

The 1994 crime law targets \$8.8 billion for States and localities to train and hire 100,000 new community police officers over 6 years.

And as we pass the 1-year mark, it is already clear that the Cops Program is working even beyond expectations. Already, more than 33,000 out of 100,000 cops are funded in every State in the Nation. And because of the way we've set it up—with a match requirement and spreading out the cost over a period of years—the money will continue to work, keeping these cops on the beat and preventing crime in our communities far into the future. In a word, the law is working.

But that progress will come to a screeching halt if my Republican colleagues get their way—either through drastic spending cuts as under this continuing resolution or through block grants with loopholes you could drive a truck through.

What is one to conclude from the efforts of the Republicans to gut the 100,000 Cops on the Beat Program? Is it that tax cuts to a few are more important than protecting the safety of average Americans?

Apparently my Republican colleagues in Washington just don't seem to get the message. So let me make this crystal clear. If they think that they will use their new targeted appropriations strategy to kill the Cops on the Beat Program—to cut \$1 billion and thousands of cops—they are sorely mistaken. I will do everything in my power to prevent the Republicans from further undermining the 100,000 Cops Program.

So, although this continuing resolution funds cops at 75 percent of last year's outlays for the next 49 days, this indirect ambush on the 100,000 Cops on the Beat Program—a program demanded by the American people—will not be tolerated for the full year.

#### TAXPAYER FUNDING OF HUMAN EMBRYO RESEARCH

Mr. SMITH. Mr. President, I want to congratulate my colleagues in the House for adding the language in section 128 of this bill, which prohibits the use of taxpayer funds to create human embryos, to perform destructive experiments on them, and ultimately, to destroy and discard them.

We funded the National Institutes of Health in the earlier targeted appropriations legislation, but that bill did not contain this important restriction on the use of Federal funds. I have been working on this issue for the past several months, trying to call attention to the issue, and I am very pleased that we are very close to getting this important provision enacted into law.

Many of my colleagues might not totally understand what exactly we mean when we talk about human embryo research. So, before we vote on this critical legislation, I would like to give a brief explanation of the issue.

Mr. President, this is an issue that calls upon us to reaffirm the ethical

limitations that govern taxpayer-funded scientific research. It is an issue that calls upon us to uphold the dignity of humanity itself.

We know that science has benefited all of humanity in countless ways, but every one of us knows that the history of scientific inquiry also has its dark chapters. We have learned painful lessons from the atrocities that have been committed in the name of scientific progress. We have learned that the human subjects of scientific experiments must give their fully informed and voluntary consent. We have learned that ethical experimentation requires a proper respect for the dignity of the human subject. We have learned that an experiment that is likely to result in the death of, or disabling injury to, the human subject cannot be ethical and must never be permitted to occur.

These principles are enshrined in the Nuremberg Code. They can also be found in the World Medical Association's Declaration of Helsinki as well as other major international conventions governing scientific ethics. They make it clear that no human being can be ethically regarded as an instrument—a mere means to serve the ends of another person or group of persons.

These are absolute principles. Their framers clearly intended to establish limits beyond which an ethical science would not be permitted to go. Suppose for a moment that it could be proven that a large number of people could benefit and live happier lives if we all agreed to use a few of our fellow human beings as research subjects in experiments that we knew would harm or kill them. Of course, the benefits of scientific research are never certain, but let's put that aside. It wouldn't matter. Certain ethical principles are inviolate. That means that we do not subject them to cost-benefit analyses.

I must commend President Clinton for his Executive order banning taxpayer-financed creation and destruction of research embryos. In making this decision, the President acted on the belief that ethics imposes certain limits on science. I only wish he had followed that logic to a more honest and consistent conclusion.

Unfortunately, however, President Clinton continued to allow so-called spare embryos from in vitro fertilization programs for experimentation and destruction. In other words, it's still permissible to use developing human beings as raw material for bizarre experiments that will result in death.

First of all, the distinction between specially created embryos and so-called spare embryos is unenforceable and meaningless in practice. When the Australian Parliament considered this issue, Dr. Robert Jansen—an advocate of embryo research—put it very plainly:

It is a fallacy to distinguish between surplus embryos and specially created embryos . . . any intelligent administrator of an in vitro fertilization program can, by minor

changes in his ordinary clinical way of going about things, change the number of embryos that are fertilized. . . . It would be but a trifle administratively to make these embryos surplus rather than special.

The Warnock Committee, which investigated this issue in Great Britain, reached an identical conclusion. Furthermore, how can we say that it is wrong for Government to use taxpayer money to fund the creation of life for experimental purposes but say that it is nevertheless permissible to fund its destruction?

More importantly, just because a private party plans to destroy life, why should Government force taxpayers to give their blessing to that act? Let private parties use private money for their ethically challenged experiments. Taxpayer dollars should be used to protect and uphold human life, not to destroy it.

Columnist Ellen Goodman has stated that scientific inquiry must recognize the existence of ethical stop signs. President Clinton also acknowledged that there are ethical limits on scientific inquiry when he drew the line and prohibited the creation of human life for research purposes. Former NIH Director Bernadine Healy probably put it best:

It's a rather profound decision to say that a government agency will use taxpayer dollars to designate a class of subhuman humans that will be there solely to be experimented upon and then discard them at the whim of science.

Mr. President, the supposed benefits of a kind of scientific research do not make that research ethical. Today, when we pass this legislation we will be saying to the American people that ethics determine the limits of science and not vice versa. We will be saying that in the interest of science, we should not violate the fundamental principle of the sanctity and dignity of all human life. I urge the President to support this important provision.

#### BALANCED BUDGET

Mr. GREGG. Mr. President, the provisions of the Balanced Budget Downpayment Act that relate to the Commerce, Justice, State, the judiciary, and related agencies [CJS] appropriations bill provide for funding at the levels outlined in the fiscal year 1996 conference report under fiscal year 1995 terms and conditions, with certain exceptions which are spelled out in the legislation.

Along with the distinguished ranking member of the subcommittee, Senator HOLLINGS, I want to notify all departments and agencies funded under the CJS bill that the fiscal year 1996 conference report and statement of managers and the House and Senate reports relating to the fiscal year 1996 CJS bill should be used to the maximum extent possible in allocating resources under this legislation. With very few exceptions, the guidance provided in these documents will likely become the final guidance for expenditure of fiscal year 1996 funds.

## DEPARTMENT OF JUSTICE

Office of Justice Programs—Funding is included for discretionary and formula grants under the Edward Byrne Memorial State and Local Law Enforcement Program. It is the committee's intent that discretionary grants should be made in accordance with the joint statement of managers, and, that among those grants, the Justice Department should make funding the requirements of State and local law enforcement related to the 1996 Olympic Games a priority.

Truth-in-sentencing grants—The pending bill contains language that withholds all funding for a new Truth-in-Sentencing Prison Grant Program until an agreement on revised legislative language can be reached. The sole exception to this provision is funding included under this program in the conference report to help reimburse States for the costs of incarcerating criminal aliens.

The pending bill includes a provision that applies the terms and conditions of the 1996 conference report and statement of managers to amounts provided in the previous targeted appropriations legislation for various Department of Justice programs for the remainder of the fiscal year. Within these terms and conditions, Senator HOLLINGS and I want to clarify the following points:

Under the Interagency Crime Drug Enforcement Program, it is the committee's intent that the Attorney General, in consultation with the Office of Investigative Agencies Policies, will allocate resources among agencies participating in interagency crime and drug task forces based on current task force requirements. It is our intent that this review include a results-oriented analysis of task force operations.

It is the committee's intent that funding provided for the Federal Prison System includes both the construction of new prisons under the terms specified in the statement of managers and continued support for the National Institute of Corrections.

## DEPARTMENT OF COMMERCE

Advanced Technology Program—The pending bill provides funding for the Advanced Technology Program [ATP] at a rate of operations of up to 75 percent of the final fiscal year 1995 appropriated level. The bill contains language which would prohibit funding for new ATP awards or grant competitions during the period covered by this legislation. During this period, ATP funding will be restricted to program administration and continuation grants for ATP projects awarded in fiscal year 1995 or earlier.

The pending bill includes language similar to a provision contained in the conference report on the fiscal year 1996 Commerce, Justice, State Appropriations Act requiring that costs associated with personnel actions resulting from funding reductions included in subsection 201(a) bill be absorbed within the total budgetary resources available to each department or agency.

This provision allows each department or agency to transfer funds between appropriations accounts as necessary to cover the personnel costs associated with program closeouts or downsizing requirements. This transfer authority is provided in addition to the authorities available under fiscal year 1995 terms and conditions and is subject to the committee's standard reprogramming procedures.

## DEPARTMENT OF STATE AND RELATED AGENCIES

With respect to title IV of the CJS bill, covering the Department of State, the United States Information Agency [USIA], and the Arms Control and Disarmament Agency [ACDA], funding at the conference level generally provides an operating level above what has been in effect under the previous continuing resolutions.

For contributions to international organizations and contributions for international peacekeeping activities, the amount of funds available to be obligated is intended to be no higher than the proportionate amount of the full-year funding level provided in the conference report that corresponds to the number of days covered by this legislation.

Under USIA, continued funding for the inspector general [IG] has been provided for the term of this legislation. The funding is to be derived from the conference level of funding for the State Department's inspector general, because that level of funding was based upon the merger of the USIA IG office into the State IG office. Both offices are to continue to prepare for the merger, which is fully anticipated to occur during this fiscal year.

With respect to educational and cultural exchange programs, the statement of managers language in the conference report concerning the tenth paralympiad should be carried out on an expedited basis. Sufficient funds should have been appropriated under previous continuing resolutions and the pending bill to permit this issue to be addressed during the period in which the current legislation is in effect.

