

to Iraq. But after one visit home his parents could see he was shaken. Ordinary things, they said, made him nervous, and he was having nightmares that made him shout out in his sleep.

When he completed his tour of duty, he was transitioned back into civilian life after only a couple of weeks. His parents saw he was not the same. They said he didn't say much about Iraq, but he did talk about hearing voices and seeing faces and he was very jittery.

His parents wanted him to get care, but he refused to see a doctor for fear it would hurt his career. Despite his parents' efforts to help him, Josh could not get over the trauma he experienced in Iraq. It got worse and his world slowly unraveled. Josh took his life at the age of 22.

Josh's and Justin's stories came to light because their families came here and asked Congress for help. As a result, we passed the Joshua Omvig Veteran Suicide Prevention Act this year because his family pushed and pushed for legislation that would require the military and the VA to better understand and treat psychological trauma for our servicemembers.

Are these extreme examples? Well, maybe, but they are not isolated examples, and the reality is many others are slipping unnoticed through the cracks today.

It would be one thing if we had no idea what the mental health strains are for our veterans, but that is not the case. We have seen servicemembers come home with mental wounds in every military conflict in which we have ever been involved.

When I was a young college student in the late sixties, I volunteered at the Seattle VA. I was assigned to the psychiatric ward. I worked with Vietnam veterans who were my age at the time coming home from Vietnam. I saw what was in their eyes. For some, it was a blank stare. For many, it was anger. For a lot, it was talking and talking and talking about what they had been through.

There was no word called post-traumatic stress syndrome when I worked at the VA with those Vietnam veterans. But we know now the strains of war and what it causes, and we should be doing so much more for the thousands and thousands of young men and women who are coming home today and feeling lost and alone in their homes and communities because no one has reached out to help them.

Our understanding of the impact that warfare has on the minds of servicemembers has evolved since I worked at the VA as a young student many years ago. One thing we know is that the mental wound suffered by men and women in uniform can be as devastating as their physical injuries. So it is long past time that the military knock down the stigma associated with mental health care. It is long past time that the military provide the care our veterans desperately need and deserve and back it up with adequate funding.

We must acknowledge that this is a cost of war we cannot ignore.

What can we do to prevent more stories such as Josh and Justin? We have to better understand the trauma our troops have experienced. The Joshua Omvig Act we passed takes steps to do that, but it is so clear we have more to do. We need more mental health care clinics, and we need more providers. We need the VA to be proactive. We need them to reach out to these veterans who are not enrolled in the VA system and who are at risk for suicide. And we in Congress have to provide the money to fully fund their care.

The Senate has passed a bill that will increase funding for veterans by almost \$4 billion over what the President asked. I hope we can get those improvements to our veterans as quickly as possible. We have to finally provide a seamless transition for our servicemembers when they come home, and that starts with making sure that veterans can get their disability benefits without having to fight through the system. It is unconscionable to me that our heroes return home from the battlefield today only to have to fight a bureaucracy to get the benefits they were promised.

Veterans Day was a few days ago. Many of us went home and took part in ceremonies to thank our servicemembers for securing our safety and our freedom—well-deserved. In my own speech in Kitsap County, at home in Washington State, I said I believe that Veterans Day should not be just a day for ceremony. It should be a day to consider whether there is something more we can do for our veterans. And what are the implications for not doing enough? As the "CBS News" report found, too often the implications are that many veterans are stretched to the breaking point. That is a tragedy. We have to wake up to the reality that we have already lost too many.

Ours is a great Nation. No matter how any of us feel about this current conflict, we know our troops are serving us honorably. But we owe them so much more than we have given them so far. We can do better. We must do better. I ask anyone who is listening to me this morning, anyone who watched the CBS report and saw those families talk about the tragedy of losing a son or a daughter to suicide after they had come home from this war, to reach out and say: Am I doing enough? Do I know of a family who is suffering? Do I know of someone at my child's school whose parent has come home? Do I know an employee who has come home from Iraq? Have I reached out myself and said: I am here for you if you need me?

All of us can do more. Congress needs to act and do more as well. We are a great nation. We should do much better.

I yield the floor, and I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2419, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Reid (for Dorgan-Grassley) amendment No. 3508 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increased funding for certain programs.

