that are covered to a select few—either by limiting the diseases that qualify for treatment, or by limiting the number of prescriptions that may be filled each month. The insurer can choose to keep the benefit the same from year to year, or the insurer can choose to change the benefit each year or to discontinue coverage.

The Democrats have tried to pass a bill this year that would provide choices for beneficiaries, while our colleagues on the other side of the aisle have advocated a bill that would provide choices for insurers. Given the cost of a prescription drug benefit, it is critical that we spend those federal dollars in a way that will ensure that the benefit and the choices are going to the Medicare beneficiaries—not to the insurers.

I am also deeply troubled by the way the majority leadership is allocating federal dollars in the “BBA-relief” bill. While members of the Finance Committee have not been allowed to participate in the development of this package, I understand that about $10 billion out of a total of $28 billion is to go to Medicare HMOs over the first 5 years. That is over one-third of the money that, under the Medicare Act, would only 16 percent of Medicare beneficiaries are enrolled in Medicare HMOs.

The HMOs tell us that they need this level of funding to “stabilize” the market, and that without it they will have to withdraw from the program, or reduce benefits. But we know from the General Accounting Office that are already overpaying the HMOs—by nearly $1,000 per enrollee.

And yet, our colleagues on the other side of the aisle are not requiring any accountability on the part of the managed care plans in exchange for this huge influx of funding. They don’t require them to stay in the market, and they don’t require them to commit to a benefit package.

Managed care plans should be provided a reasonable portion of the funds in this package. But the majority has provided funds for HMOs at the expense of reducing beneficiary cost-sharing for preventive benefits and outpatient visits, at the expense of expanding health options for legal immigrants, at the expense of patients with Lou Gehrig’s disease, at the expense of uninsured children, and at the expense of persons with Alzheimer’s disease.

This is too great an expense. I have a letter signed by 23 senior groups opposing this large payment of funds to Medicare+Choice HMOs. I ask unanimous consent that this letter be printed in the RECORD.

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

WASHINGTON, D.C., October 18, 2000
Hon. Richard H. Bryan,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BRYAN: The undersigned organizations oppose the large payment of funds to Medicare+Choice HMOs rather than using these dollars to help Medicare beneficiaries in the proposed Medicare Balanced Budget Act (BBA). The pending leadership proposal, which costs about $10 billion on HMOs and only a small fraction on America’s seniors.

The proposed restoration of funds to HMOs is out of balance with the rest of the bill. Currently less than 16 percent of beneficiaries are enrolled in HMOs, yet one-third of the funds go to these entities. The increase in funds is of particular concern since HMOs are not being held accountable for their participation in Medicare. The plans have not committed to maintaining their participation in Medicare or to providing any length of time. Additionally, the proposed increase flies in the face of the fact that independent experts, such as the General Accounting Office, have found that these plans currently are paid too much.

Earlier in the year, Congress’s budget resolution committed to spending $40 billion on a new Medicare prescription drug benefit. This has not been done. And now rather than spend this $40 billion on direct beneficiary improvements, Republican leaders are proposing only a small fraction of the original amount promised for beneficiaries.

There are many other senior concerns that are being shown by this legislation, including those that relate to quality of care. The bill would not provide sufficient funding to address a number of serious problems: Medicare beneficiaries and their families currently face. The priorities related to the balance of payments in this bill must be changed to assure that the group that Medicare is supposed to serve—America’s seniors—receive their fair share of the funds.

Sincerely,

AFSCME Retirees.
American Association for International Aging.
American Federation of Teachers Program on Retirement and Retirees.
Association for Gerontology and Human Development in Historically Black Colleges and Universities.
Association of Jewish Aging Services.
Eldercare America.
Families USA.
Meads on Wheels Association of America.
National Academy of Elder Law Attorneys.
National Association of Area Agencies on Aging.
National Association of Foster Grandparent Program Directors.
National Association of Nutrition and Aging Services Programs.
National Association of Retired and Senior Volunteer Program Directors.
National Association of Retired Federal Employees.
National Association of Senior Companion Project Directors.
National Association of State Units on Aging.
National Caucus and Center on Black Aged.
National Committee to Preserve Social Security and Medicare.
National Council of Senior Citizens.
National Council on the Aging.
National Senior Citizens Law Center.
National Senior Service Corps Directors Associations.
OWL.

MR. BRYAN. Mr. President, finally, let me conclude by saying that the administration has indicated that the President may veto this legislation because of the heavy tilt toward managed care plans, the lack of accountability, and the lack of provisions that would directly help Medicare beneficiaries—our intended audience. I would support that veto.

I thank the Presiding Officer. I yield the floor.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCY PROGRAMS APPROPRIATIONS ACT, 2001—CONFERENCE REPORT—Continued

The PRESIDENT OF THE SENATE: Mr. GORTON. Mr. President, I ask the Senator from Washington for 10 minutes or less on the bill.

Mr. COCHRAN. Mr. President, I am happy to yield to the distinguished Senator the time he requested.

Mr. LEAHY. Mr. President, I ask unanimous consent that following the comments of the distinguished Senator from Washington, I might be recognized under the normal division of time for about 6 minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that following the comments of the distinguished Senator from Washington, I might be recognized under the normal division of time for about 6 minutes.

The PRESIDENT OF THE SENATE: Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, it has taken a considerable period of time to reach the happy conclusion of the debate over the appropriations bill for the Department of Agriculture. None of that delay is due to the distinguished chairman or to his ranking member, the Senator from Wisconsin, who have worked with extraordinary diligence and I think immense success in bringing this bill before us.

I can’t even begin the major portion of my remarks without thanking him for his thoughtfulness to the particular concerns of my own State—first, of course, the field of agricultural research. There is research money in this bill for wheat, apples, asparagus, animal diseases, small fruit, barley, and potatoes, to name a few. In each and every case, that money will help our farmers meet the demands of the market in the future—both here in the United States and overseas.

In addition, without precedent, there is a considerable and most indispensable relief for the tree fruit industry in my State and others—formerly a highly profitable occupation that has fallen on bad times. A bridge is provided in this bill until more successful times in the future. The cranberry industry falls into exactly the same situation. And, of course, with respect to low farm prices in many other commodities nationwide in scope, relief is included in this bill, again with the hope that we will soon have better times in the future for our agricultural products.

There are, however, two subject matter areas of this bill that are of particular importance. The first has to do with sanctions—the unilateral sanctions that the United States has imposed on itself barring the export of our agricultural commodities and for that matter medicines to a number of
countries around the world for some form of foreign policy reasons.

Those sanctions by and large are canceled by this bill, and the President is deprived of the power in the future to impose them unilaterally without dealing with Congress. This may be very important in the immediate future with the threat that sanctions will be taken against even our good friend Japan with our agricultural products by reason of its whaling practices. The President is now fully with its whaling practices. But I don't think we should deal with them by punishing our farmers, ranchers, and agricultural producers. Personally, I would have preferred the more sweeping language of the original Senate bill in this respect. There was vehement opposition to some of its provisions in the House of Representatives.

My colleague from the State of Washington, Congressman NETHERCUTT, worked diligently, and often in opposition to his party's leadership, in crafting this compromise. This compromise, I guess, I would describe as being 80 percent of what we need. It includes what I think are some unwise provisions related to travel to Cuba. But, we should take that three-quarters, or 80 percent, of what we need, and we should begin to restore the opportunity to secure these markets to our farmers. And we should take care of the rest of the controversy next year.

Will we immediately begin to see huge sales of our wheat, for example, to Iran and to other former major customers? I am not at all sure we will. It may take years to repair the damage we have created by these unilateral sanctions. But this is a start. This gives our farm community, at a time of very low prices, once again the ability to compete in the world markets, and not just in some of those markets. First and most important are the provisions of this bill dealing with the price of prescription drugs. My colleague from Nevada, who just concluded his remarks, had a number of points, with which I don't entirely agree, but I certainly do agree with him on that one. He was one of the co-sponsors of the J effords-Dorgan proposal on the reimportation of drugs.

Simply stated, we face a situation in which American pharmaceutical manufacturers benefit from huge tax subsidies through research and development tax cuts, and benefiting from the immense research that we do in the National Institutes of Health, nevertheless, sell their products outside of the United States in Canada, in Europe, and in Latin America for prices half or less the price they charge for those drugs in the United States. That is outrageous. It is a form of discrimination without any justification whatsoever.

Six months or so ago, I introduced a bill to directly ban price discrimination in prescription drugs in the same way it has been banned in almost every other commodity in the United States in interstate commerce for some 65 years.

A Congressman from New York, Congressman HINCHEN, made a similar proposal in the conference committee. Personally, I would prefer a more direct approach.

Once again, the perfect was the enemy of the good. We have the ability not only for individuals to go into Canada or Mexico and buy drugs that are cheaper under the same circumstances they are manufactured in the United States, but then reimported to the United States for individuals to use. It is something that I think is very important for people who need to use drugs and find them too expensive here; but also for our pharmacists to do the same thing to the extent that their wholesale prices are the result of discrimination against them and in favor of Canadians and Europeans and others.

Some of those costs will be passed back to the purchasers of prescription drugs here in the United States who can’t travel to Canada or to Mexico or to someplace else to make their own purchases.

Is this a perfect solution? No. It is not. First, it is indirect rather than direct.

Second, there are opportunities, I am convinced, in the way their bill was written, to take advantage of the efforts of its proponents, through which the pharmaceutical manufacturers may find loopholes and may be able to frustrate the proper desire of Americans to lower drug prices.

If that happens, we will certainly be back next year at the same time and at the same place to see to it that a discrimination which is entirely unjustifiable is ended. American companies benefiting from American society, under the same circumstances they are manufactured in the United States, but under the same circumstances they are manufactured in the United States, and then they are reimported to the United States for individuals to use. It is something that I think is very important for people who need to use drugs and find them too expensive here; but also for our pharmacists to do the same thing to the extent that their wholesale prices are the result of discrimination against them and in favor of Canadians and Europeans and others.

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Mr. President, there are several problems with this final conference agreement.

First, the inclusion of $300 million in special interest earmarks that either have not been properly reviewed or authorized through the legislative process. Much of this spending is earmarked for towns, universities, research institutes and a myriad of other entities that appear only vaguely related, at best, to addressing the dire situation of farmers, women and children.

A number of policy riders are also tacked on, without any consideration by either body, that reverse a number of 1996 farm bill reforms and violate trade policies.

Let's first take a look at the "Top Ten Pork Barrels" in this year's agriculture bill:

No. 10, An add-on of $300,000 is provided to a laboratory in East Lansing, Michigan, to map and identify genes in chickens.

No. 9, An amount of $690,000 will be provided to test the "competitiveness" of agricultural products solely from the state of Washington.

No. 8, Despite millions provided for salmon restoration through other appropriations bills this year, $645,000 is earmarked for research on alternative salmon products in guess where—Alaska; you will find Alaska pops up quite frequently in these pork barrel bills.

No. 7, An add-on of $1.05 million will pay for sunflower research in Fargo, ND.