## RELATED AGENCIES

## FEDERAL TRADE COMMISSION

The committee expects that amounts provided in the bill for both the Federal Trade Commission and the Justice Department's Antitrust Division will allow these agencies to function at the full operating levels assumed in the conference report on H.R. 2076, based on estimated offsetting collections of \$48,262,000 for each agency.

## LEGAL SERVICES CORPORATION

Funding in this bill for the Legal Services Corporation [LSC] includes interim funding for basic field programs until a new competitive grant program is implemented. The committee expects LSC to begin a competitive grant program on April 1, 1996, and to be prepared to implement restrictions outlined in the conference report on H.R. 2076.

## SMALL BUSINESS ADMINISTRATION

Small Business Development Centers—the bill provides funding for the

Small Business Administration [SBA] Small Business Development Center [SBDC] Program at the fiscal year 1996 conference level. This will allow SBA to continue to make funding commitments with State resource partners in the SBDC Program based on the fiscal year 1996 funding level provided in the conference report.

Disaster assistance—the committee is aware that funding levels provided for the SBA Disaster Loan Program subsidies and administrative expenses may be insufficient to continue the program for the full fiscal year, especially considering the rate of disasters thus far this fiscal year. The committee notes that there are two primary reasons for the shortfall. First, the request for subsidy amounts for the loan program was based on proposed legislative changes modifying the interest rate on SBA disaster loans. While the full request for loan subsidies was appropriated, the proposed legislative changes, which are not under the jurisdiction of the Appropriations Committee, have not been enacted yet. Additionally, the administration has not amended its budget request to provide additional resources needed to maintain program operations, nor has it identified the offsets necessary to provide those resources.

The second reason for the shortfall is the failure of the Small Business Administration to adequately budget for the appropriate level of administrative costs for even a normal disaster year within the appropriate account for this program. The committee expects SBA to reprogram an amount to cover the base requirements for disaster loan making within the funds provided under this act. Furthermore, the committee expects that future budget requests for administrative expenses under the Disaster Loan Program account will fully cover the costs of providing the services required to manage the loan program level assumed in the budget request.

The committee recognizes the severity of disasters such as the devastating flooding in Pennsylvania and other Mid-Atlantic States following recent storms, and is confident that the SBA will be able to respond appropriately and responsibly to these dire situations within the resources currently available under the Disaster Loan Program during the period covered by the Balanced Budget Downpayment Act. The committee recognizes that additional funds for the SBA Disaster Loan Program may be required prior to April, and believes that if additional resources are needed, they can be provided through the reprogramming process to assure continuation of the program through March 15. The committee will work with the administration to determine the appropriate level of funding for this program as well as potential sources of funding offsets.

Ms. MIKULSKI. Mr. President, today I will vote for the continuing resolution that will prevent another Government shutdown. I do so because I do

not believe our country can withstand another Government shutdown.

I am budget weary. My home State of Maryland is budget weary. I have 260,000 Federal employees in my State. They are budget weary. And the Nation is budget weary.

Running our Government by shutdown and 30-day funding measures is wasteful and irresponsible. It's harmful to our country—harmful to our international standing, harmful to our credit rating, and harmful to the future of our country.

Mr. President, the State of Maryland is home to some of the flagship agencies of the Federal Government. It is home to the National Institutes of Health, where dedicated researchers are fighting to discover a cure for Alzheimer's disease, to Parkinson's disease, to cancer, and other devastating ailments. We are the home to the Food and Drug Administration, to the National Institute of Science and Technology, and to Goddard which is piloting the Mission to Planet Earth.

During the last shutdown, I spent time throughout my State talking to Federal Employees about how the shutdown was affecting them. I talked to the dedicated doctors, nurses, and lab technicians at our excellent Veterans' Administration Hospital in Baltimore. They were on the job, tending to our veterans health care needs, but they weren't getting paid.

I met with agents of the Federal Bureau of Investigation. They were working to protect our safety, to fight the war on drugs and crime—but they weren't getting paid.

I spoke with the good people at NASA's Goddard Space Flight Center—where they are scanning the universe for the secrets to life here on Earth. But their work was imperiled because essential contractors were not getting paid.

After having met with these essential and valuable Federal employees, I am more determined than ever that we can never have another Government shutdown.

So, Mr. President, I will vote for this continuing resolution today. But I must say that I have profound problems with many of the terms and conditions of this bill. The need to avoid a third shutdown cannot ignore the very real harm that will result from the terms of this CR.

First of all, I am very disappointed that we are not providing the same furlough protection for Federal employees that we did in previous continuing resolutions. This CR will allow agencies to furlough employees for 1 workday per pay period. This could amount to a 10 percent pay cut for Federal employees in Maryland and across the Nation.

I don't see how we can expect to maintain an effective and dedicated work force when Federal employees are under constant attack. These assaults must stop.

I am also deeply distressed by the inadequate funding for education that

this measure contains. For this reason, I supported Senator KENNEDY's amendment to protect education programs. I know all too well that schools in my State of Maryland could use any additional Federal funding because times are hard right now for the public school in my State.

Without the Kennedy amendment, Maryland's college students will not know if they can afford to go back to college next semester, services for Maryland's disadvantaged youngsters in elementary school would end, and teachers would be laid off.

As an appropriator, I know first-hand how difficult it is to allocate and balance limited Federal dollars. But if the current funding levels are extended over the next year, it would cut education by \$3.1 billion—the largest education cut in history. That's why I supported the Kennedy amendment. I'm disappointed it could not be approved today.

Furthermore, the cuts to agency budgets will have very negative consequences. Cuts in the Environmental Protection Agency [EPA] truly threaten public health and safety.

This continuing resolution will cut the EPA by \$1 billion. That's a 25-percent reduction in enforcing environmental and public health standards for air pollution, pesticides, and clean water. It's a 45-percent cut in funds needed to protect community drinking water. It's a 30-percent cut in funds going directly to States to build wastewater and sewage treatment plants, and a 25-percent cut in Superfund hazardous waste cleanup.

The American people want clean drinking water. The American people want hazardous and contaminated waste sites cleaned. But these deep cuts would make it impossible for EPA to protect the environment and public health and safety and it would cause staff cuts at EPA.

I am also opposed to the way HUD is treated in this process. This Nation cannot run its housing programs by continuing resolution. HUD cannot effectively enter into contracts to provide basic housing services. Community development and emergency housing services have been unable to spend any funds to meet the very real needs of the people. The uncertainty of program funds and guidelines make it difficult for HUD to proceed in an intelligent fashion.

In addition to concerns over the education, the environment, and the housing provisions, I strongly oppose the provisions in this bill that deal with international family planning. By delaying and reducing our contribution to international family planning, we are denying health care to the world's poorest women.

Those who support this provision claim to want to reduce the number of abortions. But the effect of this provision will be just the opposite. Family planning prevents unwanted pregnancies and abortions. You would

think this basic fact would not need to be restated on the floor of the U.S. Senate.

U.S. international family planning funds are not spent on abortion. So now they are going after basic health care services that prevent pregnancy.

Over 100 million women throughout the world cannot obtain or are not using family planning because they are poor, uneducated, or lack access to care. Twenty million of these women will seek unsafe abortions. Some women will die, some will be disabled. We could prevent some of this needless suffering.

This issue won't go away. The majority of the Senate opposes this irrational and cruel provision—and we will continue the fight to enable the world's poorest women to control and improve their lives.

There are other examples of how running a government by CR makes no sense and hurts the employees of those agencies. But the bottom line remains that we cannot afford another shutdown. Despite the onerous provisions contained in this continuing resolution, shutting down the Government would be worse. This is why I will vote for this bill, but I do so with great anguish.

Mr. McCAIN. Mr. President, I rise to voice my strong support for section 126 of H.R. 2880. That provision was sought by many American Indian and Alaska Native communities throughout the Nation who rely on the Indian Health Service and the Bureau of Indian Affairs to provide essential governmental services and to build, operate, and maintain critically-needed facilities for them. I comment the House and Senate leadership, as well as the leadership of the Appropriations Committees, for including this provision.

Earlier this week, Senator STEVENS and I asked that the House include funding, through September 30, 1996, for all Native American-related projects and activities within the Interior and related agencies appropriations bill at the level of funding provided for in the Interior conference report approved by the House and Senate last December. Most of what we sought finally was adopted as section 126 by the House late yesterday and is before the Senate for consideration today.

Section 126 of H.R. 2880 provides funding through March 15, 1996, at the December 1995 conference markup for all projects and activities funded through two Federal agencies under the Interior and related agencies appropriations bill—the Indian Health Service and the Bureau of Indian Affairs. It is my understanding that this includes all health services and related health facilities projects and activities administered by the Indian Health Service, as well as all those projects and activities administered by the Bureau of Indian Affairs under the account headings operation of Indian programs, construction, Indian land and

water claim settlements and miscellaneous payments to Indians, technical assistance of Indian enterprises, and the Indian guaranteed loan program account.

Mr. President, on January 5, 1996, Senator STEVENS and I and many other Senators and Representatives were able to secure funding through September 30, 1996, for all projects and activities administered by Native American tribes and organizations under self-determination contracts and self-governance compacts authorized by Public Law 93-638, as amended. Under Public Law 104-91, the full-year funding level for these tribal operations was set at the amounts provided for in the December conference report.