Reid amendment No. 3509 (to amendment No. 3508), to change the enactment date.

Reid amendment No. 3510 (to the language proposed to be stricken by amendment No. 3500), to change the enactment date.

Reid amendment No. 3511 (to Amendment No. 3510), to change the enactment date.

Motion to commit the bill to the Committee on Agriculture, Nutrition, and Forestry, with instructions to report back forthwith, with Reid amendment No. 3512.

Reid amendment No. 3512 (to the instructions of the motion to commit to the Committee on Agriculture, Nutrition, and Forestry, with instructions), to change the enactment date.

Reid amendment No. 3513 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 3514 (to amendment No. 3513), to change the enactment date.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I see my friend, Senator CHAMBLISS, is on the floor. I think we are both very frustrated. I don't think, I know we are both very frustrated that we are stymied on this farm bill. We are not moving anywhere. But in hopes that maybe we can get something moving, I am going to propound some unanimous consent requests to see if we can't break out and move ahead.

So I inquire of my colleague, Senator CHAMBLISS, as to whether we can agree to a time limitation for debate with respect to the pending Dorgan-Grassley amendment. Therefore, I ask unanimous consent that there be 60 minutes of debate prior to a vote in relation to the Dorgan amendment No. 3508, with the time equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate vote in relation to the amendment; that no second-degree amendment be in order prior to the vote.

The PRESIDING OFFICER. Is there objection? The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, unfortunately, based upon the status of the amendments at this point in time and based upon the comments by the majority leader this morning, at this point in time I am going to have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I now ask unanimous consent that we proceed to the Lugar-Lautenberg amendment regarding farm program reform; that there be 2 hours of debate with respect to the amendment prior to a vote; that no amendments be in order to the amendment prior to the vote; that the time be equally divided and controlled in the usual form; that upon the use or yielding back of the time, the Senate proceed to vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection? The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, again, as much as I would love to accommodate the chairman of the committee, based upon the status at this time and the comments of the majority leader this morning, I will have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, in light of that objection, I would inquire as to whether we can enter into an agreement on the Roberts amendment No. 3548; that there be 90 minutes for debate prior to a vote in relation to the amendment, with the time equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate vote in relation to the amendment, with no second-degree amendment in order prior to the vote.

The PRESIDING OFFICER. Is there objection? The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, again, based upon the process that we are now involved in and the comments of the majority leader this morning relative to the farm bill, I will have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, let's see if there can be agreement to consider the Stevens amendment No. 3569; again that there be 60 minutes of debate prior to a vote in relation to the amendment, with no amendment in order to the amendment prior to the vote, and the time be equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, once again, based upon the process we are now engaged in and the comments of the majority leader this morning, I will have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I ask unanimous consent that we proceed to

the Allard amendment No. 3572; that there be 60 minutes of debate prior to a vote in relation to the amendment, with the time equally divided and controlled in the usual form, with no second-degree amendment in order prior to the vote; that upon the use or yielding back of the time, the Senate proceed to vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Reserving the right to object, I would say there may be some common ground.

I ask unanimous consent that the unanimous consent request of the chairman be modified and that the pending amendments and motion to recommit be withdrawn and the only amendments in order be the bipartisan list of first-degree amendments I have sent to the desk and that all first-degree amendments be subject to relevant second-degree amendments.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. HARKIN. I do not modify my request.

Mr. CHAMBLISS. Then, Mr. President, I will have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I am certain the Senator will have another unanimous consent request of his own very shortly, as he just enunciated. I just proposed five requests for votes in relation to amendments that are relevant to the farm bill. As we just heard, there are objections to each one of those.

We are ready to move ahead. We have been here now a week, over a week, on this farm bill, and we are stuck, dead in the water. Again, my friend, Senator CHAMBLISS, said he wanted to send to the desk a list of amendments that have been looked at. Not all of them have been filed, as I understand, but they have been talked about. As I understand it, there are 255 amendments. That is ridiculous. Of course, we are not going to have 255 amendments. But at least we could work. We are here; we could be working now. We could debate the Dorgan amendment and vote on it today. There are five requests I just offered right now, five amendments we could dispose of this afternoon. The other side objected to each one of those.