No. 6, $300,000 is earmarked for the Pineapple Growers Association in Hawaii, whose three members of the Pineapple Growers Association are the impoverished organizations, Dole Food, Del Monte Fresh Produce, and Maui Pineapple Company. These impoverished three corporations are badly in need of $300,000 of the taxpayers' money so they can deliberate as the Pineapple Growers Association of Hawaii.

A whopping $5 million is earmarked for an insect rearing facility in Stoneville, MS. That must be an interesting place.

No. 4, an add-on of $300,000 will pay for manure management systems in Florence, SC. I have spent a lot of time in South Carolina. I hope this $300,000 will pay for the manure management systems in Florence, SC.

No. 3, a $250,000 earmark is included for potato research in Prosser, WA, to develop improved varieties of potatoes. Only in Prosser, WA, do we need to do this kind of research.

No. 2, the popular National Center for Peanut Competitiveness in Georgia will receive a healthy endowment of $400,000. That ever popular National Center for Peanut Competitiveness, in Georgia, will receive this $400,000.

And No. 1, an earmark of $100,000 is provided for the Trees Forever Program in Illinois, the vitally important purpose of which is to encourage and provide information on the use of trees. Trees Forever in Illinois is to encourage and provide information on the use of trees.

In my State of Arizona, except in the northern part of my State, we don't have a lot of trees, but we certainly have a lot of cactus. Perhaps we could have next year an earmark for the "Cactus Forever Program." That might be an enjoyable exercise. I urge my pork barreling friends to consider, next time they have Trees Forever, perhaps "Cactus Forever."

Mr. President, this is just a small sample from the 32-page list of earmarks I compiled from this agriculture appropriations conference report. Many are recurring earmarks, year after year, for projects that appear to be either duplicative or, as GAO had found when reviewing agricultural spending, pay for projects not related to basic research or high-priority areas, or which already receive substantial private sector investments.

Mr. President, I am sure that many of these objects may be meritorious and helpful to the designated communities. What I object to is the way these projects have been selectively identified and prioritized for earmarks, mostly for purely political interest, rather than for the national interest.

This 1996 appropriations measure is intended to provide assistance to farmers, women, children and rural communities with the greatest need. Yet, by diverting millions for parochial spending, we fail in this responsibility, forcing Congress to once again attach ad-hoc emergency spending, adding up so far to $23 billion over the past three years, for farm relief and other disaster assistance. This time around, about $3.6 billion is designated for emergency spending for farmers and communities which have suffered critical losses due to severe drought and difficult market conditions.

I realize that many of America's families are in crisis, and some form of assistance is needed to responsibly address real economic hardship faced by many of our nation's farmers and their families. However, it is quite interesting to note that among those that the budget negotiators consider the most in need are the tobacco, sugar and honey industries.

For example, a last minute provision was added to reverse the limited reforms to the federal sugar program. Behavioral closed doors, powerful sugar interests have been able to chip away at the few reforms required by them by the 1996 Freedom to Farm bill.

First, through last year's omnibus appropriations bill, a provision was included in the Senate and House passed bills by close to $2.8 billion for manure management systems in Florence, SC. I have spent a lot of time in South Carolina. I hope this $300,000 will pay for the manure management systems in Florence, SC.

By the way, a large family of sugar growers is one of the major reasons why we are having to pay billions of dollars to clean up the Everglades.

Earlier this year, sugar interests pressured the Agriculture Secretary to spend more than $60 million to purchase more than 150,000 tons of surplus sugar to prevent mass forfeitures, paid for by the taxpayers once again. An additional $934,000 short tons of sugar was forfeited once again this month, thereby eliminating the responsibility for sugar growers to pay back $352 million in loans. Many of these sugar growers are capable of making enormous political contributions in soft money to both parties.

And, just now, sugar interests have adeptly worked behind the scenes to add another never-before-seen provision, not previously included in the Senate or House bill, to overturn federal sugar policy. This change will reverse the recourse loan provision in the 1996 farm bill that obligates full repayment of the loan in cash. Despite loopholes already existing in current law to allow sugar producers to sidestep loan repayment, this new conference provision directs that all federal price support loans be made permanently "non-recourse" loans, which is a fancy way of saying the loans will not have to be repaid.

Another provision added in conference allows burley tobacco producers to forfeit their crops, much in the same manner that sugar producers are allowed to do. Not only are we letting sugar and tobacco growers off the hook for repayment of Federal loans, the Federal Government will be responsible for selling off tobacco crops that are forfeited to the Federal Government. Such a movement may encourage the overproduction of tobacco, at a time when, thank God, the tobacco demand is lessening and the American people are urging more responsible federal policies toward tobacco because of its impacts on our children and public health. However, once again, special interests win, and the taxpayers will foot the bill, at a cost of $50 million.

Other egregious last-minute provisions added in conference include:

A new provision that reinstates the federal subsidy for tobacco producers, previously repealed by the 1996 farm bill. The cost? $20 million.

The controversial dairy price support program will be extended, while also delaying implementation of the dairy recourse loan program that requires full repayment of federal loans. $500,000 is earmarked solely for the State of California for crop insurance,
SO LONG, SURPLUS

BY DAVID S. BRODER

October 18, 2000

(From the Washington Post, Oct. 18, 2000)

So Long, Surplus

(By David S. Broder)

Between the turbulent world scene and the close presidential contest, few people are paying attention to the final gasps of the 106th Congress—a lucky break for the lawmakers, who are busy spending away the promised budget surplus.

President Clinton is wielding his veto pen to force the funding of some of his favorite projects, and the response from legislators of both parties is that he can get his, we’re damn sure going to get ours.

As a result, said Congressional Quarterly, the nonpartisan, private news service, spending for fiscal 2001, which is likely to be $100 billion more than allowed by the supposedly ironclad budget agreement of 1997.

More important, the accelerated pace of spending is such that the Concord Coalition, a bipartisan budget-watchdog group, estimates that the $2.2 trillion non-social Security surplus projected for the next decade is likely to shrink by two-thirds to about $712 billion.

As those of you who have been listening to Vice President Al Gore and Texas Gov. George W. Bush know, they have all kinds of plans on how to use that theoretical $2.2 trillion surplus to fund health care benefits and generous tax breaks. They haven’t acknowledged that, even if good times continue to roll, the money is accounting on may amount to nothing more than $60 billion.

To grasp what is happening—those now in office grabbing the goodies before those seeking office have a chance to examine the last-minute rush of bills moving through Congress as it tries to wrap up work and get out of town—consider the recent example of an expensive bill that included a provision allowing military retirees to remain in the Pentagon’s own health care program past the age of 65, instead of being transferred to the same Medicare program in which most other older Americans are enrolled. The military program is a great one; it has no deductibles or copays and it includes a prescription drug benefit.

Retiring Democratic Sen. Bob Kerrey of Nebraska, himself a wounded Congressional Medal of Honor winner—indeed, in the midst of a raging national debate on prescription drugs and Medicare reform—these particular Americans should be given preference. The measure will bust the supposed budget ceiling by $60 billion over the next 10 years.

We are going to commit ourselves to dramatic increases in discretionary and mandatory spending without any unifying motivation beyond the desire to satisfy short-term political considerations,” Kerrey declared on the Senate floor. “I do not believe most of these considerations are bad or unseemly. Most can be justified. But we need a larger purpose than just trying to get out of town.”

Sen. Phil Gramm, a Texas Republican, may have been right in calling this the worst example of fiscal irresponsibility, but there were many others. Sen. Ted Stevens of Alaska, who made his condemnation of pork-barrel projects part of his campaign for the Republican presidential nomination, complained that spending the bill is being railroaded through Congress by questionable procedures.
Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARKIN. Mr. President, is it correct that I am allotted 45 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, before getting into my main comments on the Agriculture Appropriations conference report, I want to make a few comments in response to the Senator from Arizona, who spoke about various items that are in this bill and criticized them.

I am very proud of my service on the agriculture appropriations subcommittee, and I am very proud of our chairman and ranking member for the bill they put together. It is a good bill. I am going to vote for it because it provides needed funding for many of the programs and activities important not only to farm families and rural communities but to consumers and our Nation generally.

I thank our agriculture appropriations chairman, Senator COCHRAN, and the ranking Democratic member, Senator KOHL, for their hard work on this bill. I appreciate the opportunity to have worked with them, and I thank them for their cooperation in responding to my views on various items in this legislation and for their work in putting this bill together. Overall, it is a good bill.

The Senator from Arizona cited a number of items in the bill. I did not hear him mention some research grants for the fruit and vegetable market analysis for Arizona. There was a produce pricing item in there for Arizona. There was a Federal administration research grant for shrimp aquaculture for several States, including Arizona. Also, in the conference report, there is a $5 million item for Water Conservation and Western Cotton Laboratory in Maricopa, AZ.

I do not know a lot about those facilities. I know our colleague, Senator KYL, is on the committee. I am sure he has looked at these items and may have had something to do with them being in there. I do not know. But I believe the Senator from Arizona, who just spoke, is off the mark because most of the items are there because Senators pay attention to the needs of their constituents and they pay attention to the needs of our country.

I am not cognizant of this Water Conservation and Western Cotton Laboratory in Maricopa for $5 million, but it probably has something to do with cotton production, which is important to our country. It probably has something to do with cotton production in Arizona, which is obviously important to the people of Arizona and Western States.

I don't know. Maybe this has something also to do with the large amounts of Federal subsidies that our Government provides for water and for irrigation for cotton in Arizona. I listened in vain to hear my colleague from Arizona decry the use of subsidized water in his State of Arizona. Well, I'm not here today going after it. It is probably necessary for the people of Arizona, probably necessary for western cotton production, and could be important for western animal production.

So I think my friend from Arizona, in taking after a lot of the items in the Agriculture Appropriations bill, is just simply off the mark. Oh, I know it probably makes good press. You can probably get a good column out of it once in a while about pork barrel spending and all that kind of stuff, but when you go down these items, these are items that are important to the people of those constituencies in those States important to agriculture in those States and, as such, it is important to agriculture for the entire country.

That is why I commend the chairman and the ranking member for putting this bill together. It is a good bill. In fact, if you want to talk about items that are in the bill that pertain to States, let me talk about one in my own State. One of my highest priorities was to obtain funding for the planning and design of new facilities at the Department of Agriculture's National Animal Disease Laboratory in Ames, IA. I am pleased that the bill has the full $9 million that was requested for this purpose in the budget.

These new facilities are absolutely critical for biocountermeasure programs and for work with animals with highly contagious diseases. The National Animal Disease Laboratory is one of—if of course, in my opinion, it is the preeminent animal disease research facility in the United States. But the conditions of this facility are very poor. The main facility there was constructed beginning in the 1970s. Now we find out we need new animal disease facilities; some that are highly contagious, some that can be used by terrorists for bioterrorism. Yet the facilities, some that were built some 40 years ago, are not built to contain them adequately, safely, and securely. We need to move forward to improve the National Animal Disease Laboratory facilities as quickly as possible, to protect against emerging, highly contagious, highly infectious animal diseases; some that are highly contagious, some that can be used by terrorists for bioterrorism. Yet the facilities, some that were built some 40 years ago, are not built to contain them adequately, safely, and securely.