Although a substantial number of native American tribes and organizations have assumed operational responsibilities under Public Law 93-638, many of the more dependent tribes have not done so and thus continue to rely on Federal employees of the Bureau of Indian Affairs and the Indian Health Service to provide essential governmental services. Under the continuing resolution expiring tonight, these non-Public Law 93-638 activities have been funded at a sharply lower rate than that provided Public Law 93-638 activities carried out by tribes, because of the great differential between the funding levels passed by the House and Senate last summer in the Indian accounts. As a result, there has been a huge disparity between funding levels for tribally operated activities and projects and for those operated by Federal agencies on behalf of other tribes in recent weeks.

Section 126 of the bill under Senate consideration today will fund all remaining federally operated projects and activities under the Bureau of Indian Affairs and the Indian Health Service at the same level the Congress funded tribal-operations earlier this month. This will remove any difference in funding levels between tribally-operated and federally operated projects or activities for the benefit of native Americans. I urge my colleagues to support this provision.

#### CLARIFICATIONS ON RESTRICTIONS

Mr. BROWN. Mr. President, I rise today to express my strong support for the foreign operations provisions included in today's continuing resolution.

Some questions have been raised concerning the Brown amendment on Pakistan and the extent of its application. I would like to take a minute to clarify the intent behind the amendment. The purpose of the Brown amendment was to release equipment bought and paid for by Pakistan that has been held by the United States and prevented from delivery. As a party to the contract between the United States and Pakistan, it is my firm belief that the United States has significant obligations to tender goods that meet our contractual obligations. It is my view that the United States should deliver

to Pakistan military equipment and technology that is in full working order, and that costs accrued in the process of bringing the equipment up to full working order should come from reprogramming funds from within existing budgetary resources.

Second, questions have been raised about the provision of defense services. The Brown amendment specifically states:

(4) Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F-16 aircraft, may be transferred to Pakistan pursuant to contracts or cases entered into before October 1, 1990.

It is the specific intent of this subsection to ensure that all contracts or cases entered into prior to October 1, 1990, are able to be reinstated, as well as all military equipment or technology transferred other than F-16 aircraft. This authorizes the provision of depot level assistance, contract follow-on support and contractor engineering, management and technical services, including engine depot repair. Included would be the ability for Pakistan, under existing foreign military sales cases, to renew existing support contracts or to enter into new contracts for the support of the equipment that is transferred.

Also questioned has been the subsection permitting the President to reimburse the Government of Pakistan for any amounts paid in storage costs. The subsection requires that the payments have no budgetary impact, which means that the President may reprogram any existing funds to repay the Pakistani Government, but that he is not authorized to expend funds that would be scored by the Congressional Budget Office as requiring an additional appropriation.

Pakistan has been an important friend and ally of the United States. It is my hope that this amendment will begin the process of reinvigorating our relationship.

#### OPPOSITION TO PROHIBITION OF FEDERAL FUNDING FOR HUMAN EMBRYO RESEARCH

Mrs. BOXER. Mr. President, I rise in opposition to the language in the continuing resolution which prohibits Federal funding of human embryo research.

All this prohibition does is close out venues for medical research that could save people's lives. Prohibiting Federal funding of human embryo research will hold the health of millions of Americans hostage to antichoice politics.

Let me highlight a few important facts about human embryo research. Human embryo research does not involve human embryos or fetuses developing inside the body. Rather, this research involves the examination of embryos only in a culture dish.

Nor does human embryo research involve abortion or the use of aborted fetal tissue. Human embryo research also does not involve cloning or the creation of nonhuman life forms. Lastly, human embryo research does not in-

volve genetic engineering or the sale of embryos.

This research involves embryos donated by couples who have undergone certain medical treatments which help them have children. A woman receives hormone shots that cause her ovaries to produce eggs, which in turn are removed and fertilized in a petri dish by a man's sperm.

Some of the embryos are returned to the womb with hopes a pregnancy will result. If there are remaining embryos, they can be used for research with the couples permission.

A prohibition on embryo research will severely restrict high-quality scientific research that could lead to a variety of beneficial medical treatments. Medical research on human embryos shows promise for the treatment and prevention of some forms of infertility, cancers, and genetic disorders, and may help lead to a reduction in miscarriages and the development of improved contraceptive methods.

Human embryo research could help enable hospitals to create tissue banks which would store tissue that could be used for bone marrow transplants, spinal cord injuries, and skin replacement for burn victims.

As doctors have discovered, Alzheimer's disease and Parkinson's disease are the result of damaged degenerating nerve cells and tissues. Human embryo research could ultimately result in development of universal donor cells and tissue to replace what was lost to nerve damage.

Human embryo research is also vital in the prevention of cancer. Knowing how cells divide and grow will help researchers to better understand how and why cancer cells grow. This research may lead to better methods of prevention and treatment for leukemia, breast cancer, prostate cancer, and many other cancers.

Between 1975 and 1993, due to a combination of regulatory restrictions and administrative inaction, no Federal funding was made available for human embryo research. As a result, the United States has fallen far behind the rest of the world in this area.

Although the United States often leads the world in biomedical research, the most recent breakthroughs in assisted reproductive technologies and human embryology have come from England, France, Italy, and Australia.

In 1994, the Director of NIH created a Human Embryo Testing Research Panel to recommend guidelines for reviewing applications for Federal research funds. In September 1994, the panel endorsed human embryo research finding that "the promise of human benefit from research is significant, carrying great potential benefit to infertile couples, and to families with genetic conditions, and to individuals and families in need of effective therapies for a variety of diseases."

Federal funding for these studies will help assure that a single set of scientific and ethical standards is put in

place for this research. No such official standards exist now.

Compromise language was proposed in the House and should be considered in the Senate as well. Pursuant to recommendations developed by an NIH panel of experts the language would state: "None of the funds made available by this Act may be used to support the creation of human embryos for research purposes."

This prohibition on medical research, which could save people's lives, is yet another example of the misguided attack by anti-choice forces on women's health and on their reproductive rights.

We cannot let this happen. I urge Members to vote to strike the language in this continuing resolution which calls for a total prohibition of Federal funding for human embryo research.

#### FOREIGN OPERATIONS CONFERENCE REPORT

Mr. BROWN. Mr. President, I rise today to congratulate the distinguished Senator from Kentucky, Senator MITCH MCCONNELL, on his unending efforts to produce a foreign operations conference report. It has been a very difficult and controversial process, but he has persevered and deserves the Senate's praise as we pass the bill today. Robin Cleveland of his staff and Jim Bond of the Appropriations staff also deserve recognition for their hard work.

Mr. President, I would also like to ensure that the language included in the continuing resolution will enact all terms, conditions and general provisions that were included in the original conference report passed by both Houses of Congress. Is that the intent of the chairman of the subcommittee?

Mr. MCCONNELL. Mr. President, the Senator from Colorado is correct. It is our intent that the language included in title III of the continuing resolution, H.R. 2880, will incorporate by reference the entire conference report for H.R. 1868, the appropriations bill for all Foreign Operations, Export Financing and Related Programs other than the substitute for amendment 115 included in the language of the conference report.

Mr. BROWN. I thank my distinguished colleague, and note that included will be important legislative provisions such as the Middle East Peace Facilitation Act, clarifications on restrictions in our relationship with Pakistan and improvements to the NATO Participation Act of 1994.

Mr. MCCONNELL. Mr. President, I would like to make a few brief remarks on one section of the continuing resolution which includes the foreign operations conference report.

Over the past several months the Senate and House have sent the bill back and forth because of differences over the population program and abortion restrictions. After no less than nine votes on the issue we have finally produced a solution which satisfies the concerns of those of us who strongly oppose abortion with the interests of those who wish to fund AID's current

population programs. It is not a perfect solution by any account, but it is the best we were able to achieve.

I am pleased we were able to negotiate a solution to the abortion concerns because I believe there are many provisions in this bill which serve important national priorities. Let me briefly review some of the key provisions and conditions of the foreign operations bill.

We have fully funded our Camp David partnership and strengthened our interests in the region by extending the Middle East Peace Facilitation Act. Once again, the Congress has made clear how high a priority we place on securing a regional peace and advancing stability. The tragic loss of Itzhak Rabin's life and leadership serves as a reminder of how quickly events may change in the region but our commitment must remain steadfast.

As we are all well aware, there have also been major changes over the past several months in Russia. President Yeltsin has fired or removed every single person who advanced our common interests in economic and political reform. While the administration continues to sing the same tune, that reform is inevitable and there is no looking back, I am deeply concerned about the implications of these developments.

For 3 years, I have pressed for a shift in both policy and resource emphasis to assure balance in our relations with the NIS. With the change in the Congress, we have now been able to change the "Russia first" approach insofar as this bill is concerned. This year, we have earmarked \$225 million for Ukraine, a minimum of \$85 million for Armenia and recommended \$30 million for Georgia. We have also directed \$15 million be made available to establish a Trans-Caucasus Enterprise Fund and \$50 million for the Western NIS and the Central Asian Enterprise Funds to support the emerging private sectors.

Within those earmarked resources we have set aside funds for specific programs which directly serve American interests including a nuclear safety initiative in Ukraine to prevent another Chernobyl incident and resources targeting law enforcement training and exchanges.

The alarming increase in international crime emanating from Russia and other NIS republics is already having an impact here in the United States. The \$12.6 million included in the conference report will allow the FBI, DEA, and other U.S. agencies to aggressively address these problems. It is my expectation that Judge Freeh will have primary responsibility for developing and coordinating a strategy for the region and, he will, in turn, work closely with his counterpart agency heads to disburse funds either through our international law enforcement center in Budapest or on a country by country, case by case basis.

The final provision regarding the NIS which I believe serves our interests

links aid to Russia to termination of the nuclear deal with Iran. In the interest of maximizing the administration's leverage the condition begins 3 months after the date of enactment of this bill giving the administration ample time to negotiate a solution to this problem.

