

three. That tells me that the 5-year estimate for 2006–2010 is grossly overestimated. Therefore, if we include repeal of the Byrd amendment to inflate budget-deficit reduction numbers, we are clearly not getting those cost savings, while at the same time injuring U.S. companies that are committed to preserving and growing manufacturing jobs in this country.

Finally, some have argued we must repeal the act because it is in violation of the WTO.

First, I believe this shows how far the WTO has overstepped their guidelines in placing obligations on our country we have never agreed to.

Second, there is nothing in any WTO agreement that specifies how countries must spend their dumping duty proceeds. If we must do anything with respect to WTO, we ought to tell Ambassador Portman, as the Senate has done many times in the past, to negotiate a specific agreement permitting duty distribution in the Doha Round. This is not the time to repeal this provision while our negotiators are still at the negotiating table.

I strongly urge my colleagues and the leadership to remove the repeal of the Byrd amendment from the Deficit Reduction Act. This is simply not the time nor the place for such an action.

Further, I urge my colleagues to fall in line and support a motion to instruct conferees to remove this repeal. Failure to do so will send a message to our injured U.S. companies and manufacturers that Congress is wearing rose-colored glasses and fails to see or act upon the evils of illegal dumping and foreign subsidies.

#### MILK INCOME LOSS CONTRACT

Mr. CRAIG. Mr. President, in speaking to conferees this afternoon in relation to the deficit reduction or the budget reconciliation process, this is an issue that, frankly, most Senators probably have not heard all that much about.

Everyone agrees that the reconciliation act, or Deficit Reduction Act, is an attempt by Congress to rein in spending and to build the appropriate budget in this climate. This legislation makes tough cuts in important programs in all areas of Government.

While nearly all programs are taking their lumps—if you will, sucking it up a bit—Congress is, ironically, considering increasing spending in a bill whose sole purpose is to decrease spending.

The Senate's version of the Budget Reconciliation Act, or Deficit Reduction Act, includes a provision renewing the Milk Income Loss Contract Program, also known as the MILC Program, which currently expired in September of this year.

The CBO has scored this renewal in costs to the taxpayers of \$1 billion over a 2-year period. In other words, half a billion a year. This deserves much more attention than it got in the Sen-

ate. The MILC Dairy Price Support Program was included in the 2000 farm bill to create a permanent direct payment program to the dairy producers. During the farm bill debate, USDA warned that the new program would run counter to the old dairy price support program in place since the 1940s.

Analysis by the USDA in August of 2002 concluded that the MILC Program would cause overproduction, thereby lowering farm prices to producers, forcing the government to purchase the excess until prices stabilized. However, Congress ignored the USDA warning and authorized the program to last until September of 2005, enough time to see dairy producers through the tough times back in 2002.

Now, after over \$2 billion in taxpayer-funded programs, some in the Congress have easily forgotten about the agreement to sunset a program. When we sunset a program it is the intent of Congress to conclude it.

Let me give some examples of how distorted it has become if the program is in support and in relation to production in our country. Idaho dairy production is now 4th in the Nation and one of the top economic drivers in the economy of my State. During the 2003–2005 period, Idaho received \$39 million in MILC payments, enough to be ranked 12th in total payments received in the program, yet they are fourth in production in the Nation.

In comparison, California received \$149 million over the same time, is ranked fifth in total payments and, of course, California is the No. 1 milk producer in the Nation.

There seems to be no relationship. I guess some hands are just too sticky to let money pass just because the law is 3 years old and ready to expire.

My point is this: It is important to understand just what this program does and what the \$1 billion for one program means in the overall picture. It has become market distorted. It provides little to no parity to all producers. It encourages inefficient overproduction in milk and it sends the exact opposite signal to our trade negotiators trying to sell the rest of the world on the idea that the United States is willing to cut domestic subsidies and amber box payments.

Regarding the WTO negotiations, our United States Trade Representative and USDA Secretary and many others are currently attempting to negotiate in the latest Doha Round getting started in Hong Kong as we speak. It is clearly important we send a message. It is also important when we sunset a program after having found out it is market distorting, we ought to do just that, instead of pump it up again while we are asking all other programs that are federally expended to reduce their overall expenditures, to reduce the budget deficit and to bring this budget under control.

I hope our conferees, as they negotiate the budget deficit reduction act, or the budget resolution, would decide

not to fund the MILC Program, adhere to the sunset provision provided and allow a program to die as this program effectively did by the sunset in September of this year.

Mr. President, I ask unanimous consent to have printed for the RECORD articles in opposition to the MILC Program and also an article from the Wall Street Journal.