Therefore, it is imperative that not only the window is not squandering the projected surpluses, but the meaningful reforms of entitlement programs be undertaken not to avoid budget deficits and unsustainable levels of debt in the future.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. 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.
I also want to point out some other priority items of particular interest in Iowa that are in the bill. They are particular to Iowa, but they are broader than the State, including funding for research that will help block the use of anhydrous ammonia to make methamphetamine. That is one that is in this bill. It helps us in Iowa, but it helps us in many other States.

There is an item in the bill for addressing serious erosion problems in Iowa’s Loess Hills. The Loess Hills in Iowa are a unique geologic formation of its kind anywhere in the world outside the nation of China. These are a national treasure. There is some money in here to address some of the serious erosion problems in this very unique geologic formation.

There is money in here for research into industrial lubricants made from soybeans and other commodities, for farm safety education, and for dairy research and education.

I just joined him in Minnesota here. We traveled around the State. I was reading an article—I think it happened in Minnesota, but if it didn’t happen in Minnesota, it happened in a little 3-year-old boy got one arm and his other hand caught in a farm auger. I was reading the tragic story of how the doctors tried to reattach his arm and were unsuccessful in doing so. So this young 3-year-old boy has lived his life with his right hand in his left hand because of an accident on a farm.

Do we need funds for better research and education so that farmers and their families can be more safe in their occupations? You bet we do. And that is very worthwhile funding.

This bill also includes major increases in funding for food safety activities at USDA and FDA. This has been a priority of mine for a number of years. Total USDA and FDA food safety funding will increase by $28.3 million; and for FDA, the funding will increase by $30 million. That means that for USDA and FDA we are fully funding the President’s food safety initiative. That is good, but there is a lot more we have to do in the way of food safety.

Last month, we had a hearing in the Agriculture Committee on food safety. Chairman LUGAR and I worked together to help set it up. In that hearing we got a very revealing telling of information about the resources that we are putting into food safety. The General Accounting Office testified that in fiscal year 1999, about $1 billion was spent on USDA and FDA food safety activities combined. Of that amount, USDA received $712 million to inspect some 6,000 meat, poultry, and egg establishments.

FDA, however, received only $260 million with which it had to inspect over 57,000 food establishments and 9,000 animal feed and food establishments. So USDA gets $712 million. They have 6,000 establishments to inspect. FDA got only $260 million. They had to inspect over 66,000 establishments.

Here is the twist. About 85 percent of the instances of foodborne illness are linked to foods that fall under FDA’s jurisdiction, and only 15 percent of them fall under FDA’s jurisdiction. So clearly, we have our work cut out for us in the area of food safety.

We need more resources for the Food and Drug Administration. But, in reality, we really need a more unified and coordinated structure for federal food safety. Next year, this Congress should work to that end. I know my colleague, Senator DURBIN from Illinois, has a bill on that. Obviously, all the bills will die at the end of this session of this Congress, but we need to join forces in a bipartisan fashion next year. I believe there will be broad support among food producers and consumers to have a unified coordinated structure for food safety here at the Federal level.

I was also pleased to be able to work with Congressman Walsh of New York to include in this conference report important hunger relief measures. The provisions in this bill will significantly help in making sure Americans who need food stamps and who for some reason just happen to have a modest, reliable automobile, can still receive food stamp benefits they need to feed their families. The vehicle provision is especially important in rural areas where people are right on the edge of getting to town or to get to work. They should not be disqualified from food stamps just because they own a modest, dependable vehicle.

I am also pleased that there were significant increases in rural housing, sewer, and water assistance, and economic development support important for rural America. I am, however, concerned about an increase in the fee for rural housing. For the rural housing loan guarantee program, the fee was increased from 1 percent to 2 percent. That was included in the final measure. I believe this hurts the ability of modest-income families to become homeowners in rural areas. I will be working to reverse that.

This legislation also includes a substantial amount of additional emergency spending to respond to the needs arising from various types of economic and natural disaster losses. Overall, emergency spending will increase by over $1 billion in fiscal year 2000. Of that, emergency funding for emergency assistance, including compensation for crop production and crop quality losses, livestock and dairy assistance, and funding for the important emergency conservation and emergency watershed programs. This emergency assistance will be very important to farmers who have suffered from drought and severe weather in Iowa and many other States.

Over the past several years, Congress has provided a good deal of emergency assistance to farmers. In the past 3 years, the emergency assistance has amounted to over $22 billion. As I said, in this bill there is an additional $3.6 billion. For the most part, that assistance was clearly needed—in fact, critically needed. It helped keep many farm families on the land who otherwise would have been forced out of business. Keep in mind, these emergency payments were on top of the spending under provisions of the existing farm bill.

For fiscal year 2000, USDA made some $28 billion in direct payments of one kind or another to U.S. farmers. That is a record. And the total cost of farm programs was $32.3 billion, another record. Looking at it another way, in calendar year 2000, U.S. farmers will receive $23.3 billion in direct payments from the Federal Government, but they will have a net farm income of only $45.6 billion. Over 50 percent—over half—of U.S. net farm income this year will come from direct Government payments. In fact, last year in Iowa, USDA payments exceeded our net farm income.

I can’t help but ask, whatever happened to the promises made by the backer of the so-called Freedom to Farm bill? They were going to “get the Government out of agriculture and let the free market work.” What do we have? We have a Government commodity program. The Farm program spending by the Government is at record levels, and farmers are still being driven off the land by the thousands. Get the Government out? Farmers today are every bit, if not more, reliant on the Government than they have ever been before. Freedom to Farm did not get the Government out of agriculture, but it sure has been successful in getting family farmers out of agriculture.

Today our farmers’ plant for the Government program. They market for the Government program. They rely on the Government program for over half their net farm income. Already, Freedom to Farm has cost $29 billion more than its backers said it was. That was passed in 1996. The emergency assistance we have passed went to help a lot of farmers. But it is a serious indictment of the current Freedom to Farm bill that Congress has had to provide emergency farm income assistance 4 years in a row. And the way things are going, we are going to have to add more in this fiscal year beyond what is in this bill.

We cannot any longer tolerate a farm policy that lurches from one emergency spending measure to the next. It is time for Congress to recognize that Freedom to Farm has become “freedom to fail.” It has failed. We need to write a new farm bill, one that maintains the planning flexibility and the environmental programs we all support—but that restores the income protection, the farm safety net, the counter-cyclical programs that farmers need.

I listened to the debate last night. We have heard from Vice President Gore say we need to change our farm program, we need a better safety net, we need better conservation programs that are voluntary, that we can put
more money into conservation, but to provide a better income protection and a countercyclical program for farmers. To the best of my knowledge and information, Governor Bush has said he wants to stick with Freedom to Farm. I think we live in rural America and on our farms should know that, should know the data, the facts I have just laid out. Farm program spending is at an all-time high, yet thousands of farmers are still going out of business. We need a new direction and a new farm program, not the same status quo. Here is another aspect of the failure of the Freedom to Farm bill. Because farmers are so heavily reliant on direct payments, Congress has stepped in this year and last year to raise the payment limitation for loan deficiency payments, what are known as LPDs, and marketing loan gains. We have raised the payment limitation for loan deficiency payments and marketing loan gains to $305,000 instead of $75,000 which it was last year, and it is done again this year in this bill.

But there is a wrinkle that deserves more attention. If an individual sets up partnerships or corporations, that individual would double the effective payment limitation. That means that, in reality, the payment limitation for the largest farms is now $300,000 for an individual. I have to ask: How can we justify paying out such large amounts of money to the largest farms while family farms are struggling to survive and going out of business? We are told that this payment limitation relief was absolutely necessary, even to help family-size farms. But in reality, only a very small share of farms actually receive any benefit from this increase in the payment limit.

The Environmental Working Group analyzed the USDA data and determined that fewer than five-tenths of 1 percent of farms and farm businesses that are receiving USDA payments actually benefited from the payment limitation increase Congress approved in 1999. These 3,400 individuals and farm businesses received an average of $148,000 under this program last year, 14 times higher than the $7,200 received by the average farmer.

We have similar numbers from the Office of the Chief Economist at USDA. Based on data collected in the 1997 census of agriculture, they found that the number of farmers who might benefit for that year with the change included in this conference report is about 13,000, which is perhaps about 1.5 percent of the total participants in the Federal commodity programs.

So again, this doubling of farm payment limitations went to help just a very small percentage of farms of the largest size. It seems to me, if we are going to lose such amounts of money, we should put it in to help the family-size farms that are struggling, the kind of farms Senator Wellstone and I visited yesterday in southern Minnesota. These are not huge farms, these are family farms, yet they are the ones being squeezed. The big ones that are perhaps farming thousands of acres of land are getting huge payments of up to $300,000. That doesn't make sense. These large farms can protect themselves from themselves. If we are going to put the money in for farmers, let's help the struggling family farms first.

I also want to talk about the Cuba provision. What is in this conference report on Cuba was really a step backward. There is a superficial sham opening of the embargo on agricultural shipments to Cuba from the United States, but the restrictions are so great that I do not believe it will amount to anything. Keep in mind that no direct financing can be provided by any U.S. financial institution to anyone who wants to sell products to Cuba. Well, financing is a critical part of agricultural exports. Anyone knows that, that is necessary, can be provided. You have to go to some third country to get it. Also, the bill locks into statute the travel restrictions that have been in place regarding Cuba, which are administrative. This locks them into law. It will make it just that much harder to bring down the barriers to change in Cuba.

We have had a failed policy on Cuba for 40 years now—a failed policy. This bill keeps us on the same path. Actually, we will see that this bill is the best thing we could ever do to keep Fidel Castro in power. If you want to change things in Cuba, open it up and let people travel there. Open it up for exports. Let our farmers travel there and sell our goods and products in Cuba without the restrictions this bill writes into law. That would be the single best thing we could do. But, no, we are doing the same thing we have done for 40 years. Someone once described insanity as doing the same thing over and over again and expecting a different result. We keep doing the same thing year after year after year with Cuba, and we expect some different results. It is time we change our Cuba policy.

Lastly, I want to talk about the issue of drug reimportation. There was a provision in this bill that would have allowed pharmacists and wholesalers to import FDA-approved prescription drugs, was well intentioned and began as a creative way to try to get lower cost drugs to seniors with important safety precautions. If done correctly, this proposal would provide a real help to many of whom already travel to Canada and Mexico to buy medications at a fraction of their U.S. price. But not every senior in Iowa or in other States is able to travel to Canada or to Mexico to get these drugs.

Unfortunately, the provision in the bill now is the product of a closed-door discussion. We were kept out. At the last minute, we got some paper handed to us and we voted on it. I believe the authors have rendered it unworkable with language that will prevent any importation of affordable FDA-approved drugs.

