to own livestock, who now own livestock. And here is the way it works. The packer owns the livestock. The farmer comes in. When cattle are ready to sell, you can't keep them around much longer; you have to sell them. So you go to the packer, and the packer says: Here is how much money I will give you for them. The livestock producer says: That is not enough. The packer says: Take it or leave it, because I have my own cattle which I can feed through the packinghouse, and I know you can't keep those cattle for another 14 days on feed.

There you go. They squeeze them. It is called economic concentration, and they squeeze those independent producers. They are going out of business right and left.

In my part of the country, we like to have a good livestock industry. You have balance. Sometimes when grain prices are low, you get high livestock prices. If livestock prices are low, you get higher grain prices. You have a good, even income for farmers who may have both livestock on feed, whether it is cattle or hogs, and grain production.

This takes away from those independent farmers a valuable source of income and livelihood.

Packer ownership does not help farmers. The packers get an increased ability to manipulate the markets. When packers lock up the chain space, as they say at the packing plant, the farmer does not have access to the market. We don't need a study. We have had enough studies. We need good, clear legislation. The Grassley amendment that prohibits the ownership of livestock by packers clears this up once and for all.

Studies we don't need. We don't have to wait for studies. We have had plenty of them. Our farmers have been calling for action for years. Literally dozens of farm, commodity, rural community, and religious groups seek a ban on packer ownership. The two largest general farm organizations, the American Farm Bureau and the National Farmers Union, have explicit policy against packer ownership. They don't call for more delay. They don't call for more wringing of hands, for more studies that never seem to come to fruition. They want us to respond to the real problems that real farmers have out in the countryside today.

Our farmers deserve more than just another study that is not going to show anything. They want real reform in the livestock markets. I think it is time to give them what they need and what our country needs. If we really believe in the market system, and we believe in many players and transparency and openness, how can you vote to let four of the top packers of livestock who control 81 percent of the market control all the inputs? That is not a free market. What our livestock producers are calling for is a free market. That is what we are calling for.

I compliment my colleague from Iowa, Senator GRASSLEY, for his amendment and for working with us—and the staffs working together with others—on a bipartisan basis to clear this up once and for all. When we get back next week, we will speak again about this.

Over the weekend, there should not be any doubt in anyone's mind that the Johnson amendment would prohibit forward contracting. It doesn't. But in case there is any lingering doubt, the Grassley amendment clears it up and makes it explicitly clear that this amendment will not prohibit contracting relationships between farmers and packers.

I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today to thank Senators LUGAR and HARKIN for the hard work they have demonstrated on this bill. I also thank them for accepting a sense-of-the-Senate resolution that is similar to a resolution I introduced earlier this week along with nine of my colleagues: Senators BINGAMAN, DAYTON, DORGAN, KERRY, SARBANES, CHAFEE, DODD, HAGEL, and LOTT.

Our resolution highlighted the important role effective foreign assistance programs play in fostering political stability, food security, rule of law, democracy, and ultimately peace around the world.

Our resolution, as we originally introduced it, expressed the sense of the Senate regarding the importance of U.S. foreign assistance programs as a diplomatic tool for fighting global terrorism and promoting U.S. security interests.

Many times we think about foreign assistance as just humanitarian assistance, helping other people. We have an obligation to do that. We forget, though, that when it is used effectively, it is a good foreign policy tool.

In fact, it is an essential foreign policy tool. Tragically, I believe we have seen the amount of money that we put into foreign assistance go down in real dollars within the last 20 years. So as we try to carry out American foreign policy, that tool is simply not there as much as it used to be.

Without question, there is a direct link between foreign aid programs and the self-sufficiency and stability of these developing countries. The reality is that when we go into a developing, impoverished, or war-torn nation and give the suffering people assistance, we can make a positive difference. We can feed starving children, care for the sick and elderly, house countless orphans, and teach people new and more effective methods of farming. If we do these things, the people of those nations would be better able to pull themselves out of hopelessness and despair. These assistance programs must be looked at not just as a handout but literally, as we always say, a hand up, giving people the opportunity to help themselves.

Chaos, poverty, hunger, political uncertainty, and social instability are the root causes of violence and conflict around the world. We know this. We also know we must not wait for a nation to implode before we take action. We must not wait for a nation's people to suffer from poverty, disease, and hunger. We must not wait for the rise of despotic leaders and corrupt governments, such as the Taliban.

I believe we certainly have a moral obligation to those in the world suffering at the hands of evil leaders and corrupt governments. We have a moral obligation to the 1.2 billion people in the world who are living on less than $1 a day. We have a moral obligation to

the 3 billion people who live on only $2 a day. This kind of poverty is unacceptable and, quite candidly, it is dangerous to us and to the stability of the world. I think it is something we have to work to change. It is in our self-interest that we do so.

The fact is that foreign assistance has had an enormous impact when applied effectively. For example, over the past 50 years, our assistance has helped reduce infant child death rates in the developing world by 50 percent. We also have had a significant impact on worldwide child survival and health promotions, through initiatives, such as vaccinations and school feeding programs.

Agriculture is certainly another area of great success. Today, 43 of the top 50 countries that import American agricultural products have in the past received humanitarian assistance from the United States. Today, they are our customers. Our investment in better seeds and agricultural techniques over the past two decades have made it possible to feed an additional 1 billion people throughout the world.