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

DECEMBER 1, 2005.

DEAR REPRESENTATIVE: On behalf of the hundreds of thousands of senior citizens we support across America, I urge you to make every effort to be sure that MILC, the now defunct dairy farmer giveaway program is not resurrected through inclusion in Reconciliation, or any other measure. Costing roughly \$1 billion (actual outlays could again top \$2 billion), a new MILC program, once more propping up inefficient dairy farmers, should have no place in a budget that cuts spending on Medicare, Medicaid, and other key senior programs like LIHEAP. Outdated dairy farmer welfare has no business in what should be a free-market. MILC, and similar government intrusions into the dairy marketplace, cause instability and price spikes. If extended, MILC will once again (as the USDA admits) work in conflict with the federal milk price support system. Worst of all, the oldest and the poorest among us will suffer mightily to pay for the MILC giveaway to a select few dairy farmers.

It would truly be outrageous to create a new MILC program, or worse to have one included in reconciliation just to win passage! Just look at what that nearly \$1 billion in MILC giveaway money will buy:

Medicare—The House proposal would cut \$5 billion in Medicare funding over five years. The almost \$1 billion being proposed for the MILC boondoggle could restore Medicare funding and help provide better health care to some 140,000 elderly Americans.

Medicaid—The House proposal cuts Medicaid spending by \$11.4 billion, compared with \$4.3 billion in Senate cuts. That \$1 billion MILC giveaway could be better used to give over 248,000 of the poorest Americans access to health care through Medicaid.

Low Income Heating Assistance Program or LIHEAP—Through LIHEAP, that wasted \$1 billion in MILC money could help some 2,680,965 people cope with sky-rocketing heating bills. It could be their only chance to stay warm this winter.

Student Loans—At a time when student loan programs are being slashed (\$14.3 billion in the Senate and \$8.8 billion in the House), \$1 billion in special interest MILC funding could help our grandchildren attend college at a time when college costs are rising faster than inflation. The House cuts will cost each student up to \$5,800 more in interest and fees over the life of their loans.

Food Stamps—Adding the \$1 billion in MILC money to this important program that helps feed needy seniors would fully restore the \$800 million in Food Stamp funding cut by the House.

We believe the wasteful, expensive MILC program should be left to rest in peace, thus helping to keep needed senior health care and nutrition programs fully funded. As one recent Wall Street Journal Editorial, *Milking the Taxpayer* notes, the USDA identifies no less than a half-dozen support programs for dairy farmers. We urge you to oppose the same tired old politics of vote trading and ever more pork barrel largesse for just a handful of dairy farmers on the dole. Instead, we urge you to stand up for all of the seniors,

the poor, the needy, the students, and the veterans who will have less, just to fund MILC. As the Journal Editorial says so well, "Taxpayers have been MILCed enough by this particular boondoggle."

Please do the responsible thing for all Americans by working to put an end to MILC once and for all. Rewarding inefficiency should never be the function of any government program, even when there are surplus funds to spend. Now, when important health care and nutrition programs are being cut or cancelled, MILC should not be allowed to rear its head again.

Sincerely,

MICHELLE PLASARI,  
*President, RetireSafe.*  
JIM MARTIN,  
*President, 60 Plus Association.*

[From the Wall Street Journal, Nov. 14, 2005]

#### MILKING THE TAXPAYER

It is a sign of just how unmoored from fiscal responsibility the current Congress has become that in the midst of a loud struggle over mostly symbolic budget cuts, the party in power is having trouble even letting dead programs stay dead.

One such program is the Milk Income Loss Contract program—MILC for short, cleverly enough—which passed its sell-by date at the end of September and expired. The House budget bill does not include its revival. But the Senate version reauthorizes MILC, and in 2004 the President promised Wisconsin voters that he would fight for its extension, so its fate lies with the House-Senate conference that will reconcile the two massive budget bills.

MILC was one product of the 2002 farm-subsidy bill, and even by farm-subsidy standards it is perverse. At the time the program was voted into law, Congress asked the Department of Agriculture to study the effects of the various government-support programs on the dairy business. The USDA duly issued its report in August, and for a technical document the report was unequivocal that "there is a basic incompatibility" between MILC and other pre-existing dairy subsidy programs. (The USDA report identifies no fewer than a half-dozen support programs for dairy farmers.)

The conflict is this. One of the oldest programs is the milk price-support program, which dates to the Depression-era Agricultural Adjustment Act. Under that program, the government steps in and buys milk when the price falls below a certain level. If that support price is set low enough, it provides some income security to farmers while allowing the market to clear and production to fall to the point where prices can rise again.