In spite of months of bipartisan work to craft this language, the Republican leadership decided abruptly to take a partisan approach that is riddled with loopholes to minimize the impact of the new system. In fact, I think it may completely unravel. The language includes a provision that reads as follows:

The provisions of this section only become effective if the Secretary demonstrates to the Congress that the implementation of this section will: (1) pose no additional risk to the public health and safety; and (2) result in a significant reduction in the cost of covered products to the American consumers.

What does all that language mean? I asked in the conference: What does this mean? How is this to be done? I could get no answer. Unfortunately, the way the language was finally crafted, it may not be possible to "demonstrate" that the public will be adequately protected or to "demonstrate" that prices will be substantially reduced.

The language has other weaknesses in labeling and marketing that I believe undermine its ability both to protect the public from unsafe drugs and to lower costs.

In addition, the language crafted by the Republican leadership requires the program to be terminated after 5 years. This is going to have a chilling effect on any private investment necessary to set up the distribution systems and the lab testing facilities necessary to carry out the program and to make sure they are safe.

In short, the drug reimportation system in this bill is a charade. I hope the American public will see right through this and recognize for what it is: a fig leaf for the Republican leadership desperate to disguise the fact that they have done nothing this year to enact a meaningful Medicare prescription drug benefit, which really is the only way we can effectively provide access to affordable prescription drugs for our senior citizens.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes 45 seconds.

Mr. Harkin. I yield whatever time he needs of that remaining to the Senator from Minnesota.
Mr. WELLSTONE. I say to my colleagues, I will only take 5 minutes if that is all right with him.

Mr. HARKIN. How much time is the Senate going to use?

Mr. WELLSTONE. I would rather the Senate cut to some time, so 5 minutes will be fine.

Mr. HARKIN. I have a couple of other things I need to say.

Mr. WELLSTONE. Mr. President, I rise to speak in support of this agriculture appropriations bill. While it is clear there are some significant shortfalls with regard to the prescription drug re-importation issue, which I will speak about later, on balance this legislation will provide much needed help to family farmers, rural communities, and low income families.

I am pleased this legislation includes substantial emergency assistance, $3.6 billion, directed to family farmers in Minnesota, and across the nation, who are suffering from natural disasters, historically low prices and increasingly concentrated markets which have largely been brought on by the failed 1996 Freedom to Farm Bill, or as I call it the Freedom to Fail Act.

Specifically, this legislation will provide $1.6 billion to producers who have been devastated by lost crops due to natural or weather related disasters. In the state of Minnesota, 7 to 10 inches of rain fell in early June in the Red River Valley, which destroyed what producers had hoped to be a bumper crop, and has forced hundreds of family farmers to clean up flood damages for the eighth consecutive year. The Minnesota Farm Service Agency tells us that almost 400,000 acres of crops have been destroyed in Minnesota. While crop insurance will cover some of the losses, this additional emergency assistance will be necessary for many family farmers in the region.

This part of Minnesota, largely dependent on a poor farm economy, has been affected by successive years of floods that have forced many off the farm. And this rain storm affected other areas of my state including localized portions of Southeast Minnesota. Overall twelve counties in Minnesota have been affected by major disasters and experienced major crop losses.

It is vitally important that this disaster aid get out to producers quickly. However, it is also vitally important that we take some action to deal with the root problems in agriculture policy.

As many of my colleagues know, the 1996 farm bill has proven to be a total failure. By destroying any safety net for family farmers and capping loan rates at artificially low levels, the 1996 bill has left farmers vulnerable to the severe economic and weather related events of the past three years, resulting in devastating income losses. And while the premise of the Freedom to Farm Act was to “get the government out of agriculture” the Federal government has been forced to spend more on disaster packages—over $25 billion—over the last four years than was supposed to be spent through the seven year life of the law.

Again this year, Congress has failed to address the impact of plummeting farm incomes and the ripple effect it is having throughout rural communities through substantial emergency assistance. Let me assure my colleagues that if we do not write a new farm bill early next year, if the only help family farmers get from Washington is unreliable, long delayed emergency aid bills that are distributed to uninsured family farmers are not going to survive.

Family farmers deserve a targeted, counter-cyclical loan rate that provides a meaningful level of income support when the market price falls below the loan rate. Lifting the loan rate would provide relief to farmers who need it and increase stability over the long term. We also need to institute farmer-owned reserve systems to give farmers the leverage they need in the marketplace, and conservation incentives to encourage farmers to conserve.

We need a new farm bill.

In addition to the failed farm bill, I have found that family farmers rank the lack of competitive markets as a major factor to explain the price crisis that is devastating rural America. While there can be no argument that the majority in Congress has failed to pass, or even consider, legislation, such as I and others have proposed, to deal with this issue, with today’s merger mania, this appropriateness bill has taken some positive steps.

Included in this legislation is an increase in the Grain Inspection, Packers and Stockyard Administration, GIPSA, budget to fund essential programs that ensure competitive markets and fair prices for our independent livestock producers. I am pleased to say that this increase, which I had proposed during Senate consideration of the 1996 Freedom to Farm Act, will result in an increase of $4.151 million over the Senate approved bill.

As many of my colleagues know, this is essential funding that will help bolster GIPSA’s market concentration activities. For several years livestock producers have expressed their concern over evermore concentrated markets, as well as extreme frustration over what they perceive as inadequate governmental action to ensure fair and competitive markets. Consequently, GIPSA has been asked to assume a more prominent role in ensuring competitiveness and fairness in the livestock industry. GIPSA is conducting a growing number of investigations on market concentration in agriculture, within each of the agribusiness, using increasingly sophisticated economic and legal analysis.

Examples of what this money will be used for include: anti-competitive behavior, code enforcement, and multi-roster teams that are utilized for time sensitive issues that require expedient investigations to protect small family producers; and a contract library that will be used to catalogue each type of contract offered by packers to producers.

This appropriations bill also contains vital emergency assistance for small independent dairy producers. H.R. 4461 provides $473 million in direct income relief payments to family dairy farmers throughout the nation. The money is targeted to small- and medium-scale farms who are in the midst of a price crisis as a result of the wild price fluctuations we have been seeing for the past few years.

Mr. President, in my state of Minnesota, dairy production is truly one of the cornerstones of our economy. We have 7,800 dairy farms in Minnesota, ranking us fifth in the nation in dairy production. The average herd size of a Minnesota dairy farm is about 60 cows. Family agriculture is not just an important element of our states heritage, it is vital to our future. But right now, dairy farmers in Minnesota and throughout the country need relief. Therefore, I am pleased this legislation includes a provision, which I joined the Senators from Wisconsin in proposing, to provide $473 million in targeted emergency payments to dairy farmers nationwide.

I continue to see the urgency of this aid, especially as we in Minnesota lose dairy farms at a rate of three per day. This will put money in the pockets of dairy farmers soon, when they need it, not a year from now when many of them will have already sold their cows. However, it is, like last year’s funding, merely a bandage to stop the bleeding. Dairy farmers everywhere need meaningful policy reform.

In order to achieve a fair, sustainable and stable long term price, we need a dairy price support program that is set at a level sufficient to curb the current market volatility.

In addition, H.R. 4461 contains significant increases in rural development programs to help rural communities make it through these difficult economic times. Furthermore, I am pleased the bill contains a provision I added to provide $3 million in grants to help promote employment of rural residents through teleworking. Telework is a new method of doing work that will allow information technology jobs to be a part of diverse, sustainable rural economies while helping IT employers find skilled workers. Specifically, telework is the use of telecommunications technology, like the Internet, to perform work functions over a distance instead of at the traditional workplace of the employer. This provision will allow rural communities to access federal resources to implement locally designed proposals to use telework as a tool for rural development. This represents a critical opportunity for diversification and revitalization of rural economies.

This bill also takes some important first steps to ensure that all low-income families receive the food stamps they need to prevent hunger and ensure...
the United States—many constituents, but none with more compelling stories than senior citizens struggling to make ends meet because of the high cost of prescription drugs—life-saving drugs that are not covered under the Medicare program. Indeed, it is shameful that this Congress has failed to enact a prescription drug benefit under Medicare available to all beneficiaries.

But the issue is not just Medicare’s lack of coverage. The unfairness with which Minnesotans feel is exacerbated by the high cost of prescription drugs here in the United States—the same drugs that can be purchased for frequently half the price in Canada or Mexico or Europe. These are the exact same drugs, manufactured in the exact same facilities with the exact same safety precautions. Minnesotans know this because they can drive to Canada and see the products themselves.

Driving to Canada every few months to buy prescription drugs at affordable prices isn’t the solution, nor is it an option for most Americans.

That is why I introduced with Senator DORGAN the International Prescription Drug Parity Act, and with Senator J EFFORDS the Medicine Equity and Drug Safety Act, two bills designed to amend the Food, Drug, and Cosmetic Act to allow pharmacists and distributors to import prescription drugs into the United States as long as the drugs meet the Food and Drug Administration’s (FDA) strict safety standards. American consumers to affordable, safe prescription drugs.

I spoke as a Senator from an agricultural State. I want mention the emergency assistance. It is much appreciated. We have gone through some difficult times. We have had flooding and we have had scab disease, and that on top of record-low prices and record-low farm income, which has led to a lot of economic pain. I thank my colleagues for their very good work.

Second of all, let me especially thank my Democratic colleagues about the process which resulted in those major loopholes with the Food and Drug Administration’s authority. Rather than a bipartisan process was hijacked by the Republican leadership. Rather than a bipartisan process the industry's two proposals were adopted by the Agriculture appropriations conference committee. This is legislation designed to correct the injustice that finds American consumers the least likely of any in the industrialized world to be able to afford drugs manufactured by the American pharmaceutical industry because of the unconscionable prices the industry charges only here in the United States.

Mr. President, again, I intend to support this agricultural appropriations bill. I thank my colleagues on the floor to get some additional money for GIPSA. They helped me in conference committee. I thank Senator COCHRAN as well. I really want GIPSA to be about the work of looking at the prob-
Third of all, let me thank Senator KOHL, in particular, for his fine work on some direct income relief payments for dairy farmers. I think we have about 473 million nationwide. We have 8,700 dairy farmers in the State of Minnesota. Again, record low milk prices. Problems have been nightmarish for these farmers. I thank Senator KOHL for his good work. I am proud to be a part of this.

There is also in this bill a provision that I think is historically significant. It only starts out with $3 million, and this is going to be done within the FDA. Obviously, this is going to be a telework program where we will try to set up some models, centers of distance learning, whereby farmers and other rural people with strong ethics and who want to work are going to be able to get training and be connected with information technology companies and find employment at good wages but do it out of farm, out of home, or satellite office—do the telework. I think this is one of the most important things we have in this bill. I am very excited about it. Many people in Minnesota who transcend all political boundaries helped on this.

Let me also thank in particular Senator HARKIN. I think it is high time we bring it out in conference committee, getting us back to the Food and Nutrition Service—going out there and after 180 days in the field came back with a report telling us why there has been such a steep decline in food stamp participation. The Food Stamp Program is a major safety net for dairy farmers. I think we have the one farm bill. We have to focus on getting farmers a decent price in the marketplace.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my colleague from Minnesota. We always run out of time around here when we get into a good debate.