Beyond the NIS, I think it is worth pointing out that the Senate's positions on a range of issues have been included in the conference report. We linked the provision of assistance to the Korean Peninsular Energy Development Organization to concrete progress in the North-South relationship. We resolved the long standing dispute over equipment purchased by Pakistan. We included legislative language introduced by Senator BROWN which I co-sponsored and strongly supported outlining a specific strategy for expanding NATO. We have earmarked \$2 million to support democracy and freedom of the press in Burma, one of the most repugnant and repressive regimes on Earth. And, the bill also included the terms of the Humanitarian Corridors Act which should help guarantee safe passage of crucial assistance to countries with dire needs.

Finally, I think we provide strong support for our export agencies and activities. I just received a note from Ken Brody, the recently retired Chairman of the Export-Import Bank. He pointed out that with billions of people joining the free market for the first time, "initial market shares are being established that will set the patterns for years to come. We cannot afford to let other countries give their companies an unfair advantage." With the strong backing of this bill, Exim and our other trade agencies have helped U.S. companies and "exporters compete and win the global economy and thereby create high paying American jobs."

We have included each of these initiatives and funding levels while still affording the administration a measure of flexibility. Specifically, flexibility has been enhanced by consolidating a variety of development assistance accounts into a single flexible fund and we have provided transfer authority between accounts. For example, NIS resources can be used to fund the Warsaw Initiative and Partnership for Peace programs.

In conclusion, this bill sets a new course for our foreign assistance programs. The taxpayers should be enormously relieved to learn that we were able to reduce foreign assistance from last year's level by nearly \$1.5 billion and were \$2.6 billion below the administration's actual request. Even with these significant cuts, I believe the foreign operations bill effectively promotes democracy, free markets, and U.S. economic interests and protects our national security.

Mr. President, I would appreciate inserting a colloquy between Senator BROWN and myself in the RECORD immediately following my remarks. Apparently, because of the abbreviated nature of the text of the continuing

resolution, there appears to be some confusion over the meaning of the language. I hope this colloquy clarifies that the entire conference report funding levels, terms, and conditions accompanying H.R. 1868 are included in this bill and will be law when the President signs the continuing resolution.

AUTHORITIES EXERCISED UNDER THE  
CONTINUING RESOLUTION

Mr. DOMENICI. Mr. President, I seek recognition to engage in a brief colloquy with the chairman of the Interior Appropriations Subcommittee.

I ask the distinguished Senator from Washington the following question: Does the continuing resolution we are about to adopt fulfill our commitment to continue funding for departments and agencies for which regular appropriations measures have not been provided, and our commitment to Federal workers at those departments and agencies that they will continue to go to their jobs and be paid for their hard work?

Mr. GORTON. The continuing resolution we are about to adopt fulfills a commitment to continue reasonable funding of those departments and agencies for which regular appropriations measures have not been signed into law. It also fulfills our commitment to eliminate significant uncertainty for Federal workers who will stay on the job through the resolution's coverage period, seeing that the Federal Government continues to operate.

Mr. DOMENICI. In that context, I believe we must also be very clear about certain priorities we expect to see addressed by the departments and agencies that will continue to operate under this resolution. First, employees who are at work are expected to fulfill their administrative and other regular program duties within the funding level provided. Under this measure all activities are covered through March 15, not just visitor services. Those duties that are necessary to continue the revenue generating activities of the Federal Government should certainly be a priority for continuation under this resolution as should other statutory responsibilities assigned to the agencies. That means that normal approval of permits for such activities as oil and gas operation on Federal lands and offshore should continue, as should the administration of other programs that provide income to the U.S. Treasury. Surely the continuation of such activities should join those necessary to protect human health and safety as priorities under the reduced spending levels of the continuing resolution we are considering. Would my distinguished colleague agree that this is a reasonable expectation under continuing authority for agency operations?

Mr. GORTON. I fully agree with the Senator from New Mexico that routine operations should continue under this continuing resolution.

Mr. DOMENICI. I thank the Senator for this understanding. I yield the floor.

Mr. GORTON. Mr. President, every Senator is aware that the continuing resolution now before the Senate represents a less than perfect solution to the impasse over the unsigned fiscal year 1996 appropriations bills. As chairman of the Interior Appropriations Subcommittee, I'd like to take a moment to discuss why the Interior bill remains unsigned, and why I am beginning to question whether we will be able to enact a bill this year.

Our system of Government is based on checks and balances. To enact legislation and govern effectively, cooperation, and compromise are required. Indeed, the President made cooperation and compromise the central theme of his State of the Union Address Tuesday night.

Sadly, there seems to be little cooperation and virtually no compromise with regard to the Interior bill. Despite the fact that House and Senate negotiators have made many significant changes to the bill to address the President's concerns, the administration has shown little willingness to accommodate a number of serious congressional policy concerns.

Unfortunately for those agencies funded by the bill, this refusal will result in continued uncertainty and reduced funding. In many cases, the agencies hit hardest by continued operation under continuing resolutions are the very agencies for which the administration expresses its support.

The administration's demands include complete elimination of a number of legislative provisions, as well as additional funding for a variety of programs.

The House and Senate remain willing to consider additional funding for some Interior programs should such funding become available as part of a broader balanced budget agreement. But in the absence of such an agreement, the subcommittee cannot simply print additional money to fund the President's wish list and agree to send the bill to our children and grandchildren.

Without a budget agreement, any increases for favored programs must be offset within the subcommittee's 602(b) allocation. The administration is well aware of this fact, but has not made a single proposal to reallocate funds within the bill to benefit the programs it has identified as priorities. This is not a constructive approach.

Neither has the administration proposed compromise language to resolve the legislative provisions in dispute. It simply continues to insist that such provisions be removed entirely—refusing to recognize that these provisions address real problems and concerns, expressing little appreciation for the many compromises already made by Congress, and scarcely acknowledging that some provisions objectionable to the administration have already been dropped altogether.

As we have moved through the various steps of the appropriations process, the Interior subcommittees have consciously taken into account the administration's policy statements and

the President's veto message of December 18. A deliberate effort was made to address the administration's concerns as well as the concerns of many Members of the House and Senate.

I think it is worth reviewing just how far we have come in addressing the administration's objections.

FUNDING ISSUES

*Indian programs*

The Administration has criticized the level of funding provided for Indian programs. In response to these concerns—as well as those of other Members—House and Senate conferees have agreed to provide \$111.5 million more for the Bureau of Indian Affairs than was provided in the original Senate bill. This includes \$25 million in new funding added to the bill since completion of the first conference agreement.

Conferees have also agreed to add \$25 million to the bill for Indian health programs, giving the Indian Health Service a 1-percent increase over its fiscal year 1995 funding level.

Indian programs account for \$3.6 billion of the \$12.2 billion included in the Interior bill that was vetoed by the President. This represents 30 percent of the total funding provided. In a year in which overall funding for the Interior bill was reduced by 10 percent from fiscal year 1995, it is remarkable that these Indian programs were reduced by only 4 percent. For the administration to assert that these programs have been treated unfairly is simply false.

*Energy conservation*

The Administration has also expressed its opposition to funding levels for energy conservation programs. While these programs have, indeed, been reduced significantly, 29 percent, from the fiscal year 1995 level, this reduction comes only after a 105-percent increase since fiscal year 1990.

The fiscal year 1996 bill that was vetoed by the President would fund conservation programs well above fiscal year 1993 levels. I cannot think of any other major program in the Interior bill that seen such an astronomical increase over the last 3 years.

*National parks, refuges, and forests*

Because this Congress shares the President's desire to protect our natural heritage and provide for the effective management of public lands, the operating accounts of the land management agencies were protected.

Though funding provided in the Interior bill is reduced by 10 percent overall, the combined operating accounts of the National Park Service, the Forest Service, the Fish and Wildlife Service, and the Bureau of Land Management are reduced by just 3 percent. The operating account for the Park Service actually receives a slight increase, and \$2 million has been added to the continuing resolution as a downpayment for the catastrophic flood damage to the C&O Canal Park.

*National Biological Service*

Partly in response to administration concerns—and because I personally

agree that good science is vital to the effective management of our public lands—funding for research currently conducted by the National Biological Service has been increased by \$24 million over the level originally proposed by the House.

Though the Biological Service would be terminated in name, natural resource research critical to the missions of the various Interior agencies will continue to be performed under the strong leadership of the U.S. Geological Survey.

#### LANGUAGE ISSUES

##### *Mining patents*

The fiscal year 1996 Interior bill continues the moratorium on new mining patents demanded by the President and the House of Representatives. This represents a major concession from the original conference provision, which received 53 votes in the Senate and had the support of a majority of conferees.

##### *Endangered Species Act*

The fiscal year 1996 Interior bill includes a moratorium on Endangered Species Act listings and critical habitat designations pending reauthorization of the act itself. While the administration objects to this provision, exactly such a moratorium was signed into law by the President in 1995.

Sixty Senators voted to support the moratorium in the hope that a time out would promote enactment of a bill to reauthorize and reform the ESA. To this end, I and several other Members of the House and Senate have introduced legislation to reauthorize the act and make reforms we feel are long overdue. For all its expressions of support for the existing act, the administration has yet to propose legislation to reauthorize it.

It should also be noted that the fiscal year 1996 bill vetoed by the President includes \$65 million explicitly for ESA programs—a significant sum considering that authorization for such funding expired in 1992.

##### *Tongass National Forest*

President Clinton's veto message states that the Tongass provision in the Interior bill would allow harmful clear-cutting, require the sale of timber at unsustainable levels, and dictate the use of an outdated forest plan.