Again, I am extremely frustrated, as the chairman of the committee. We got a bill through. We worked very hard on it. Senator CHAMBLISS worked very hard on it. Yet we are stuck. We got it through committee. There was not one dissenting vote in the committee, not one. It is a good bill.

As Senator LINCOLN said—I heard her speech this morning—it is bipartisan, it is multiregional. There are a lot of compromises in it, as is true in any bill. But we got it through without a dissenting vote. Yet we cannot even work on it on the Senate floor? We cannot even work on it. Forget about passing it, we can't even work on it.

I just propounded five requests to have debate and votes on amendments, relevant amendments to this farm bill, and every time it was objected to.

I don't know. I just want to make it clear that we on this side are ready to do business. We have been for a week. We could have been debating relevant amendments. We could have almost—we could have been done with this bill by now.

I want to point out a little bit of history. On the last farm bill, when I was privileged to chair the committee at that time in the Senate, in 2002, we had 10 days of consideration in December and 6 days in February. That was it. Mr. President, 53 amendments were considered, not 255.

In 1996, we had 4 days of consideration, 24 amendments to the bill; in 1990, 7 days of consideration, and we proceeded to vote on it. This is very frustrating. We are here. We are ready to do business. We are ready to debate and vote. Yet the leadership on the other side says no. The leadership says no.

I wanted to make it clear, fundamentally, basically clear to all Senators and anyone watching: We on this side have been ready, are ready, are willing to debate and vote on these amendments. It has been objected to on the other side.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this is almost unbelievably disappointing. This is the second week we are on the farm bill. We have people in the Senate who believe, apparently, they are trying to imitate a set of human brake pads and stop everything. We haven't even started. How can you stop it? I don't understand this at all. If family farmers farmed like Congress legislated, there would be no food.

When it comes spring you have to plant the seeds. You have to do it. It is not an option. When it comes harvest time, you have to take it off the field. When the cows are ready to milk, you have to milk. We have a few people in Congress who believe you don't have to do anything. All you have to do, as I said, is imitate a set of human brake pads and just stop everything. I guess maybe that is a successful strategy for some, if you do not believe anything ought to get done.

The chairman of this committee, Senator HARKIN, and the ranking member, Senator CHAMBLISS, worked hard on this. I understand Senator CHAMBLISS has been objecting as a result of the minority leader's position. I understand that. But my colleague from Iowa just propounded a series of unanimous consent requests. He said let's just start. This isn't rocket science. How do you get this bill done? First, you start the bill.

As I understand it, my colleague proposed a couple of amendments from each side, Democratic amendments, Republican amendments. Just start,

have some time agreements, have a debate, have a vote.

If there are some who do not want a farm bill to be passed in this Congress, I understand. They have a right to vote against and speak against the farm bill. But why on Earth should they hold this bill hostage to their whims? We take for granted, every single day in this country, what family farmers do. They get up out there in the country, living under a yard light, get up, often very early, and do chores. They work hard. They take a lot of risks. They have big dreams. They live on hope. They must live on hope. They hope there is going to be a better crop, a better year. They hope they are going to be able to make a decent living. We take all of that for granted.

What we try to do in the Congress is to write a farm bill that says family farmers are important—yes, for economic reasons but also for cultural reasons, to have a network of families out there producing America's food. Family farmers are important, and we understand families can't survive some tough times, so we create a safety net, a bridge over price depressions. And we say: We want to help you. That is what the farm bill is about.

There are other pieces of it, nutrition and other issues, but the centerpiece of a safety net for family farmers is very important. I guess I don't remember a time when we had a farm bill on the Senate floor that has been held up. I voted against some farm bills I didn't like. But, you know, I didn't like the so-called Freedom to Farm bill, which I thought was a disaster, so I voted against it, but I didn't come down to the floor to try to prevent it from moving. I just said this is something I will not support, so I voted against it.

In this case, and in the previous case with the farm bill we operate under currently, I support it. I really want this to move forward. I do not understand. I do not understand at all. We could compare, perhaps, the Senate to a glacier, but the difference is a glacier actually moves from time to time. This Senate, on this bill, is going nowhere because of a couple of people who decided we are going to stop it.