The BONNIE CAMPBELL NOMINATION

Mr. HARKIN. Mr. President, as I have not repeatedly every day we have been here for the past few weeks, I want to talk about the stalled nomination of Bonnie Campbell for the Eighth Circuit Court of Appeals.

I understand the Judiciary Committee of the Senate has again scheduled the hearing for tomorrow morning at 9:30 a.m.—I guess to talk about subpoenas for the Department of Energy, and something else.

I had my staff do an inquiry, and I found out that Bonnie Campbell’s name is not on the agenda.

We are in session. We are in session tomorrow. We are going to be in Friday. We are going to be here next week, yet the Judiciary Committee again refuses to allow Bonnie Campbell’s name to come out for a vote. It is bottled up.

All we want is a vote. Bonnie Campbell has strong bipartisan support. Both Senators from Iowa support her. Senator GRASSLEY, a Republican; I, a Democrat.

She has a strong record from law enforcement and service groups. We just had a big debate and an overwhelming vote last week to reauthorize the Violence Against Women Act. Senator after senator got up to speak about how great it was. It has been a good law. It has done a lot of good. The one person who has been primarily responsible for the implementation of that act since its inception has been the head of the Office of Violence Against Women, the Justice Department. Who has that been? Bonnie Campbell. She has done a great job. She is the former attorney general of the State of Iowa, now standing in glory in her own right. Yet her nomination is bottled up in the Judiciary Committee.

I ask again: Why is she being bottled up?

Look. In 1992, when we had a Republican President and a Democratic Senate, we had 14 nominations for circuit judges. We had 92 during an election year. Nine of them were referred, and nine were confirmed, including one in October right before the election. Yet we are told no; Bonnie Campbell’s nomination came too late. It is too late when we have a Democratic President and a Republican Senate. But it wasn’t too late when we had a Republican President and a Democratic Senate.

Mr. LEVIN. Mr. President, we have both the things: the fiscal year 2001 Agriculture Appropriations conference report (H.R. 4461). Included in this bill is funding which will, among other things, assist our Nation’s farmers, aid

ALTERNATIVE DISPUTE RESOLUTION
rural development, preserve delicate ecosystems and provide food assistance to our Nation’s most needy individuals. However, I am concerned about several recent reports conducted by the USDA’s Office of Inspector General, and a report by the General Accounting Office (GAO) that criticizes the ability of USDA’s Office of Civil Rights to process and resolve civil rights cases in a timely fashion. I recognize that Secretary Glickman has done much to remedy the civil rights problems he inherited when he came Secretary, and I encourage him to continue these efforts.

Mr. TORRICELLI. I share the concerns held by the Senator from Michigan about USDA’s ability to address civil right cases in a timely fashion. Failure to resolve civil rights cases involving access to USDA farm programs delays justice and threatens the affected farmer’s well-being. The Secretary of Agriculture needs to use his authority to provide independent and neutral alternative dispute resolution (ADR).

Mr. KOHL. Both Senators make important points. The Senate has acknowledged the important role that alternative resolution plays in addressing civil rights matters.

Mr. LEVIN. Both the distinguished Senator from New Jersey and myself have constituents who have encountered significant delays from USDA in addressing their civil rights cases. We want to do all we can to be certain that, when applicable, the Secretary of Agriculture will ensure the Department’s participation in an independent and neutral ADR process as expeditiously as possible.

Mr. TORRICELLI. I agree with my good friend from Michigan that the Secretary of Agriculture has the authority to resolve these matters.

Mr. KOHL. I appreciate these comments. This is a serious matter that ought to be addressed by USDA.

TELEWORK

Mr. WELLSTONE. Mr. President, will my friend from Wisconsin yield for the purpose of a colloquy regarding the telework provision of the conference report.

Mr. KOHL. I yield to my colleague from Minnesota for that purpose.

Mr. WELLSTONE. The Senate adopted an amendment to the Agriculture appropriations bill that directed $3 million to be spent for employer outreach, education, and job placement under the USDA Rural Utilities Service Distance Learning and Telemedicine Program (DLT). The conferences have changed this provision to report language.

We have a tremendous need in our rural communities to take advantage of today’s technology and information revolution, but there be concerns, it essentially allows distance to be erased, telework is a promising tool for rural development and for making rural and reservation economies sustainable. I would ask my colleague if it is his understanding that the Senate’s intent can be carried out by USDA Rural Development under existing authority.

Mr. KOHL. I am happy to clarify this for my colleague. He is correct. The Distance Learning and Telemedicine Loan and Grant Program was designed by Congress to enable rural communities to improve the quality of educational opportunities and medical service. I believe strongly that educational opportunities include retraining and transitional education. Applicants can partner with local businesses or businesses considering moving into a rural area, Schools, community colleges, and other teaching institutions partner with the private sector today. Within that mandate, this is a program that is truly limited only by the innovation of the rural communities it serves.

Mr. WELLSTONE. I appreciate this clarification, and I ask my colleagues’ indulgence for one further question. Would it also be correct that USDA Rural Development should promote employment of rural residents through teleworking not only through the use of Title IV, but also through other programs such as the rural business and the Community Facilities Program? These programs might allow funds to be used to provide employment-related services or high speed communications services which may be necessary to telework a reality in rural communities.

Mr. KOHL. My colleague is correct. Again, USDA Rural Development should be encouraged to be innovative, within their statutory authority, in making grants for the purpose of promoting telework. In addition, USDA should use rural development programs in a manner that will allow rural communities to best take advantage of the potential of new technology and new methods, such as telework, in building sustainable, diverse rural economies.

WATERMELON SUDDEN WILT DISEASE

Mr. LUGAR. Mr. President, section 804 of H.R. 4461, the conference report on the fiscal year 2001 agriculture appropriations bill, provides the Secretary of Agriculture with emergency authority to compensate growers for crop losses due to new and emergent pests and diseases, including Mexican fruit flies, plum pox virus, Pierce’s disease, grasshoppers and Monarch crickets, and watermelon sudden wilt disease. Senator LUGAR, as you noted, section 804 is designed to provide compensation to growers for crop losses due to several new and emergent pests and diseases, none of which may necessarily be a weather-related problem.

Full implementation of section 804 is necessary for growers to receive compensation for these various problems.

FRUIT FLY EXCLUSION AND DETECTION PROGRAM

Mr. FEINSTEIN. Mr. President, I rise today with the chairman and ranking member of the Agriculture Appropriations Subcommittee to discuss one of the greatest threats facing California growers and farmers across the nation—infections of disease-carrying pests which can potentially destroy crops. Each year, California has been victimized by a number of pest infestations that have resulted in significant quarantine and eradication programs. California’s $1 billion nursery industry is being threatened by red imported fire ants. The $2.8 billion grape industry faces complete destruction due to an infestation of the glassy winged sharpshooter which spreads Pierce’s disease, and there is no known cure.

I will share some of the concerns expressed by the senior Senator from California that several months ago a 72 square mile quarantine affecting 1,470 growers of at least 20 specialty crops
was finally removed. I am told that no pre or post harvest treatment for many of these crops was provided by the USDA and that two fruit flies caused almost 150 growers to lose virtually their entire harvest, costing almost $3 million. In 2001, the USDA provided $4.5 million in funding to help shield the State from fruit fly infestations.

Mr. CHAFEE. While the language in this conference report places a limitation on assistance by NRCS for activities related to American Heritage Rivers, it should not be intended to penalize or disadvantage communities that seek or apply for grants and technical assistance. There is no specific limitation in this conference report that would preclude the NRCS from undertaking other authorized activities that are similar to those provided under the American Heritage Rivers Initiative. Would the Chairman and the Ranking Member agree with this interpretation?

Mr. COCHRAN. Yes. Mr. KOHL. Yes, that is correct.

Mr. COCHRAN. Mr. President, the conference report funding for American Heritage Rivers program under the Conservation Operations and Watershed Surveys and Planning accounts of the Natural Resources Conservation Service, NRCS. The fiscal year 2001, the USDA will hire 17 new agriculture inspectors for the San Diego ports of entry. This is a badly needed first step. We also need to increase the federal investment in California. The ranking member has done an excellent job balancing competing interests within the confines of a balanced budget.

Mr. KERRY. Mr. President, I would like to clarify for the record the intent of language including under funding for the National Resources Conservation Service (NRCS) of the Agriculture Appropriations bill. The fiscal year 2001, the USDA will hire 17 new agriculture inspectors for the San Diego ports of entry. This is a badly needed first step. We also need to increase the federal investment in California. The ranking member has done an excellent job balancing competing interests within the confines of a balanced budget.

Mr. JEFFORDS. I would like to echo my colleagues’ support of the National Rural Development Partnership. This is an important program for the future. I wish to engage in a colloquy with the distinguished Chairman of the Subcommittee regarding the funding for the National Rural Development Partnership (NRDP) and state rural development councils (SRDCs). As you may be aware, NRDP and SRDCs have always depended on allocations of discretionary funds from USDA and four other federal agencies. They have never had a stable and predictable source of funds.

Earlier this year, the Committee on Agriculture’s Subcommittee on Forestry, Conservation, and Rural Revitalization, which I chair, held an oversight hearing on the operations and accomplishments of the NRDP and SRDCs. The Subcommittee heard from a number of witnesses, including officials of the U.S. Department of Agriculture, Transportation, and Health & Human Services, state agencies, and private sector representatives. The hearing established the need for some legislative foundation and consistent funding. I was recently joined by 27 Senators in introducing legislation to accomplish this.

The legislation formally recognizes the existence and operations of the Partnership, the National Rural Development Council (NRDP) and SRDCs. In addition, the legislation gives specific responsibilities to each component of the Partnership and authorizes it to receive Federal appropriations.

This legislation was not passed in time for the FY2001 appropriations process. I am certain that funding will keep the program viable until the legislation can be passed. Mr. Chairman, it is my understanding that there is no funding earmarked or specified within the Agriculture Appropriations conference report for this program. However, the Secretary has made discretionary funds available for this program in the past and it is my hope he would continue to do so, and that we can encourage him in this regard, until finalizing legislation is introduced.

Mr. BURNS. I would like to join Senator CRAIG in support of the National Rural Development Partnership. This program is extremely important to states like Montana, where we have a large rural population and long distances between our towns. I would hope that the Secretary of Agriculture will continue to fund the NRDP and provide additional funds for the future expansion of this very important program.

Mr. GORTON. Washington state’s rural communities have also benefited by the National Rural Development Partnership, particularly those regions that have been forced from their natural resource-based economies. For the sake of those who have come to rely on the NRDP, I would sincerely hope the Senate would take into consideration the few remaining resources available to these communities when allocating discretionary funds under the bill.
I want to assure the gentleman that it is the Committee's belief that the Secretary of Agriculture should continue to provide funding from discretionary amounts for this program.