Here's where MILC pours in and clouds the picture. MILC makes direct payments to farmers based on their production whenever the milk price falls below a certain level. What's more, MILC kicks in at a much higher level than the price-support program. The effect of this is that production is encouraged by MILC even as prices are falling, which drives the price down toward the support level and prevents the shakeout that the price-support program is intended to allow.

The Agriculture Department found that MILC does in fact artificially depress the price of milk by encouraging overproduction, which is just what you'd expect. Then, through the price-support mechanism, the government winds up buying the milk that MILC encouraged the farmers to produce. Thus, in the Ag Department's dry bureaucratese: "The price support program and the MILC program provide an example of problems that can be caused by conflicting policy outcomes."

In short, MILC distorts the market and conflicts directly with other pre-existing subsidy programs. It has also cost close to \$2 billion since its inception, nearly twice the \$1 billion originally budgeted for it. Letting it expire should have been a no-brainer, not least because dairy farmers still enjoy numerous other forms of government handouts. It was kept alive in the Senate through the exertions of Vermont Democrat Pat Leahy, who isn't known for helping the GOP agenda. With no GOP Senators in either Vermont or Wisconsin, Republicans don't even have a political motive for keeping this subsidy alive.

Two billion dollars over three years may be a drop in the fiscal milk-bucket, but Republican lawmakers used to insist on sunset government programs for a reason. Taxpayers have been MILCed enough by this particular boondoggle.

#### MORNING BUSINESS

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SUNUNU. Mr. President, I ask permission to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

#### PATRIOT ACT REAUTHORIZATION

Mr. SUNUNU. Mr. President, today I come to the floor to speak about the pending reauthorization, extension of the PATRIOT Act, the legislation passed in the wake of the September 11 attacks. This debate is fraught with emotion because we were all outraged at what happened on September 11. Everyone in America and around the world shares a desire to address the threat of global terrorism, to give law enforcement appropriate powers to pursue those terrorists. But we want to make sure in doing so we pass legislation that is in keeping with the principles on which our country was founded—principles of individual liberty and freedom.

Ultimately, this debate about renewing, extending the PATRIOT Act is about police powers, the power that the people, through their elected representatives, give to government, give to agents of government. Whether it is at the State, local, or Federal level, we give certain police powers to government to conduct searches. We give the government power to detain individuals. We give the government power to serve subpoenas, to confiscate records.

We do it because we think ultimately it is in the public interest to do so. But just as the Framers recognized, we need to provide a balance, to balance these very forceful, very powerful tools with personal freedom, civil liberty.

So as a result, we require the government, or government agents, to show cause before they conduct a search. We set standards for evidence in a courtroom. They need to meet certain standards of evidence to conduct a search, certain standards of evidence to detain an individual or a suspect. And, of course, we have the principle of due process, trial by jury, and the ability to have an appeal heard in a court of law.

Some people may say: We know that. These are fundamental. These are basic to our system of justice. But it is important that we are reminded of these basic principles if we are going to get the reauthorization and the extension of the PATRIOT Act correct.

This is not a new set of issues. These are the very issues contemplated by the Framers. In many respects, these police powers are issues that alarmed the Framers—and I say alarmed because they were so concerned about the powers of Government and the powers of the State that they wrote specific protections into the Constitution. The fourth amendment, protecting from unreasonable search and seizure, specifically addresses the threshold of probable cause, that the Government shall show probable cause before it conducts search and seizure of personal property.

The fifth amendment protects us from self-incrimination. We have all seen enough Perry Mason to understand what it means to invoke one's rights under the fifth amendment. It speaks specifically about due process and the right to an open, fair due process when one is being prosecuted, whether it is for a criminal act or whether we are prosecuting one of these powers of search and seizure, a power of the State to issue a search warrant.

The sixth amendment speaks specifically about a right to a trial and what it means to have one's case heard before a jury or in a court of law. All of these amendments and others, but these three in particular, speak directly to balancing the rights of individuals and the liberty of individuals with the powers of the State.

The Framers were, quite frankly, very distrustful of Government and the power of the Federal Government. I try to be a little less pessimistic in my work in the Senate, but I must be frank with my colleagues in stating that on this issue, on the PATRIOT Act, I have begun this debate more from a position of mistrust and concern about the work that had been done in preparation for this reauthorization and the position taken by the administration. I will speak to that in a moment, but it is important to note that on the Senate side we had bipartisan agreement and on the Senate side