In response, we have proposed to modify the Tongass language to prevent explicitly the mandating of clear-cutting or the sale of timber. In addition, the language would be modified to stipulate that nothing in the Tongass provision should be construed to limit the Secretary's use any new information, or prejudice future revision, amendment, or modification of the forest plan. These latest modifications would be applied to the most recent Tongass language, which has already been modified substantially from its original form. Modifications already made include dropping sufficiency language, dropping the reference to the preferred forest plan alternative, and dropping the prohibition of habitat conservation areas.

Despite these compromises, the administration continues to insist on complete removal of the language, contrary to the views of a majority of Alaskans and those who represent them.

##### *Mojave National Preserve*

The Interior bill vetoed by the President provides the National Park Service [NPS] \$500,000 to develop the general management plan for the Mojave National Preserve. Management of the preserve would remain the responsibility of the Bureau of Land Management, which has had the management responsibility of the area for years.

However, the Bureau of Land Management would be able to use NPS seasonal employees to assist in the management of the preserve. The original House provision did not allow for any Park Service participation in the preserve, and would have provided only \$1 to the Park Service for related activities. The effect of the current provision would be minimal in terms of the management of the preserve, but would be significant in allowing the Park Service an opportunity to gain the trust of the people who will be its neighbors for the foreseeable future before taking over on a permanent basis.

##### *Marbled Murrelet*

The administration objects to a provision in the Interior conference agreement that would have prohibited it from redefining the known to be nesting provision included in previously passed timber salvage legislation. The House and Senate offered to remove this provision from the conference agreement in an effort to reach an agreement with the administration on the overall bill. The offer by the House and Senate—which represents a significant compromise—is scarcely acknowledged by the administration.

##### *Columbia basin ecosystem*

The administration's veto statement expresses several concerns about the Columbia basin ecosystem provision in the conference agreement. The statement specified that the provision "would impede the implementation of our comprehensive plan for managing public lands," and exclude "information on fisheries and watersheds." The result of the conference provision, according to the administration, is "a potential return to legal gridlock on timber harvesting, grazing, mining, and other economically important activities."

The House and Senate presented an offer to the administration that would have met some of these concerns. That offer would expressly permit the administration to include information on fisheries and watersheds in the Columbia basin plan. Once again, however, even this significant concession was not enough.

There is one point, however, on which the administration and the House and Senate authors of this provision fundamentally disagree—providing increased opportunities for legal

gridlock and frivolous lawsuits. The administration's veto statement states that the conference language would present a potential return to legal gridlock. This makes for a nice soundbite—but the exact opposite is true.

We believe that the administration's current policy—based upon the lack of success of similar endeavors by this administration—presents a tremendous opportunity for legal gridlock. The current policy is a one-size-fits all approach, created in response to a legal challenge by environmentalists, and will undoubtedly create opportunity for further challenge by environmentalists. The House and Senate offer to the administration would preclude the filing of frivolous lawsuits—exactly the goal the administration professes to seek.

##### *Rescission bill flexibility*

The administration has professed a desire to repeal portions of language relating to timber sales included in section 2001(k) of the fiscal year 1995 rescissions bill. However, when Senator HATFIELD and I put together a proposal to grant the administration greater flexibility in implementing section 2001(k), it was not greeted with much enthusiasm. The provision will allow the administration to trade out of sensitive harvest areas while at the same time keeping the modest harvest levels it promised as a part of a timber settlement.

Mr. President, there are countless other instances in which conferees on the Interior bill modified provisions or increased funding for programs to address administration concerns. Yet these efforts have gone virtually unacknowledged. Until yesterday, during my conversation with the President's Chief of Staff, there had been little indication that there was any serious desire to reach closure on the Interior bill on any basis other than a complete agreement with the administration's big, intrusive Government policies.

In the absence of a settlement, agencies funded in the Interior bill continue to lurch along from month to month, from continuing resolution to continuing resolution. Employee morale is low, and programs supported by both the administration and Congress are suffering.

Mr. President, we have come more than halfway in compromises with the White House on provisions it finds objectionable. It is time for the administration to stop posturing and close the deal.

#### NINTH CONTINUING RESOLUTION

Mr. KERRY. Mr. President, the Continuing Appropriations Resolution before us today is the ninth, let me repeat, the ninth continuing resolution for fiscal year 1996. I cannot recall during my service in the U.S. Senate another time when the funding of basic services that people need and the concern for people's daily lives have been treated so cavalierly by the majority. This is a misuse of the appropriations

process, and the fact that this is the ninth continuing resolution demonstrates amply and clearly in my mind the inability of the party that currently holds the majority in Congress to govern.

In some areas, the amounts contained in this stop-gap resolution will barely keep basic services operating. This is not, in my view, what the American people want, it is certainly not what they deserve, and it most assuredly does not reflect the American people's priorities. The American people will have the opportunity in the elections this fall to express their views on the priorities we have seen the Republicans advance. I am confident the proponents of those misplaced priorities will be shaken by the voice of the people.

The last Government shutdown cost Americans \$1.4 billion. Its effects are still being felt. Approximately 170,000 veterans did not receive their December GI bill education benefits on time, delaying action on some 87,000 initial benefits claims and nearly 70,000 certifications. More than 200,000 veterans disability and compensation claims were added to the backlog during the last shutdown. More than 5,000 small businesses saw their government-guaranteed financing delayed. Hundreds of Superfund toxic waste cleanups were suspended, and more than \$2.2 billion in American exports were delayed because their licenses could not be processed. Thousands of Americans were prevented from business or other travel abroad because passports were not issued. Thousands of Americans were prevented from enjoying or learning from their natural or historical American heritage as national parks and forests and federally funded museums and art galleries were closed to them.

We simply cannot afford another Government shutdown, so this measure represents a compromise. The funding levels it contains are far from adequate for many Government activities upon which Americans depend or which have a daily impact on their lives. I speak specifically about those items supported through the Labor/Health and Human Services/Education budget—education grants for students, assistance for disadvantaged students, worker training and retraining, summer youth jobs, Americorps and Head Start, and through the VA-HUD-Independent Agencies budget, like health care for veterans and environmental cleanup activities.

I also am deeply disturbed by the funding caps imposed by this legislation at 75 percent of last year's expenditures on such critical law enforcement activities as the cops on the beat program—or COPS—and drug courts. Which 25 percent of our communities will not see a cop walk down their streets because of these caps? Which 25 percent of the drug offenders will not be prosecuted in the drug courts because of these caps?

These caps also will hurt the Advanced Technology Program that has

helped dozens of entrepreneurs and researchers in Massachusetts with good ideas for new technologies to bring their ideas to the commercialization stage. ATP has worked in Massachusetts to bring forth new products as diverse as hip replacement procedures and fire detection codes to benefit consumers.

Funds are also affected for critical scientific research to help cure diseases, research conducted through National Institutes of Health grants by medical institutions and teaching hospitals in Massachusetts—whose world-renowned research institutions have been chosen to receive grants from NIH sufficient to rank the Commonwealth third among States in receipt of NIH grants.

Mr. President, it is not with great enthusiasm or, indeed, any enthusiasm that I will support this measure. The process that has brought us to this ninth continuing resolution is a disgrace. And it is also a disgrace that once this bill passes, which I reluctantly hope it will, the Senate will not remain here to work at hammering out an agreement on the budget or to pass the normal appropriations bills, or to cleanly extend the debt limit to honor this Nation's full faith and credit commitment to those from whom it borrows money. I predict we will be back here to repeat this shameful exercise again and again this year. The American people deserve better.

But we are caught in a momentous clash of philosophies and politics—with a new group of Republicans zealously committed to imposing their personal ideological beliefs throughout Government. Those ideologues have proven themselves entirely willing to bring Government to a wrenching, grinding halt, regardless of who is hurt or how badly, if they are not satisfied with the rapidity or extent of movement toward their goals.

In the face of such a group, the best we have been able to hope for is a compromise—with which neither side is satisfied. President Clinton spoke eloquently during his State of the Union Address Tuesday night about the necessity under the circumstances to negotiate and enact such compromises in order to keep the business of our Nation moving forward and minimize injury of innocent Americans who must depend on the services that only Government can provide. Up until yesterday, the Republican majority in the House has been entirely unwilling to countenance any significant compromise.

While I am extremely disappointed about the contents of this legislation, and believe the American people will be the ones who are hurt by its contents—or, more accurately, its omissions—I am relieved that the House Republicans have finally exhibited a willingness to engage in legislative compromise. At least the Government will keep running so that it will continue to provide most of its services to most

of those who need them. There will be some who will be hurt, I regret to say. But we will struggle along. That is to be preferred to the unquantifiable and needless suffering that the Republican House majority imposed on the Nation up to this point.

I am hopeful that we will be able during the remainder of this year to reach more suitable solutions regarding more of the services on which Americans depend—while we also find agreement on a fair way to achieve a balanced budget in 7 years that provides for needed investment in our future, human, technological, and infrastructure.

Ultimately, I look toward November for the American people to pronounce their views and priorities, and to elect a Congress that will pursue the best interests of the country and not a narrow ideological agenda. In the meantime, we will pass this resolution, the President will sign it, and the Nation will limp on for a while longer.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I do not know of any other amendments that we have to be discussed or debated on this side.

The PRESIDING OFFICER. If the Senator will withhold just one moment, the Senate will be in order.

The chairman of the Appropriations Committee is recognized.

Mr. HATFIELD. Mr. President, we stand ready to do any further business on this CR. If not, I would ask for a third reading.