The majority leader has brought this bill to the floor of the Senate, allowed 2 weeks for it. Both colleagues, Senator HARKIN and Senator CHAMBLISS, have worked hard. My colleague, Senator CONRAD, has been out here working hard to see if can we get a list of amendments we can begin working through. Apparently, we now know there are something like 250 amendments that have been noticed. Obviously, we are not going to have 250 amendments on this bill. We don't have time for that. Some of these amendments, a good many of them, have nothing at all to do with this subject at all—going back into immigration and a whole series of tax issues that have nothing to do with farming, agriculture, family farms.

So the question is, Can we find a way to reduce that number of amendments and then just start?

The first amendment Senator GRASSLEY and I have offered is an amendment that would, I think, improve the bill. But we have not been able to even begin the first 5 minutes of debate on that amendment. There are many others.

My colleague offers a proposal: Let's at least start on two Republican and two Democratic amendments. The first step of any journey is the most important step. Let's just begin. Here it is, a week and a half after the bill comes to the floor of the Senate, and this Senate is at parade rest. I do not understand it.

One of my great concerns at the moment is that the time has been set aside to try to get this farm bill done. Senator HARKIN and Senator CHAMBLISS wrote a farm bill that came out of the Agriculture Committee, as I understand, unanimously. You would believe, then, that represents bipartisan agreement on the central portion of a farm bill. Can we improve it a little bit? I think so. There are some amendments back and forth that perhaps will improve some portions of it. But the fact is, they wrote a bipartisan bill that had very strong support, in fact, unanimous support in the committee.

How on Earth do we get to a point where a bill that comes out of the committee unanimously, a bill that is as important as this one is to every region of the country, sits on the floor of the Senate at parade rest, and we cannot even get to debate on the first amendment? I do not understand that at all. That makes no sense to me.

The fact is, time is running out. I worry if we do not get this bill done this week—work late tonight, late tomorrow night, into Friday, get this bill done—I worry that this bill is not going to get done in any timely fashion. What an awful message for us to send to family farmers. The message in this bill is, we think they matter. We think they are an important part of this country's economic strength. Family farmers have always been the economic All-Stars.

But it is beyond me to understand what is going on here. We have amendments. My amendment is pending, but we can't even begin the first minute of debate. I don't understand it at all.

I have said before on the floor of the Senate that family farmers in this country produce a lot more than crops and food. They produce communities. They are the blood vessels that create the strength for these small towns. I grew up in one of those towns. We raised some cattle and some horses. The fact is, family farmers are very important to the economic strength and to the culture of this country. They do not expect much. They don't ask for much. They are an independent bunch of people. They are people who try to raise a family and raise a crop,

way out in the country, in many cases. They are not asking for anything very much except that this country has believed for a long while that all of the uncertainties, all of the risks that accrue to family farming in many cases just wipe them out unless you have some kind of safety net. That is why we have created a safety net.

They plant a seed, hope it grows, hope it rains enough, hope it doesn't rain too much, hope it doesn't hail, hope the insects don't come, hope there isn't any crop disease. Then they hope they have a chance to harvest it in the fall and then hope when they harvest it and truck it to the elevator, it is going to have a decent price. All of that risk, all alone.

So we create a safety net to say we are going to try, if we can, to provide some strength to that hope because we want family farms to continue to exist in the future because we think it strengthens our country. That is why we write a farm bill. All of us come from different points on the compass, but we all believe basically the same thing: family farming matters for this country.

How on Earth have we gotten to the point where, on a Wednesday, a week after we start the debate on the farm bill, we have not been able to consider even one amendment?

Now we risk not getting the farm bill done. How we have gotten to this point, I don't have the foggiest understanding, but it is not healthy and not good.

I hope we can persuade the minority leader and others to let us proceed. Just start. We are not asking for the Moon. Just start discussion, debate, and vote on amendments, and let's see how quickly we can move through these to try to get a bill done before the end of this week.

Let me finish, as I started, by saying I know a lot of people have worked for a long time on this bill. There are a lot of people on both sides of the political aisle who want this bill to get done. I am among them. But there are some who have decided we ought not move forward, and they have decided the only way they would allow us to move forward is to allow all kinds of amendments that go back and recreate the debates on immigration, and you name it. The fact is, all that means is we will not get this bill done, never get this bill done. So let's go back to the tradition.