The Initiative for Future Agriculture and Food Systems

Mr. HARKIN. Mr. Chairman, I note the language in the bill specifying certain institutions that may receive grants under the Initiative for Future Agriculture and Food Systems. I would ask the distinguished chairman if it is his understanding that the program may continue to be carried out in the same manner as during fiscal year 2000 as authorized by law.

Mr. COCHRAN. This language does not intend to create any additional restrictions beyond the restriction for which institutions are eligible to receive grants. SOLID WASTE MANAGEMENT GRANT PROGRAM

Mr. WELLSTONE. Mr. President, I ask the Senator, whose State is a neighbor of mine, whether he agrees with, and whether it is his understanding that the Subcommittee would support, my urging USDA to direct up to $1 million of the solid waste management grants to the regional, nonprofit organizations to provide technical assistance to local communities for reducing water pollution and improving solid waste management.

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enactment of this legislation does not distract us from working toward the goal of providing all seniors with real Medicare drug coverage.

Having laid out my objections, I must state that I am prepared to vote for this comprehensive bill because it provides funding for many programs that are beneficial to American families and American farmers. These provisions include financial relief for hard hit farmers who have suffered economic and natural disasters, funding for the Women, Infants, and Children Program for school lunches, and food stamps for our less fortunate. These are all vital programs and deserve the support of this body.

The situation we find ourselves in today speaks volumes about those who would slip objectionable language into a bill as important as this one and put in jeopardy its passage. Fortunately, the legislative process does not end with the passage of a single bill. Next year I will be back in this Chamber seeking to put our relations with the Cuban people on the same footing as those of other peoples around the world, and to restore every American’s right to travel freely—even to Cuba if they so choose. I will also be working to ensure that America’s children are given the opportunity to receive the education that will ensure that prescription drugs are available and affordable for every American family. These issues are not going to go away with the adjournment of this Congress and in the time, reason will prevail on these matters. The American people will demand it.

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This provision should help, in particular by making sure that the cap does not lose ground to inflation. I hope that in reauthorization, we can revisit this issue and fully provide fair and equitable treatment to these hardship families, the vast majority of which have children.

Mr. DORGAN. Mr. President, I want to take a few moments to share my thoughts on the prescription drug reimportation provision included in the Agriculture Appropriations conference report before the Senate. As my colleagues know, I have been concerned for a long while that American consumers are charged two to three times more for prescription drugs than consumers in other countries pay. In fact, in June of 1999, I introduced bipartisan legislation, the International Prescription Drug Parity Act, to address this unfair pricing situation by allowing U.S. pharmacists and drug wholesalers to reimport FDA-approved prescription drugs from other countries at a fraction of the cost.

Ten months ago on a cold, snowy day, I accompanied a group of North Dakota senior citizens and pharmacists on a trip to Emerson in Manitoba, Canada, a tiny one-horse town just 5 miles from the North Dakota-Canadian border. In Emerson, I watched as my North Dakota constituents saved hundreds of dollars each on the exact same prescription drugs available in the United States.

One of the folks who went with me was a 70-year-old Medicare beneficiary from Fargo, ND, named Sylvia Miller. Sylvia has diabetes, heart problems, and emphysema, and she takes at least seven different medications each day for her various ailments. Sylvia told me that last year she received $4,700 in Social Security benefits and paid $4,900 for her prescription drugs. “Things don’t add up, do they?” she asked.

By making the short trip across the border to Canada, Sylvia was able to cut her monthly prescription drug bill in half. As Sylvia said in a Fargo Forum article about this trip, “It sure would be nice if I could just go over to my own drug store and get those prices.”

Sylvia couldn’t be more right. No American should be forced to travel to Canada or Mexico just to get more affordable prices for his or her prescription drugs. Sylvia is not alone. I have been saying all along that we should reimport FDA-approved drugs from Canada, Mexico, and other countries where these medicines are sold at a fraction of the price. Our amendment included appropriate safeguards to ensure that only safe and effective FDA-approved medications, made in FDA-approved manufacturing facilities that the handling and storage can be assured, would be imported. This amendment was passed overwhelmingly by the Senate by a 74-21 vote.

The House also overwhelmingly passed amendments to the Agriculture bill back in July that would have allowed for prescription drug importation, although without the safety measures adopted in the Senate. Normally at this point, a House-Senate conference committee would have begun meeting to iron out the differences between the House and Senate bills. This year, however, most of the details were worked out behind closed doors and without the involvement of members of the conference committee. As a result, many of us who have been working on prescription drug importation legislation for nearly 2 years were shut out of the negotiations.

I am very disappointed with the route that the House and Senate leadership took to develop the final reimportation language. When the Agriculture Appropriations Conference Committee, on which I served, met, the committee recommended final language that had been negotiated largely among only the House and Senate majority leadership. While this language is similar to the Jeffords-Dorgan amendment passed in July, there are some changes in the language. Some of these changes represent improvement, but some changes were not made that should have been.

I share in my colleagues’ disappointment that some of the changes that I and others proposed on the Senate floor would have improved this provision, were not included in the final language. After the Senate passed the Jeffords-Dorgan amendment, a few changes were brought to our attention that would help to ensure that our amendment meets the goal of achieving lower prices for American consumers. Therefore, during the conference, I tried to strengthen the final language in a few key ways.

The changes I proposed would have provided greater certainty that this approach would meet my goal of lowering drug prices for American consumers, but unfortunately they were rejected. First, the FDA suggested that we should require the drug companies to provide importers with the FDA-approved labeling. I think it is pretty indisputable that if, as well as the other authors of the various prescription drug importation bills, intended all along for imported products to be FDA-approved, including having the appropriate labeling, I would prefer that the final provision make this explicit. However, I believe the final language, which gives the Secretary of Health and Human Services new authority to do whatever she believes is necessary to facilitate importation, provides the needed authorization to accomplish this end through the regulations implementing importation. It is my hope that the Secretary will implement this provision will write strong rules to ensure that reimportation will succeed in giving Americans access to safe, cost-effective medicines.

Second, Congressman WAXMAN and others pointed out that drug companies could prevent reimportation from occurring by requiring their foreign distributors to sign contracts promising not to re-sell their products to U.S. importers. To address this concern, the final provision includes language not in the original Jeffords-Dorgan amendment to prevent the drugmakers from entering into agreements with their distributors that would have the effect of preventing reimportation. Here, too, I wish that this language were stronger and broader, and I unsuccessfully proposed strengthening it.

I have no doubt that the drug companies are already searching for ways to thwart this legislation. If the drug manufacturers do take steps to clearly and purposefully circumvent this legislation, I personally am committed to closing any loopholes or taking another tack altogether to achieve fairer drug prices for American consumers.

I have been fighting for a strong reimportation provision so that we can put pressure on the drug companies to lower their prices. Second, there are...
S10684

CONGRESSIONAL RECORD — SENATE

October 18, 2000

Dr. KESSLER: On June 29, 1999, you were kind enough to write me regarding the dangers of weakening provisions of the Prescription Drug Marketing Act (PDMA). I am now in receipt of your recent letter to Senator Dorgan, which is supportive of significant changes to PDMA. I continue to see real risk in making those changes, so I would appreciate your insight as to how safety can be assured.

Your June letter cited my multi-year subcommittee investigation of re-imported prescription drugs which demonstrated that...
 adulterated, misbranded, and counterfeit drugs were entering the U.S. market, posing as American-made. You noted that the problems found in our investigation wereaddressed by PMA amendments designed to prevent the "introduction into U.S. Commerce of prescription drugs that were improperly stored or handled," and to "provide "opportunities for importation of counterfeit and unapproved prescription drugs." Your letter went on to state, "In my view, the dangers of re-importation of prescription drugs may be even greater today than they were in 1986... I know of no changed circumstances that require either the lifting of the ban on re-importation of prescription drugs..."

Bill Archer

Mr. Hatch, Mr. President, I appreciate the many long hours of work by my colleagues on the Agriculture Appropriations Subcommittees to develop this legislation. I admire the efforts of my friend and colleague, Senator Cochran. I believe we all owe him our gratitude for his leadership of our nation's agriculture industry, including its small family farmers and ranchers. I am well aware that putting these bills together is never easy and seems recently to be an almost thankless task.

There is much in this bill worthy of enthusiastic support. I am particularly pleased that the conferences have included a number of provisions that will...
benefit farmers and ranchers in the West.

For example, the entire West will benefit from pasture and forage research that is funded by this bill. The information we obtain from this Utah State Program will make our livestock producers more efficient, but also contributes significantly to the health of our pasture lands in the West.

Another important contribution to research in the conference report is the funding for Utah State’s Poisonous Plant Laboratory. The effort to fight noxious weeds in the U.S. will receive a significant boost as this important facility is finally upgraded. Some people chuckle when they see a program to fight noxious weeds. But, I can assure my colleagues that this is no joke. If you have ever seen a crop overrun with these weeds, you would know that we need to continue our research efforts to come up with safe and effective means to fight them.

The environment also benefits by this bill’s continued funding for the Colorado River Basin Salinity Control Program. This program is particularly important to farmers within the vast Colorado River Basin, who must shoulder much of the burden for minimizing agricultural runoff into the Colorado River. The Salinity Control program is good for farmers, good for the environment, and good for the fish species in the river.

Also important to Utah agriculture, Mr. President, is the funding this bill provides to ensure farmers aren’t forced to lose due to the infestation of grasshoppers and Mormon crickets. For the last couple of years, farmers in Utah and other Western states have faced one of the largest infestations on record. I am very pleased that Congress has seen fit to provide these farmers with relief. You wouldn’t think that these little insects could do so much damage, but they do. This funding is important to those in my state who have been facing these losses.

Finally, Mr. President, I have often reminded my colleagues that Utah is the second driest state in the Union. Utah’s farmers understand better than most that water equals life. For that reason, I am pleased that this bill will help to protect the Long Park Reservoir by providing technical and financial help to protect the Long Park Reservoir, by providing technical and financial help to protect the Long Park Reservoir.

Mr. President, these are just a few of the programs funded by the conference report that will benefit Utah’s farmers. I am also proud to say that I worked with Senator COCHRAN and Senator DURBIN to increase the amount of funds available to the Office of Generic Drugs. When generic drug applications languish at FDA, it is the public that loses, and these additional resources will be a needed shot in the arm. They will enable the FDA to process these applications more quickly and get generic drugs to consumers faster.

This is a momentous piece of legislation, which is why I think it is unfortunate that it is being made a vehicle for an unrelated proposal that is poor policy and that would undoubtedly have been the subject of considerable debate should it have come to the floor as a free-standing bill.

Mr. President, I must register my severe reservations about the drug importation provisions that have been inserted in the Agriculture appropriations conference report.

I commend Senator COCHRAN for his attempt to improve some of the more egregious features of the controversial pharmaceutical importation provisions that have been slipped into this appropriations bill. But, these mitigation measures do not go far enough to correct what I consider the proposal’s principal flaw.