The PRESIDING OFFICER. If there is no further amendment—

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, I know there is a lot of anguish on the part of our colleagues who would like to exercise the constitutional right of the Senate to amend a bill on revenue related matters that comes to us from the House, even though the Constitution says it must be originated from the House of Representatives. But as I said in the opening statement today, we are literally here today with a gun to our head in the parliamentary situation in which the House provided us with this product as of today and have declared that they are not in session today for legislative business. Therefore, any changes in this particular product is going to require return to the House.

If they are not in session today for legislative business, we are facing a midnight curfew of whether the Government shuts down. So consequently, as much as I detest and decry this process we find ourselves in—I would like very much to offer some amendments to this myself because family planning is not satisfactory to me—as Senator BYRD, as the comanager of this bill, indicated in his opening statement, he affirmed my analysis of where we were in this particular bind and also urged his colleagues not to offer any amendments, because any change on this continuing resolution we have—any change—is required to go back to the House of Representatives.

They made it very clear that they may be subject to the call of the Chair, but not for legislative business. So there we are.

I want to just say to my colleagues, Senator BYRD and I have not contrived this situation. We have had absolutely nothing to do with it, except in the sense that we had given to them many of our own thoughts and hoped they would incorporate them. They incorporated some. Congressman LIVINGSTON, chairman of the House Appropriations Committee, signed off on a Florida tomato problem. I signed off on a Florida tomato problem. We have another committee that is involved in this and has objected. Therefore, it was not included.

We have been trying to craft this by telephoning across the great rotunda of the Capitol Building. And that is not a satisfactory way to do business either.

So here we are, not just with the House alone, but with the jurisdictions, that are very legitimate jurisdictions, that have a part in these actions that are taken by the Appropriations Committee.

We had a problem on timber salvage. We cannot get the White House to sign off on that one because we are trying to help the White House have more flexibility in that action taken.

So there are a lot of players here involved between the House, the Senate, both sides of the aisle, authorizing committees, the White House. We are in a very complex situation made more so by the gun to the head that we have in dealing with this issue.

So I urge my colleagues to refrain from offering amendments because, as much as I may agree and sympathize, understand the need, I am in a situation as a comanager of this bill. Senator BYRD urged as well, please do not offer amendments because we will have to fight every amendment, not on the merits of the case, but on the parliamentary situation we are in.

I do not think anyone here wants to raise the issue or the possibility of shutting the Government down again. Nobody wins. Everybody loses on that one, I think we have all come to understand.

But if the Senate, constitutional as it is—the House has to take any action on any change we make on this. And

they are not in today for legislative business which has freed up their membership. We face the problem of shutting down the Government. So that is the problem we have.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have listened closely to the words of the chairman of my committee, and my friend, someone I admire very much. I realize he is in an untenable kind of position. But it is this Senator's understanding that the House is in session subject to the call of the Chair.

The chairman of our committee, the Senator from Oregon, has stated that they would be in subject to the call of the Chair, but not for the purpose of working on this continuing resolution. It seems that we have been put in a position that no matter how bad the CR might be, we have to take it or else.

If we have an amendment—and I do have an amendment that no one can argue does not save us money. It saves money by getting the Office of Inspector General funded so they can go after waste, fraud and abuse. I have a letter from her dated 2 days ago where we are literally losing millions of dollars every day because the Office of Inspector General has not been funded fully. I think this is not anyone's purpose. I think this is probably just an oversight of the House that they did this.

I cannot imagine that, if we were to adopt that amendment, send it back to the House, they could not approve that in 30 seconds. It does not add to the debt or anything like that. In fact, it is going to save a lot of money for our taxpayers by going after waste, fraud and abuse in the Medicare Program.

So I, as much as I sympathize with the chairman of the committee, must really object to having a gun held at our heads to the point where we cannot even add an amendment that will save hundreds of millions of dollars for our taxpayers by going after the scam artists and others who are ripping off the Medicare system. I just find this startling that we cannot do that, if I understand this correctly.

So, Mr. President, I will be sending an amendment to the desk. It is very straightforward. It simply assures that our efforts to stop fraud, waste and abuse in Medicare will not be cut. The funds are our main line of defense against Medicare fraud by the Office of the Inspector General of Health and Human Services through the end of the fiscal year at last year's level.

I am told that it would add about \$5.2 million to this effort. That is, in the scheme of things, not a lot of money. But what does that get us? The GAO has reported that as much as 10 percent of Medicare funds are lost each year to fraud, waste and abuse.

How much money is that? Well, this year the Medicare funds are going to send out about \$180 billion. So 10 percent of that is \$18 billion, this year alone, lost to fraud, waste and abuse.

That is over \$500 for each and every Medicare beneficiary.

As I said, the inspector general's activities are our main line of defense against Medicare fraud. Even at last year's funding level, they do not have enough to do the job. Now they are being cut even further. At a time when there is a discussion of major cuts to Medicare, doubling the Medicare premiums that seniors have to pay, we should not be cutting our effort to stop the fraud, waste and abuse.

I think it makes common sense to stop the waste first. It is clearly documented that for every dollar we invest in the inspector general's activities, we save the taxpayers \$15. That is not something in the future. That is actual money that they are recouping for us on a daily basis. Yet this bill before us cuts that program.

Mr. President, I was very concerned about the possible impact that Government shutdowns and these cuts have had and is having on our national fight against Medicare fraud, waste and abuse. So last week I wrote to the inspector general, Inspector General June Gibbs Brown, to ask her what the impact was. I received her letter the day before yesterday. The findings are shocking and deserve our immediate action.

In her letter she said:

Dear Senator HARKIN: Thank you for your recent letter expressing concern about the extent to which the critical anti-fraud and abuse activities of the Office of Inspector General . . . are suffering from the government shutdowns and under the current stop-gap spending bill. Specifically, you asked the following questions:

And this is what I asked of the inspector general.

[First] [w]ere major enforcement initiatives, investigations and audits suspended?

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

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

Three questions. Here are her answers:

Presentations of cases to United States attorneys for prosecution dropped from 92 in the first quarter of Fiscal Year (FY) 1995 to 51 in the first quarter of this FY 1996—

Almost a half.

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

Investigative receivables—this is money that they actually brought back, money that they recouped for our taxpayers—fell from approximately \$77.7 million for the first quarter of last year to about \$30.8 million for the same period this year.

Recoveries are down more than 50 percent; 60 percent of ongoing and plant audits will be stopped or reduced if these cuts remain in place.

Last year, Mr. President, these audits saved over \$5.5 billion. So the losses to Medicare and taxpayers from the reduction in audits could be in the billions.

There is one other point in her letter. The Inspector General said that considering the program savings generated in past years as a result of their reports, as much as \$1 billion could be lost from the drop in program inspections alone this year.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the letter from the inspector general dated January 24.

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

DEPARTMENT OF HEALTH  
AND HUMAN SERVICES,  
January 24, 1996, Washington, DC.

Hon. TOM HARKIN,  
Ranking Minority Member, Subcommittee on  
Labor, HHS, and Education, Senate Com-  
mittee on Appropriations, Washington, DC.

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

Were major enforcement initiatives, investigations, and audits suspended? Are fewer initiatives, investigations, and audits being initiated? What is the potential impact on Inspector General activities of being forced to operate under another short-term funding measure similar to the one currently in effect?

SUSPENSION AND CURTAILMENT OF PENDING OIG WORK

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

*Investigations and Audit Activity—Comparison of the first fiscal quarters of 1995 and 1996:*

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

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

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

The OIG issued 33 percent fewer reports (54 reports compared to 82 reports), processed 30 percent fewer nonfederal audits (861 compared to 1,223), identified 40 percent fewer dollars for recovery to the Federal Government (\$14.2 million compared to \$23.8 million), and is collecting 30 percent fewer dollars approved for recovery (\$83.2 million compared to \$120.1 million).

*HHS Financial Statement Audits*

The Government Management Reform Act requires that agencies have financial statement audits beginning FY 1996. The HHS-wide financial statement audit requires audits of eight operating agencies accountable for about \$280 billion. The financial statements of the Health Care Financing Administration alone comprise expenditures in excess of \$230 billion that are material to the overall departmental financial statements

and to the General Accounting Office effort to report on governmentwide financial statements. If travel funds are not obtained, all such audit work will be suspended with resultant impact on HHS-wide and governmentwide statements. Audit activity must be performed at multiple State agencies and Medicare contractor locations, all requiring substantial travel funds. In addition, funding must be sought for expert medical assistance to review medical claims.

*Administrative Sanctions—Fines, penalties, and exclusions:*

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

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

IMPACT ON NEW OIG INITIATIVES

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

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

POTENTIAL EFFECT OF CONTINUED UNDERFUNDING

*Lack of funds for travel and other expenses of field work:*

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

Last year the OIG issued 68 program evaluation reports. Under the continuing resolution scenario, the number of completed inspections may drop to approximately half that number. Considering the program savings generated in past years as a result of such reports, as much as \$1 billion could be lost from the drop in program inspections alone. Program inspections identify sources of fraud and abuse and recommend program adjustments to prevent future occurrences.

*Effect on sanctions activity:*

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

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

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

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

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

Sincerely,

JUNE GIBBS BROWN,  
Inspector General.

Mr. HARKIN. Mr. President, so much of the problem is that they are funded but they do not have funds for travel. Most of their investigative and audit work requires travel. So what we really have is hundreds of audit professionals, auditors sitting at their desks unable to do their jobs. Every day that they are underfunded, our taxpayers lose money.

What kind of actions are not happening? Convictions, recoveries in fines relating to a wide range of abuses. In fact, the inspector general even said in her letter that they are unable to cut off people who are receiving money from Medicare even though they have been convicted.