The tradition has been, with respect to farm bills, we have had farm bills on the floor of the Senate in which we debate and vote on amendments. We do not, in most cases, see amendments that have nothing to do with agriculture load down this bill and decide we are going to try to stop it from moving. I hope we can get back to that tradition. That is the tradition I think farmers would expect of us.

Let me again say, as I started, if families out there in the country farmed like we legislate—or at least like a few

people in this Chamber want to legislate—there would be no food because they would never plant the grain. It wouldn't matter, timing doesn't matter, they wouldn't harvest the grain, timing doesn't matter; they wouldn't milk the cows because they wouldn't care whether the cows are fresh or sore.

This Congress can do a whole lot better than this, and my hope is, in the coming couple of hours, we can reach agreement and begin debate on the amendments. Let's follow this trail until the amendments are done, and I think that farm bill will get a resounding vote on the floor of the Senate. I think the farm bill will get two-thirds or perhaps three-fourths in favor of it.

I yield the floor. I know we have two other Members on the Senate floor. The Senator from Colorado had indicated he wanted to speak, but I know the Senator from Georgia is on the Senate floor as well.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank the Senator from North Dakota for his comments. He is exactly right. There are a lot of us in this body who wish to see this farm bill move. I actually came back a day early last week thinking the farm bill would be up the next day.

I was prepared, as ranking member, to move ahead with the farm bill. When I got here, I found out we all of a sudden were going to be caught in a process that is unique to the Senate, and that is a process where the majority leader has the right—and I understand he has the right; I understand that we did that when we were in the majority—to fill the tree, and he did so. And when he does so, it kind of brings things to a halt. That is the purpose in doing that, in trying to control what amendments may be filed. I thought after a week's time, yesterday, rather than us debating amendments, moving through, which in all likelihood we conceivably could have been through this bill by now—but instead of being able to call up amendments, debating them and voting on them over the past week, we have been stuck in this process now that requires a unanimous consent by both sides before we can move forward with the process of dealing with amendments.

Yesterday I had some hope, because Senator HARKIN and I agreed that what we thought we ought to do would be to come up with a list of amendments that are relevant, and as always is the case on any major piece of legislation, some were irrelevant amendments. I would hope we could agree on a number. Unfortunately, we have not been able to do that. As of yesterday we had about 140 Democratic amendments that were filed, and about 120 Republican amendments that were filed.

Most of them are relevant to the farm bill, but some of them are not. But it is always the case that we deal with some nonrelevant amendments.

But instead of allowing Senator HARKIN and me to move through the process of taking the amendments—the first one we had agreed to take was Senator DORGAN and Senator GRASSLEY's amendment. Instead of allowing us to move ahead and debate that amendment, and possibly have already voted on it, if we had taken it up this morning with the time agreement we had tentatively agreed to, a decision was made that we are not going to be allowed to do that, and nothing is going to happen until there is a definite agreement by both sides on not just the number of amendments but what nonrelevant amendments will be considered.

It will happen. I know this is not the first time this situation has happened in this body with a farm bill. I would remind those who were here in 2002, at that time there were 246 amendments filed; almost exactly the same number of amendments were filed to the farm bill while the Democrats were in charge in 2002. There were at least two, and there may have been three, cloture votes. I am not sure because I was not here then. But there were two or three cloture votes asked for and made on the farm bill before cloture was invoked. Those cloture votes originally were made in December of 2001. When cloture was finally invoked in February of 2002, the farm bill sailed through in a matter of a few days. So we are basically in exactly the same position we were in 2002.

But here is the problem. 2002 was an entirely different atmosphere in American agriculture. Farmers and ranchers need to be discussing next month with their bankers and their insurers and landowners from whom they lease property, or farmers whom they lease property to; they need to be talking to their equipment dealers about how much they are going to plant of what respective crops; how much insurance they are going to need; how much in the way of financing they are going to need; how much in the way of new equipment or repairs or replaced equipment they are going to need, so that come next March, in the whole Southeast, not just in my State, but in March we start planting crops. Early corn goes in in March or the first part of April. In 2002, I was a Member of the House, and I was a member of the conference committee on the farm bill that was delayed until final passage occurring sometime in March. Obviously when farmers do not know what to anticipate from the standpoint of farm policy, do not know what type of programs they are going to have available to them, it is difficult for them to make any decision regarding how much money they are going to have to finance their crops, how much insurance they are going to need, or how many acres of what crops to plant.