My first and foremost concern about this proposal is patient safety. I have been around here long enough to gauge momentum and count the votes. Provided the reimportation provisions have been wedged in a must-pass, year-end appropriations bill—one that forces me to choose between supporting a bill that does much to help Utahans and opposing a bill that contains one bad idea.

But before we adopt this reimportation measure, which has not been the subject of a committee mark-up in either the Senate or House, let’s at least stop for a moment and think about the type of risk we are placing upon the American people.

Although I do not see eye-to-eye with Congressman JOHN DINGELL on every, maybe even most, issues, I always respect his views. And, I recognize his many impressive efforts when he chaired the Oversight and Investigations Subcommittee of the House Commerce Committee. In fact, it was the Dingell Oversight and Investigation Subcommittee’s investigation into the import of generic drugs into the United States, pursuant to the enactment of the 1988 Prescription Drug Marketing Act. I was proud to help shepherd this legislation through the Senate.

The good news is that the PDMA law helps prevent pharmaceuticals that are mislabeled, improperly stored or shipped, beyond their shelf life, or even sold as counterfeiters from entering the United States from abroad.

The bad news is that the legislation we are being asked to adopt today will unravel essential elements of the PDMA, which currently controls importation of pharmaceutical products into the United States.

As the committee report accompanying the PDMA stated: (R)Imported pharmaceuticals threaten the public health in two ways. First, foreign counterfeiters, falsely described as reimported U.S.-produced drugs, have entered the distribution system. Second, proper storage and handling of legitimate pharmaceuticals cannot be guaranteed by the U.S. law once the drugs have left the boundaries of the United States.

Congressman DINGELL has also commented on the pending legislation. I am sad to say that this assessment may turn out to be prophetic. As my Democratic friend, Representative DINGELL, succinctly summarized the situation: “Make no mistake. This reckless legislation never went through the committees with expertise or experience. It is going to lead to needless injuries and deaths.”

As chairman of the Judiciary Committee which has jurisdiction over counterfeiting, I am concerned that our members have not had an opportunity to make a careful study, in collaboration with the Commerce Committee, Administration, of the potential for this language to increase the flow of counterfeit drugs. The World Health Organization has issued several reports that have detailed the international scope of the counterfeit pharmaceuticals problem.

Some might question how Congress could enact legislation that could endanger the health and safety of the American people. As I have argued previously in the floor, even the best of intentions in trying to lower drug prices surely can’t be adequate justification for sacrificing patient safety.

I commend a critical reading of the transcript the October 3, 2000, House Commerce Committee Oversight and Investigations Subcommittee hearing on the important issue. I think a fair appraisal of this transcript warrants a conclusion that FDA already has its hands full in the policing the relatively limited area of PDMA-permissible imports.

Based on what we learned at the October 3 hearing, if Congress adopts, and the President signs into law, these new, greatly liberalized reimportation rules, it is difficult to see how the Secretary of Health and Human Services or the Commissioner of Food and Drugs will be able to handle the tremendous responsibilities imposed upon them in this provision.

One of the points that came out of the hearing during the testimony of the Commissioner of Food and Drugs, Dr. Jane Henney, is that there are at least 242 manufacturers spread across some 36 countries that appeared to have exported drug products to the United States but that did not have a current FDA inspection. This is like playing Russian roulette with the public health.

At this same hearing, the Commissioner of Customs, Mr. Raymond Kelly, testified that there are some 301 ports of entry that must be watched by the Customs Service. And keep in mind that this is the situation under the current statutory framework where it is difficult to import drugs into the U.S. Imagine the catastrophic possibilities if we adopt a law that loosens the reigns on importation of drug products into the United States.

The problem is brought out the fact that it is not only manufacturing plants we need to worry about, but also repackaging facilities and bulk drug facilities as well as the various...
warehouses and transporters of drug products. We must be concerned about how we can guarantee strict adherence with the general good manufacturing practices in overseas facilities that we have come to expect in the United States. These guidelines provide assurance as to the purity of pharmaceutical products.

Basically the bill says, in effect, don't worry, the FDA will issue regulations that will solve all these problems. Many members doubt if it was so easy for the FDA to regulate these problems right out of existence then why are 10 former FDA Commissioners against this bill? I fear that in practice the drafting of these regulations will prove to be an extremely time-consuming and complex endeavor.

And even if the regulations are promptly drafted, what assurance and expectation do we have that all of these foreign establishments will be respectful of the regulations of the United States Food and Drug Administration?

If you don't believe me, get a copy of the transcript of the October 3 hearing and read about what House Commerce Committee and FDA staff found in a recent trip to Chinese and Indian drug manufacturing facilities. Not only did this investigation help uncover that some 46 Chinese firms and 31 Indian firms were exporting apparently misbranded drugs to the United States, there also appeared to be wholesale theft of U.S. intellectual property related to drug products.

Yet instead of tightening the controls we have in place, we are unwisely, in the name of attempting to cut high drug costs, loosening them. Let me say it once again, it is no wonder why ten former FDA Commissioners have come out against these drug importation measures. In enacting this reimportation measure, we will have put in place a ticking bomb on the health front as well as creating a regulatory climate that can only encourage an assault on American intellectual property. While the public health shortcomings of the bill are chief among my concerns, as chair of the Senate Judiciary Committee, I do want to raise some troubling aspects of the reimportation provisions as they relate to intellectual property.

I believe that the industry must give the American public and the Congress a better explanation to account for the discrepancies in some drug prices in the United States and in other countries. And, I call upon the industry to ensure that Americans are paying fair prices for pharmaceuticals and that citizens in other nations are also paying their fair share and not merely free riding on the substantial U.S. investment in biomedical research.

We must be especially wary of price control regimes in other countries that may set prices at levels inadequate to reflect their citizens' fair share of the R&D costs. We must recognize, however, that what is a fair and affordable price in the United States may not be affordable in developing nations. The differences in GDP of the developed and developing world have many dimensions, mostly negative.

We must be mindful of the important fact that virtually every nation in the world has protected intellectual property rights. In enacting a reimportation measure, we are helping along by the leadership of the U.S., to attempt to create that rising tide that lifts all boats by adopting the GATT Treaty, which specifies the rules of international trade. The GATT TRIPS provisions consist of critical new legal protections for the intellectual property. It is intellectual property that undergirds the creation of so many new products, including pharmaceuticals.

In our understandable short-term desire to help the developing world fight back against such infectious disease menaces as HIV, TB, and malaria, we must avoid acting, however unintentionally, to undermine the long-term interest in protecting the intellectual property of American inventors.

That goes for our goals to develop new drug therapies benefiting Americans as well. For our own national interest, as well as the interests of our trading partners, particularly developing nations, we must use our influence to build respect for and protect the inventive energies citizens worldwide.

I do not believe the reimportation provisions in this conference report advance the cause of intellectual property protection and, in fact, may have an unintended but unmistakable effect of retarding future drug development.

Mr. President, I ask unanimous consent to include in the RECORD at this point two letters that I wrote, one to Senator Lott and Speaker Hastert and one to Senators Cochran and Kohl, to object to both the process and substance of these provisions. In addition, House Judiciary Chairman Henry Hyde expressed similar concerns. I ask unanimous consent that his letter also be printed in the RECORD.

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

(See Exhibit 1.)

Mr. HATCH. As this correspondence indicates, I am particularly concerned by the so-called non-discrimination clause that suddenly materialized, almost out of the vapors, and was added to the conference report at the last moment.

I would also note for the record that, prior to learning that such language was under development I contacted Chairman COCHRAN and the majority leadership with a request that a rule of construction be added to these ill-advised importation provisions to the effect that the language be neutral with respect to intellectual property rights.

Imagine my surprise and disappointment to find that not only my modest proposal, which was consistent with every version of the bill that passed both the House and the Senate up to that point, not adopted, but, instead, all too discriminatory "non-discrimination clause" incorporated in its place.

This provision states: "No manufacturer of covered products may enter into a contract or agreement that includes a provision to prevent the sale or distribution of covered products imported pursuant to subsection (a)."

I believe this mistake in that clause appears to take direct aim on some of the most traditional of American commercial rights such as freedom to contract and the freedom to license patent rights.

In the United States, manufacturers have great leeway in selling their goods. For example, United States v. Colgate & Co., the Supreme Court noted it is a "long-recognized right of [a] trader or manufacturer to exercise his own independent discretion as to parties with whom he will deal." Moreover, this right is particularly strong when the seller holds patent rights which are derived directly from Article I of the Constitution.

As the language is scrutinized, I hear more and more questions being raised about the potential conflict of these provisions with current law.

Mr. President, in some respects, this non-discrimination clause is a major assault on intellectual property rights. It hardly sends a strong signal to our knowledge-based industries that form the backbone of the new high-technology economy.

I serve on the Finance Committee where we had jurisdiction over trade matters. While at the point I have reached no final answers or conclusions about how the non-discrimination clause comports with the TRIPS provisions, I can tell you that I have a lot of questions. And I can tell you that we would be better off, before we adopt this language, we took the time to work through some of the tough questions that this highly controversial clause raises with, for example, Article
28 of TRIPS. Neither the Finance Committee nor the Ways and Means Committee will have a meaningful opportunity to examine the trade implications of this language.

I can only hope that this language does not result in the imposition of sub-standard and unsafe drugs along with a back door system of price controls. Wisely, this body has always resisted direct government price controls on high-technology products like pharmaceuticals. We stand today as the world leader in pharmaceutical innovation. Let's hope that this bill does not undermine this achievement.

Let me emphasize, Mr. President, that we need to work together to make drugs more affordable for the American public—all of those in Congress with expertise in the policy areas that contribute to addressing this issue should be collaborating on a solution to high drug prices. This is not a simple matter, and a solution that looks simple and obvious could easily prove disastrous to both consumers and the research enterprise.

We must tackle this issue in a manner that does not threaten public safety, undermine the incentives for developing new intellectual property, and otherwise adversely affects U.S. trade interests. Frankly, I am concerned that these reimportation provisions, however well-intentioned, will not be able to meet these tests.

I will support this conference report, even though I have very serious concerns about the provisions on pharmaceutical reimportation. I hope to work with my colleagues on all the relevant committees in the House and Senate on these many issues concerning pharmaceuticals and their importation into our country.

HON. THAD COCHRAN,
Chairman, Subcommittee on Agriculture,
Committee on Appropriations,
Washington, DC.

Chairman, Subcommittee on Agriculture,
Committee on Appropriations,
Washington, DC.

Chairman, Subcommittee on Agriculture,
Committee on Appropriations,
Washington, DC.

Chairman.

Mr. President, I rise to register my strong objection to the so-called "non-discrimination" measure that is currently included in the conference report. This language would place domestic medicine supplies in jeopardy by forcing our manufacturers to sell unlimited quantities abroad. It also would prevent them from exercising sound business judgment about to whom to sell, forcing them to sell drugs products to anyone—even unscrupulous shady dealers. In conjunction with a price control system of a foreign nation, this "non-discrimination" regime is tantamount to a compulsory licensing system that can only undermine the incentives required for the industry to make the necessary substantial investment to invent new medicines. In order to protect the safety and health of American patients, advance the innovation policy, and promote the development of the next generation of medicines, this proposal must be rejected.