Here it is, she says:

The shutdowns prevented us from excluding individuals and entities from participation in Medicare and Medicaid. Providers are allowed to continue to bill even though they should be excluded due to convictions or they are abusive to patients, again, costing us millions of dollars each and every day.

So I do not think there should be any disagreement on either side of the aisle with this amendment that simply ensures the inspector general efforts to combat Medicare fraud are not cut from last year's level. Again, we seem to have our priorities out of whack.

The previous continuing resolution provided full-year funding to a number of programs, including, for example, the Kennedy Center for the Performing Arts. I have no problem with that. I support that. However, this bill does not even provide last year's funding for the Office of Inspector General to go after fraud, waste, and abuse. I think that just defies common sense.

I want to also, just for the RECORD, read a couple of examples from the semiannual report of the Office of Inspector General about the kind of cases

they have gone after and what they have earned for the taxpayers.

Here is a Michigan carrier that agreed to pay \$27.6 million to settle a suit initiated by a former employee. The carrier was responsible for auditing, participating in hospitals' cost reports to ensure accuracy. An investigation by the OIG showed that the carrier performed inadequate cursory audits in which it disregarded hundreds of dollars in overpayments.

The carrier later gave HCFA, the Health Care Financing Administration, fraudulent work papers in an attempt to show that complete and accurate audits had been performed. The precise amount of loss to the Government could not be determined because it would have required auditing more than 200 hospitals. As part of the settlement, the carrier agreed to pay the entire amount that HCFA had paid to perform audits over the last 4 years, approximately \$13 million. Mr. President, \$13 million, one case, recouped for the taxpayers of this country. And yet for \$5 million, we cannot even provide for that kind of investigation.

A Texas ophthalmologist signed an agreement to pay the Government \$849,000 to resolve allegations of submitting false claims for reimbursement for physician and related medical services to the Medicare Program. Many of the fraudulent claims submitted to Medicare were for services not actually provided; were for services not provided as claimed or were billed at an inflated rate. This was a global settlement which also involved a criminal plea based on kickback allegations as well as submission of false claims.

Mr. President, this book is full of these examples of what the Office of Inspector General has done for our taxpayers just in one-half of last year. These are the kinds of audits and investigations and criminal prosecutions that they will not be able to conduct given the reduced funding level that they have.

So my amendment is very simple. It will simply provide for the same level of funding for the Office of Inspector General. That is all, just the Office of Inspector General from now through the end of this year. It will save the taxpayers literally—well, do not take my word for it. The inspector general said this could save up to \$1 billion. So anywhere from probably \$100 or \$200 million to \$1 billion just this year alone could be saved.

AMENDMENT NO. 3122

(Purpose: To provide for additional funding to the Office of the Inspector General of the Department of Health and Human Services)

Mr. HARKIN. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3122.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following: "Notwithstanding any provision of this Act, all projects and activities funded under the account heading "Office of the Inspector General" under the Office of the Secretary in the Department of Health and Human Services at a rate for operations not to exceed an annual rate for new obligational authority of \$58,493,000 for general funds together with not to exceed an annual rate for new obligational authority of \$20,670,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund."

Mr. GLENN addressed the Chair.

Mr. HARKIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. We are not in controlled time.

The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in strong support of the Senator from Iowa. I have been involved with the inspector general issue for a long time. The Governmental Affairs Committee, back about 1980, put in legislation to establish inspectors general across Government. There were some that were voluntarily in place at that time. We put it into 10 more agencies of Government on sort of an experimental basis. They ran for 10 years, and in 1990, I put in legislation that expanded the IG's.

We have them now in 61 different agencies or departments of Government. They have done a superb job. They save in the billions and billions of dollars, and I do not know how many dollars they return for every dollar spent, but they have done a great job. To cut back on funding in those areas may be penny wise, but it is tens of dollars short.

It is sort of indicative of the problem we have right now. We passed a Chief Financial Officer Act a little bit along the same line. We require audits in all departments and agencies in Government, and GAO is to supervise that, monitor them, and try and get decent accounting systems in Government. We are cutting those when we should be expanding the money for that kind of operation.

We talk every day here about a balanced budget, yet to do the things that will get efficiency in Government, like IG's and CFO's, we cut the money for them. There was an article in the paper this morning about how the GAO is not going to have enough money now to do the supervising of the Chief Financial Officer Act that just comes into full compliance requirements this year. They have been building up to this since 1990, and now we are going to not even provide them the money for this.

I cannot imagine what people are thinking about to put this kind of requirement in over in the House to cut

back on money that is going to make more efficiencies in Government.

Another one along the same lines is the IRS. There is something over \$115 billion, \$118 billion owed to the Government that we do not collect. Most of that is in bankruptcies, individual and corporate bankruptcies. But we say there is \$28 billion, I believe it is, that they estimate is collectible. Yet, we are cutting the money for the tax system modernization system. We are cutting the personnel requirement or provisions at IRS, when we have \$28 billion out there that we should be going after. It is collectible from people who are deadbeats, and it means that you and I and every other American that is honest about their taxes has to pay more taxes. Yet, in the interest of economy over in the House, they are cutting those fundings back. I just think it is ridiculous.

Now the argument is that we are up against a Government shutdown. I agree that we sure are. I add that we are up against it for the third time, and every single time what they have done over in the House is put part of their legislative agenda on the CR, send it over to us on a short-term basis and say, "Take it or leave it," and "You have to get it passed on our basis, you cannot change it. And if you do, the Government shuts down."

I am tired of legislative blackmail. That is exactly what this is. I plan to vote against this whole thing this time, just in protest. I think it is ridiculous. We are cutting back at least one-fourth for funding for VA and HUD, national service, EPA, and education. We are changing right-to-life matters in this. I just think we are legislating on a CR that should be passed as a clean CR to keep the Government running for a certain period while we then take up these individual matters, see what the proper level of funding should be, and make a rational decision on how we go ahead with funding all these things that are very important.

We brought up the farm bill. What do the farmers in Iowa think about this? Do they know what their loans are going to be and deficiency, guaranteed next year? Do they know how much to borrow at the bank? No, they do not, because we have not done our job here. Yet, we try and take some of these things up and sock them on to a CR because now we are up against it. We are going to say the Government shuts down tonight unless we pass this on the basis that the House sent it to us, which has half of their legislative agenda on it that we do not agree with. They deliberately waited until a day before the deadline to send it over to us, and we can take it or leave it.

Well, I do not plan to vote to take it. I just think we have been jerked around too many times here. And to say once again that, well, this is the last time and next time we are going to be tough, this is the third time we have done this. How many times do we have to get hit in the head before we do something about it?

I think the Senator from Iowa makes a good point. I hope he keeps his amendment in, and I hope we have to vote on it. If there are other amendments to try and correct this, so be it. I think for us to be made the heavies here and say we cannot possibly vote against this or have amendments without being irresponsible, that we are going to stop the Government, it is the House that sent this over and put us in this short timeframe. I disagree with that way of doing business. I do not think we should accept these things. If there are changes we want to make, we ought to make them.

Mr. HARKIN. Mr. President, I thank the Senator from Ohio for his comments. He has long been a champion of inspectors general. I ask the Senator again, with his long experience in the area of inspectors general and what they do, is it not true that this is real money we are talking about? In other words, we always pass bills and they say this is going to save us so much money in the future. We are all akin to doing that. But this is money right now, and every single day the inspector general's office is out there getting fines, payments. I just read examples from last year. This is real money that people have to pay back to the Government. Is that not true?

Mr. GLENN. It is absolutely true. If the Senator will yield further, there is not a single Senator in the U.S. Senate that would come out and say they favor fat, fraud, waste, and abuse in Government. Who is cutting out the fraud and abuse in Government? Who is on the front line out there in every department looking into fraud and abuse, stopping it, getting money back, referring cases to the Justice Department by the hundreds—hundreds and hundreds of them, that we did not used to have? It is the inspectors general.

I just cannot say how shortsighted I think it is that they have cut these funds to begin with and cut the funds for the chief financial officers, for IRS compliance. It just is the most foolish activity in Government that I possibly can think of. I certainly urge my colleagues on both sides of the aisle to back the amendment of the Senator from Iowa.

Mr. HARKIN. I thank the Senator. Again, it seems to me—I know the Senator said something about having them hold a gun at our head. The House is in session. They are in session subject to the call of the Chair. If they can hold a gun at our heads, why can we not adopt this, which saves the taxpayers' money, and send it back to them? We will see what they do. We have until midnight. I bet they can pass this in 5 minutes. I cannot imagine there would be any opposition to this whatsoever.

So why do we have to not save the taxpayers' money because they have a gun at our head? Why do we not adopt this amendment and send it back and let the gun be at their head. I bet they will pass it in a New York minute—whatever that is; I do not know what

that is because I am not from New York.

I yield the floor.

Mr. HATFIELD. Mr. President, the Senator from Ohio and the Senator from Iowa raise the issue of logic. Unfortunately, neither this body or the other body has always functioned under the great label of logic. We are in a ridiculous situation. Obviously, we are, and we are having to deal with it in a very—we will attempt to deal with it in an orderly fashion. I would like to point out that this is the seventh CR since October 1—six were signed into law—and the Office of Inspector General has been operating at the House level since October 1. They have not been required to furlough any employees. This is the first time this issue has been raised in six of those CR's. Consequently, they have survived, you might say, or have functioned at a reduced level, or whatever. But the point is they are functioning.