So here we are stuck in a process. I am not saying one side or the other is more to blame than the other. I think it is more the rules of the Senate that

have got us locked into this situation. I am ready to go. I was ready to go last Tuesday morning or actually last Monday afternoon. But, unfortunately, we are in a situation now where we cannot move ahead.

I did have to object to Senator HARKIN's request. There is nothing I would rather do than move on the Grassley-Dorgan amendment, although I am strongly opposed to it. I am going to advocate a "no" vote on it. But I think we ought to move and get this process going and start winnowing down these 260 or so, whatever the number of amendments is we have filed, or that we have been notified that either are filed or are going to be filed.

We can do that. It was done in 2002. We can do it now, and we are ultimately going to have to do it. Whether we do it now or whether we do it in January, whether we do it in February, we are going to do it. It is a bullet we are going to have to bite.

I regret very much having to object to Senator HARKIN's request. But, by the same token, he had to not agree to amend his unanimous consent request to comply with what I asked for, which would allow us to move ahead right now with amendments.

Those folks who are out in ag country are depending on the Congress, the Presiding Officer being one of those members who sits on the Ag Committee who has a significant interest in agriculture. My friend Senator SALAZAR, a member of the committee, comes from a strong agricultural State. Folks are depending on all of us as policymakers to get our work done, and yet here we are stuck by the rules of the Senate.

As I said in the press yesterday, I would simply say again, if we do not get this bill done this week, we do not have the opportunity to work with our colleagues in the House over the next 2 weeks while we are gone to get ready for a conference in December, it is going to be extremely difficult, if not impossible, to get a farm bill passed by both bodies, on the desk of the President before the end of the year.

That does not handicap us, but it surely handicaps those folks we represent; that is, the great men and women who are the farmers and ranchers of America. So I am hopeful that over the next several hours—I do not know how long it may take, but I hope in the short term we are able to reach some agreement. Particularly it boils down to the nonrelevant amendments. If the other side would be lenient with us in trying to let us get those amendments up, debate them, get them voted on, we can move this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I came here this morning, now afternoon, to talk about the importance of this farm bill and for us to get off the dime and get us moving forward on the farm bill. I am going to make a statement on that in a few minutes.

My friend from Utah has asked if he can go ahead of me to speak on another subject for about 10 minutes. I ask unanimous consent that the Senator from Utah be recognized for 10 minutes to speak on a subject that he will address; then, following the Senator from Utah, that I be recognized for up to 20 minutes; following my statement that Senator DURBIN be recognized for up to 15 minutes.

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

The Senator from Utah.

FISA MODERNIZATION

Mr. HATCH. Mr. President, following the unauthorized public disclosure in 2005 of what has become known as the Terrorism Surveillance Program, numerous lawsuits were filed against electronic communication service providers for their alleged participation. Currently, more than 40 lawsuits are pending, which collectively seek hundreds of billions of dollars in damages. Let me repeat that figure, hundreds of billions of dollars.

For myriad reasons which I am going to discuss, these service providers alleged to have participated deserve a round of applause and a helping hand, not a slap in the face and a kick to the gut.

The amount of misinformation concerning this issue is staggering. Given that this dialogue involves highly classified details, there are many things that simply can't be discussed. However, the committee report for the recently passed FISA modernization bill, S. 2248, from the Senate Select Committee on Intelligence is public, and contains very pertinent information.

The report mentions that as with other intelligence matters, the identities of persons or entities that provide assistance to the U.S. Government are protected as vital sources and methods of intelligence. Details of any such assistance can not be discussed. However, the committee report does mention that beginning soon after September 11, the executive branch provided written requests or directives to U.S. electronic communication service providers to obtain their assistance with communications intelligence activities that had been authorized by the President.

During consideration of FISA modernization legislation, the Intelligence Committee examined classified documents relating to this issue.

The committee, in an overwhelming bipartisan tally, voted to include retroactive immunity for service providers that were alleged to have cooperated with the intelligence community in the implementation of the President's surveillance program. Senators from both sides of the aisle, after careful consideration, came to this conclusion. Make no mistake, this was the right conclusion.