Despite its importance and immeasurable value, our overall foreign affairs budget has been stagnant for the past 20 years. As I said, in real dollars, it has gone down. We currently use only about one-half of 1 percent of our Federal budget for humanitarian assistance. Yet this assistance is absolutely critical for people in war-ravaged, politically unstable, impoverished nations. The children, the elderly, and the civilian people are not responsible for the political and economic turmoil in their homelands, but they are the ones who always end up suffering the most.

Right now, increases in foreign assistance could make a very real difference around the world. One example is in our own backyard, and that is in the country of Haiti. I recently returned from a trip to Haiti, where I witnessed the tremendous devastation, destitution, and desperation of that country located less than 2 hours by plane from the shores of Miami.

Haiti remains the poorest country in the hemisphere. Democracy and political stability continue to elude the Haitian people. The already-dire humanitarian conditions of Haiti's 8.2 million people continue, tragically, to deteriorate. Today, less than one-half of their population can read or write. The country's infant mortality rate is the highest, by far, in our hemisphere. At least 23 percent of the children up to age 5 are malnourished. Only 39 percent of Haitians have access to clean water, and diseases such as measles, malaria, and tuberculosis are epidemic.

Haiti is also suffering from an AIDS crisis—really an epidemic. Roughly 1 out of 12 Haitians is living with HIV/AIDS. This is the highest rate in the world, outside of sub-Sahara Africa. According to the Centers for Disease Control projections, Haiti will experience up to 44,000 new HIV/AIDS cases this year, and that is at least 4,000 more than the number expected in the United States. We have a population, obviously, a great deal higher than Haiti. They have a population of about 8 million people. Ours is nearly 35 times larger than theirs.

In addition, there are an estimated 30,000 to 40,000 deaths each year in Haiti from AIDS. Already, AIDS has orphaned 163,000 children. That number is expected to skyrocket to between 320,000 to 390,000 over the next 10 years. Haiti also continues to suffer from an unnecessarily high HIV transmission rate from mother to child. Some of this is easily prevented through proper counseling and medication. Currently, only one clinic in Port-au-Prince provides these critical, lifesaving services.

Indeed, things are bad in Haiti, and they stand to get only worse. Right now there is a great deal of money that the international community is holding up, awaiting reforms to be made, awaiting the Government of Haiti to settle disputes concerning the May 2000 election. I believe it is correct to withhold that money. But what it means is that the only assistance coming from many countries—certainly the only assistance coming from the U.S.—is the purely humanitarian assistance that does not go through the Government. That purely humanitarian assistance has gone down and down and down. We have taken it down for the last few years. The prospects are that we will take it down again this year. I think that is, quite bluntly, a mistake. It is a mistake for us to continue to reduce this humanitarian assistance. This is not money that is going to the Government of Haiti. This money is going to NGOs, private organizations, charitable groups that are dealing directly with the people of Haiti, who are helping with agricultural problems and challenges and helping them feed their children through school feeding programs and helping them with the AIDS problem. All of this work is done directly on the ground by people who are making a difference.

I think we should reconsider our position—the position we have seen in the past few years of continuing to ramp down that assistance that goes directly to these NGOs and to the people of Haiti. I believe we have a moral obligation to stay committed to these people, irrespective of what the Haitian Government does or does not do. The reality is that we need to increase foreign assistance across the board, not just the money that goes to protect the Haitian people but the much-needed aid that reaches all corners of the developing world. While we as a Nation must project strength, we also must project compassion.

Quite simply, providing humanitarian assistance is the right thing to do. It is also in our national interest to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, I rise today to bring to the attention of my colleagues the coming debate on the energy bill which will be before this body sometime next week, at the pleasure of the majority leader, of course. I want to share with my colleagues the concern I have that somehow in this energy bill we may get into a debate—and it may be more than a debate. It may be pointing fingers at one another—with regard to the Enron situation. I think it is fair to say there is a lot of blame around here.

The objective and responsibility we have is to correct the damage that has been done to ensure it does not happen again, and if indeed we can find accountability, we should proceed with that process because that is part of our job.

In my opinion, as the former chairman of the Energy Committee and ranking member currently, we have going on a little politics both in the House and Senate. We are trying to create a political issue out of the Enron failure. I think it is fair to say at least some are not particularly interested in the facts. They are more interested in the rhetoric, which occasionally occurs around here.

What we have seen is the devastation with the employees, the stockholders, the billions that are lost, and retirement funds that have been wiped out. Indeed, I think we have to focus on the reality that this is a series of lies, a series of deceits, a series of shoddy accounting, a series of corporate misconduct, a series of coverup. That is the bottom line. It should not have happened, but it did happen. I think it is fair to say our obligation goes to trying to protect the consumers and protect the stockholders.

One of the interesting things, though, as one who has followed the energy process very close, the failure of Enron really had nothing to do with the market price of electricity, the market price of national gas, or the market price to consumers in this country. It is very important to understand the system worked. In other words, Enron was buying and selling energy. They were not a great producer of energy. When they basically failed, those who were supplying Enron simply moved to other distributors. So the consumer was not hurt. Keep that in mind. This was a failure internally within this corporation that affected a lot of people, but it did not affect the ratepayers nor the supply in this country. The private system basically worked.

What are some of the issues surrounding the political gain or political consequences? I think we have to agree we should try and look at a bipartisan effort to present real solutions to America's energy problems. Some are interested in demonizing the President and the Vice President with stories that are somewhat misleading and off the focus of the reality of why this corporation failed. We have seen our good