I also want to add that the Senate has not been able to act on the Labor-HHS appropriation bill due to the objections raised primarily by the Democratic side of the aisle, and on a couple of occasions by the Republican side of the aisle. Those usually circulated around rider issues rather than the substance of these issues, such as the inspector general's office. We are, therefore, in a further deficient role as with the House because the House did pass a Labor-HHS, and we have not yet passed such appropriation bill here in the Senate.

This is not a permanent situation because of the fact that it goes until March 15. I am very hopeful that we can find \$5 billion more. Let me say, very frankly, that I have said in my leadership meeting, and in other areas of this process of trying to resolve these appropriations bills, that even if we got rid of the riders that have become a strong problem for the Labor-HHS bill, different issues and riders that reflect a problem for both sides of the aisle, we still do not have enough money to satisfy the administration's requests in order to get them to sign the bill. I have said whatever budget comprehensive agreement can be reached has to have \$5 billion to get the Labor-HHS; HUD and Independent Agencies; State, Justice, and Commerce, signed by the President. I think from time-to-time we have to remind ourselves that the President has a role in the legislative process. We cannot just think of the President as someone downtown that does not have a legitimate constitutional role in the legislative process. I can say to you, in dealing with the administration, that we have that \$5 billion more in nondefense discretionary funding. I believe we can resolve these problems and have no more CR's. I am not going to argue what kind of a vehicle we get that \$5 billion on. But that is the real guts of the problem. Anytime that you add something back into a bill at this point, or a CR, it is subject to a point

of order that I am going to have to make because it exceeds our allocation under the budget resolution.

That is not a comfortable position to be in. I could not agree with the focus and the goal being sought by the Senator from Iowa any more than he has that commitment. I have the same commitment.

Mr. HARKIN. Will the Senator yield?

Mr. HATFIELD. I have a parliamentary question. There is an opportunity for the Senator from Iowa to have further discussion if I offer a point of order. If the Chair sustained a point of order and the Senator from Iowa appeals to waive the Budget Act, then he at that point has additional debate or discussion? I do not want to cut him off.

The PRESIDING OFFICER. If the point of order is made by the Senator before the Chair rules, the Senator may waive.

Mr. HATFIELD. And at that point he may have further discussion?

The PRESIDING OFFICER. On the motion to waive.

Mr. HATFIELD. The current level of budget authority exceeds that of the budget resolution for fiscal year 1996. The pending amendment by the Senator from Iowa provides additional new budget authority and will result in additional outlays in that year, and its adoption will cause the aggregate levels of budget authority and outlays to be further exceeded.

I therefore raise a point of order under section 311 of the Budget Act against this amendment.

Mr. HARKIN. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that Act for the purposes of the pending amendment and the underlying bill.

The PRESIDING OFFICER. The motion is made.

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

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

The yeas and nays were ordered.

Mr. HARKIN. I thank the chairman for his kindness. He did raise one question about this—it is the first time it has been raised in six tries; that is so. I have been on this issue for several years, formally as chairman of the appropriations subcommittee and as ranking member now with the Senator from Pennsylvania, Senator SPECTER, as chairman, who has been very supportive in all of our efforts to go after waste, fraud and abuse.

I must say I had no idea that the reduced level of funding for the Office of Inspector General would have the kind of impact it has had. I must also be frank. I thought before Christmas we would have settled this. It was not. I thought it would be settled soon after. It was not. It is going from month to month to month, and you have to stop and say, What is happening? That is what precipitated my letter to the inspector general a couple weeks ago. I

wanted to know if they had any data to see what was happening.

They did. They have the data from October, November and December of this fiscal year, the first quarter, compared to last year. It is really shocking what is happening because they do not have adequate funding to recoup money for taxpayers.

I am going on what the inspector general said in her letter. I just indicate to the Senator from Oregon, that was the only reason I had not raised it before, because I had no idea it was as bad as it is. That is why I sent the letter. Now is the time to get the money in to stop this bleeding of the Medicare money.

Lastly, I inquire of the Chair, the Senator from Oregon has stated that this is in violation of the Budget Act and it goes over the allocation. It is this Senator's understanding that the whole CR, the whole continuing resolution, is in violation of the Budget Act. I have a parliamentary inquiry: Is the underlying continuing resolution in violation of the Budget Act?

The PRESIDING OFFICER. The Chair will need some time to make that determination and will give an answer to the Senator in due course.

Mr. HARKIN. Might the Senator inquire as to how long? I do not want to tie this up.

In conversations with the Parliamentarian of the Senate earlier this afternoon, I asked the Parliamentarian that question: If, in fact, the CR was subject to a point of order and if it violated the Budget Act, I was told it was, unless I misunderstood the Parliamentarian.

The PRESIDING OFFICER. The Chair is prepared to rule on the bill. In its current form, it is in violation of the Budget Act.

Mr. HARKIN. I wonder how many Senators know that the underlying continuing resolution is, itself, in violation of the Budget Act. I do not intend to raise a point of order. I could, within my legitimate rights, raise a point of order against the entire continuing resolution. I do not want to do that.

I also do not want to be told that this amendment that I am offering, which by any accounting will save the taxpayers hundreds of millions of dollars, cannot be accepted because it is in violation of the Budget Act, when the entire continuing resolution is in violation of the Budget Act.

I do not see my distinguished chairman on the floor. Again, with all due respect, I do not know how one can argue that my amendment should not be adopted because it violates—and a point of order raised against it, when it truly saves the taxpayers a lot of money, but then go right ahead and vote for the continuing resolution which also is in violation of the Budget Act. I want the RECORD to show that.

Again, I am not here to throw a bomb or a handgrenade or to blow this thing up. If I was, I could raise a point of order against the continuing resolution

and there would have to be 60 votes to pass it. Maybe there is, maybe there is not. That is not my object. My object is to try to save the taxpayers some money, to make sure that the Office of Inspector General is funded, not at any increased level, just at last year's level.

There is a bleeding going on every day, I tell my colleagues. There is a bleeding going on every day in Medicare. Millions of dollars are lost every day. It is the inspector general that is out there on the front lines stopping it and recouping real dollars for our taxpayers. We can close our eyes if we want. We can say it does not amount to a heck of a lot of money. As I pointed out, the inspector general said up to maybe \$1 billion will be lost if they are not at least funded at last year's level. We are talking about \$5 million to keep the Office of Inspector General going.

I say again, Mr. President, I am not here to disrupt, but I am here trying my level best, as I have for a long time, to cut at the waste, fraud, and abuse in Medicare. The main agent we have to do that is the inspector general's office. I do not cast any aspersions on what the House did. I do not accuse them of anything other than perhaps oversight. I cannot believe they would not accept this. I think it was simply an oversight.

Because of that, I believe if the Senate were to adopt this, send it back to the House—as I said, they are in session subject to the call of the Chair—I bet there would not be a House Member object to it. How could they possibly object to something like this? And then send it to the President and save our taxpayers some of their money.

I yield the floor.

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

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

AMENDING THE TRADE ACT OF 1974 TO CLARIFY THE DEFINITIONS OF DOMESTIC INDUSTRY AND LIKE ARTICLES IN CERTAIN INVESTIGATIONS INVOLVING PERISHABLE AGRICULTURAL PRODUCTS

Mr. GRAHAM. Mr. President, earlier this afternoon on behalf of my colleague Senator MACK and myself, the Senate was asked to consider, by unanimous consent, S. 1463. It is my understanding that unanimous consent has now been granted.

Mr. President, I rise to urge the immediate adoption of S. 1463, a bill that advances fairness for American farmers in crisis.

The bill, which I introduced last December on behalf of myself and Senator

MACK of Florida, would make it easier for seasonal industries, such as winter vegetable growers, to seek relief under section 202 of the Trade Act of 1974.

Sections 201-204 of the Trade Act of 1974 authorizes the President, after an investigation and determination by the International Trade Commission, to withdraw or modify concessions or impose duties for a limited period of time on imports of like or directly competitive articles.

Section 202(c)(6) defines "domestic industry" as the producers as a whole of the article or those producers whose collective production of the article constitutes a major portion of the total domestic industry, including flexibility to define the industry as a limited geographic area.

During early 1995, the domestic winter tomato industry sought relief for injury resulting from surges of imports of Mexican tomatoes. The International Trade Commission, viewing the domestic industry as nationwide and year-round, denied relief.

In its opinion, the ITC recognized that perishable agricultural products have limited marketability. Page I-12 of the opinion states:

The perishable nature of fresh-market tomatoes precludes the interchangeability of tomatoes harvested and marketed at different times of the year. Given that a fresh-market mature-green or vine-ripe tomato harvested in any month would not be suitable for consumption after about three weeks, arguably a tomato harvested in one month could not be substituted for a tomato harvested a month later.

Nonetheless, the ITC determined that, under the statutory definition, the appropriate domestic industry included all growers and packers of fresh tomatoes during the entire calendar year.

This legislation is intended to facilitate a different result by the ITC in cases with facts similar to those presented in the case filed by the winter tomato growers. If this legislation is enacted, industries such as the winter tomato industry would be deemed to be a separate industry under the modified definition of a domestic industry.

Currently, seasonal growers may be considered to be part of an industry that grows, ships, and sells during an entirely different time during the year. For example, fresh tomato growers in California grow, harvest, and sell during the late spring, summer, and fall, while those in Florida do the same thing in the late fall, winter, and early spring. Quite literally, while one group is in business, the other is not. While the product may be the same, it is a fact that the market, the competition, and the trade involved are totally separate.

S. 1463 would modify the definition of domestic industry in section 202 cases involving perishable agricultural products. In those cases, the ITC would be authorized to define the industry to include only domestic producers who produce the product during a particular growing season if two things are proven.