It was the right conclusion for the Intelligence Committee, and it should

be the right conclusion for the Judiciary Committee, when it considers this bill tomorrow.

Given the astounding amount of misinformation in the public domain concerning the Terrorism Surveillance Program, it is not surprising that these lawsuits are filled with false information and baseless allegations.

Some have asked a valid question, if the companies did not break the law, why do they need immunity? Quite simply, the Government's assertion of the state secrets privilege prevents these companies from defending themselves.

This assertion by the Government is absolutely essential, as the possible disclosure of classified materials from ongoing court proceedings is a grave threat to national security. Given the necessity for the state secrets privilege, the drawback is that the companies being sued are forbidden from making their case.

In fact, the companies cannot even confirm or deny any involvement in the program whatsoever. They have no ability to defend themselves.

Ordinarily, these companies would be able to address allegations and make their case. However, the classified nature of the topic means that companies are not free to do so. They can't even have discussions with shareholders or business partners. But we need to remember, lawful silence does not equate to guilt.

Another point not mentioned nearly enough is that the Government cannot obtain the intelligence it needs without the assistance of telecommunication companies. This means that our collection capabilities are dependent on the support and collaboration of private businesses.

If retroactive immunity is not provided, these private businesses will certainly be extremely hesitant to provide any future assistance to our intelligence community. This could have a crippling effect on the security of millions of people in our society; thus, it's simply an unacceptable outcome for the safety and security of our Nation.

Any hesitation from companies to provide assistance with future Government requests could be disastrous. This could affect not only our intelligence community but domestic law enforcement efforts. The next time a child is kidnapped, and law enforcement needs help with communications, would that situation allow any hesitation from the service provider? If your son or daughter was missing, would you stand for any lack of cooperation from companies? Do we want endless teams of private company lawyers second, third, fourth, and fifth guessing lawful orders to compel their assistance?

This is not the only problem with not including retroactive immunity. As the duration of these lawsuits increases, so does the chance that highly classified sources and methods of our intelligence community will be unnecessarily and unlawfully disclosed. Our enemies are

acutely aware of these proceedings, and are certainly attempting to gather information previously unknown to them. The potential disclosure of classified information also puts the personnel and facilities of electronic communication service providers at risk.

Given all of the tremendous harm and damage that will occur by not passing a form of limited liability, I am amazed at the number of individuals who fail to grasp the seriousness of the issue before us.

To those who purport to oppose immunity in any form, I would hope that they take the time to actually read the bill. For those unable to tear themselves away from their favorite partisan blog, I am going to quickly tell you what the immunity provision says, and what it does not say. Remember, this bill passed 13-2 in the Intelligence Committee.

A civil action may be dismissed only if a certification is made to the court certifying that either (1) the electronic service provider did not provide the alleged assistance, or (2) the assistance was provided after the 9/11 attacks, and was described in a written request indicating that the activity was authorized by the President and determined to be lawful.

Furthermore, this certification has to be reviewed by the court before a civil action can be dismissed.

It does not provide for immunity for Government officials. It does not provide for immunity for criminal acts. Instead, it is a narrowly tailored provision that strikes a proper balance. This point can't be overlooked; the immunity provision in the current bill has absolutely zero effect on the numerous lawsuits pending against Federal Government agencies. These cases will go on, with their questionable constitutional challenges, with no impact from this bill.

Some Senators have suggested that indemnification or substitution would be possible solutions. Let me be perfectly clear, neither one is appropriate or acceptable in this situation. The Intelligence Committee considered both of these ideas, and rejected them for good reason. Indemnification, where the Federal Government would be responsible for any damages awarded against the providers, is not advisable since the providers would still be parties to the lawsuits, and thus the suits would continue with the consequences of disclosure and discovery. Not only does this further the likelihood of disclosure of classified material, but the companies will face serious damage to their business reputations, relationships with foreign countries, and stock prices. This is extremely unfair, if handled improperly.

Substitution, where the Government would litigate in place of the service providers, is not a viable solution since all of the same concerns just mentioned still apply. Even though the providers will not be parties to the litigation, discovery will still apply.