Sincerely,

Chairman.
funding (and more than $3.5 billion in emergency assistance for farmers). And it contains important initiatives I have been pushing—doubling the payment limit for LDPs (from $75,000 to $150,000) and lifting embargoes on food and medical items.

I extend my sincere gratitude to the Chairman of the Agriculture Appropriations Committee, my friend from Mississippi, who has crafted a bill that gives farmers the assistance they need in the short term—and keeps a promise we made to open more markets in which to sell their products overseas.

This bill culminates an almost 2-year effort on my part to open overseas markets to American farmers by ending U.S. food and medicine embargoes. We talk a lot about foreign trade barriers, and rightly so. We must continue to be vigilant to remove those barriers, such as the 50-year-old embargo against Cuba. On the other hand, it is hypocritical of the U.S. government to target foreign barriers without removing our own barriers. That’s exactly what food embargoes are—U.S. barriers against U.S. farmers. A policy area is long overdue, and I am pleased that this Conference Report reflects that shift. While the final product before us is not perfect, it does change substantially U.S. policy on embargoes of agriculture and medicine.

We know that sanctions hurt farmers. The currently-embargoed market for our food products is estimated by some at about $6 billion. Cuba alone could purchase about $1.6 billion worth of food and medicine each year. Jim Guest, the President of the Missouri Pork Producers said: “With 11 million people who enjoy pork, Cuba will become an important U.S. pork export market. Furthermore, the trade statistics are available, Cuba imported about 10,000 metric tons of pork from Canada, Mexico and the European Union.”

This sanctions reform proposal covers more countries than just Cuba. There are four other countries affected by this legislation that could present substantial opportunities for U.S. producers of wheat, soybeans, beef, corn, etc.

Furthermore, this provision reforms sanctions policy for the future. The President will not be able to impose new sanctions without Congressional involvement.

Food embargo reform can be summed up as a big “win”: a win for the U.S. economy, a win for U.S. jobs, a win in foreign policy, and a win for those hungry and hurting in foreign countries.

My goal that I set out to reach years ago—giving the U.S. the opportunity to export more food and medicine—has been achieved in the bill we are voting on today. The Food and Medicine for the World Act, which I introduced in 1999, and which in this area is long overdue, is the basis for the agreement in this Ag. Appropriations Conference Report, separates out food and medicine from all other products when it comes to sanctions policy.

Current embargoes against agriculture and medicine will be lifted, and there will be no embargoes in the future unless the President first receives Congressional approval. This proposal of mine has remained in place throughout the entire negotiation. It is the underlying basis for real sanctions reform because it does not focus on any one country. Instead, it is a new framework for U.S. policy in general.

The differences between my original proposal and the agreement are merely details on how the exports of food and medicine will be facilitated. We made progress in some areas, and in others, we must monitor the effectiveness toward reaching our goal.

Let me explain briefly those differences. On the issue of how the exports will be allowed, there are two things I would like to cover—licensing and financing.

On licensing—why we have gone much further than the Administration plan put in place last year, which has two substantial limitations. First, the Administration plan requires case-by-case licensing, whereas, the language before us is that the President will ensure that a least restrictive licensing system is set up—to cover a 2-year span instead of being case-by-case. Second, current U.S. policy requires tight restrictions on the end recipient of the food (those to whom we could sell our farm products). However, the bill we are voting on today allows exporters to sell to countries broadly, whoever wants to buy their products.

On financing—sales to these countries can be freely financed by U.S. banks, but the House added a restriction that will prohibit U.S. banks from financing the primary financial institution in any sales to Cuba. U.S. banks will be able to facilitate transactions, but they won’t be allowed to assume the risk of the Cuban buyers. While this policy is not my preference, I will point out that it is not a step backward. It simply keeps in place the current restrictions under U.S. law.

One final note on financing, particularly U.S. government financing—under the bill before us, U.S. government credits will be available to help finance exports of agricultural products. The President determines that it is in the humanitarian or national security interest to extend the credits.

All along, I have been committed to real sanctions reform in a final bill that can be accomplished. As with any major reform of U.S. policy, our proposal may not be perfect, but we can address any roadblocks that arise when they are brought to our attention by the farming community and humanitarian groups.

I welcome the recognition by a sizable majority of Congress that the time has come to reform this nation’s obsolete and hurtful policy that allows using food and medicine in embargoes. And I look forward to sending this embargo reform bill to the President’s desk so America’s farmers are given increased freedom to market.

Mr. President, I would like to insert in the Record a letter addressed to me from Charlie Kruse, the President of the Missouri Farm Bureau. Also, I would like to insert a statement from the Missouri Pork Producers. Finally, I need to insert statements from 15 agriculture organizations supporting this sanctions reform proposal and the Conference Report. Let me just say that this effort—reforming our nation’s policy on food embargoes—has been a cooperative effort. The farm organizations that have threatened to forsake by the Administration. I ask for unanimous consent that it be printed in the Record following my statement.

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

**TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT—INTENT OF SENATE SPONSORS**

**BRIEF PROCEDURAL HISTORY**

A reduction in the amount of agricultural exports and a decline in commodity prices have led to renewed efforts by farm groups and agribusiness firms to win a change in U.S. sanctions policy. While there has been some easing of these sanctions through executive order, agricultural exporters have sought legislation to exempt their products from embargoes to ensure that any positive changes in policies are not reversed based on changing events or a change of Administration.

Title IX of the Fiscal Year 2001 Agriculture Appropriations Conference Report, the “Trade Sanctions Reform and Export Enhancement Act,” contains sanctions reform for agricultural products, medicine, and medical devices.

The language in this act can be traced back to the “Food and Medicine for the World Act” (originally, S. 425 and S. 1771, both introduced in 1999). The text of the “Food and Medicine for the World Act” was offered as an amendment to the F.Y. 2000 Agriculture Appropriations Bill (S. 1239), on August 4, 1999, by Senator Ashcroft and Senators Hagel, Baucus, Kerrey, Dodd, Brownback and 15 other cosponsors. The Senate defeated a motion to the amendment to 28, and the amendment, after modifications, was accepted by voice vote. There was not a comparable provision in the House appropriations bill, and ultimately the provisions were deleted from the conference agreement, at the request of House leadership.

In March 2000, the Senate Foreign Relations Committee held a marked up of S. 1771, the “Food and Medicine for the World Act.” During the mark up, the title was changed to the current title, “Trade Sanctions Reform and Export Enhancement Act.”

The provision, as marked up by the Senate Foreign Relations Committee, was then offered as an amendment to the F.Y. 2001 Agriculture Appropriations Bills (H.R. 4461; S. 2536) in both the Senate and House during October 18, 2000 CONGRESSIONAL RECORD — SENATE
These categories, as explicitly recognized by products commonly understood to be within
durable agricultural products.

This bill is to lift sanctions on commercial sales,
U.S.C. §1732. For purposes of administering
not of U.S. origin. Note: The drafters specifi-
cine and medical products.

However, the language on licensing and cred-
served as the House leadership's position in
and was eventually accepted by
conference, and was eventually accepted by
spending bill.

This section contains the title of the Act,
``Trade Sanctions Reform and Export En-

Definitive in this section are broadly drawn to allow maximum benefit to exporters
Agricultural Commodities: The drafters used the definition of "agricultural commod-
U.S.C. §3602) because of its inclusiveness. It includes all forage, alfalfa, fish, and live-
also as fiber. Also, for all of these items, the definition includes "the products thereof."
agricultural commodities shall also include fert-
Agricultural Program: The intent of the bill is to lift sanctions on commercial sales,
as well as the use of federal pro-
Medical Device and Medicine: These terms should be broadly applied to products
agricultural products commonly understood to be within
the Federal Food, Drug and Cosmetic Act,

these exceptions should not be used to impose sanctions permanently as Section 905
includes only for sales to the "governments" of countries.
that are state sponsors of international ter-
These licenses shall be provided for a period of not less than 12 months. However, the
sales of products under the license can span
24 months so that the exporter is able to ship
12 months the license has expired as long as the contract was entered
the Agricultural Trade Act (7 U.S.C.
the applicable credit limitations of Sec. 908).
that food and medicine sanctions should only
in extraordinary circumstances. Further-
that food and medicine sanctions should only
this Act should be under a licensing system
requirement to lift licensing requirements under Sec. 906, and
encourages the Administration to except sales to the private sector buyers in these
countries.

This section also requires that procedures be
acknowledged by any entity within such country that engages in the
promotion of international terrorism. This lan-
guage is intended to give the Administration
very narrow discretion in the granting of li-
sen ces for exports to countries that are directly involved in the promotion of terrorism.

Finally, this section requires quarterly and
and financial reports on these licensing activities to the President, who may, if
enacted in support of this recommendation.

that state sponsors of international ter-

This section provides for the export of agricultural commodities, medicine
and medical devices to Cuba and to countries

SECTION 905—TERMINATION OF SANCTIONS

This section provides for a sunset of any
products imposed under Section 903, not later than 2 years after the
date the sanction becomes effective. Sanctions
may be maintained only if the President
recommends to Congress a continuation of sanctions. Therefore, it is the
time when the sanctions are in effect.

SECTION 907—CONGRESSIONAL PROCEDURES

This section requires that a report sub-
mitted by the President under Section 903 or
Section 905 shall be submitted to the appro-
approved by the President under Section 903.
The Missouri Pork Producers has supported easing the trade embargo with Cuba, and ending the practice of using food and medicine as foreign policy tools. In 1998, the longstanding U.S. embargo on trade with Cuba was lifted, allowing U.S. agricultural and medical sanctions in effect as of the date of enactment shall be lifted 120 days after enactment.

Hon. JOHN ASHCROFT, U.S. Senate, Washington, DC.

DEAR SENATOR ASHCROFT: We are very pleased the U.S. Senate will soon vote on the CONGRESSIONAL RECORD - SENATE Washington, DC. - on a series of farm legislation is critical to the ability of our producers to prosper in the future. We urge your support.

American Farm Bureau Federation
American Soybean Association
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen’s Beef Association
National Cotton Council
National Milk Producers Federation
National Sunflower Association
National Rice Millers’ Association
National Canola Association
U.S. Durum Growers Association
U.S. Rice Producers Association
U.S. Rice Producers’ Group

Mr. DURBIN. Mr. President, I rise today to briefly discuss the Fiscal Year 2001 Agriculture Appropriations conference report, H.R. 4461. First, I would like to commend Senators COCHRAN and KOHL, the Senate Subcommittee chairmen and ranking member, for the way they have put together a very good underlying bill and have done so with bipartisan support and cooperation. From the very first hearing of the
year, through conference, Chairman Cochran has endeavored to deliver a bill that is helpful to our farmers and ranchers and fair to the Food and Drug Administration. Again, I congratulate him on this important accomplishment.

I was a co-sponsor of this bill, as I am a member of the Senate Agriculture Appropriations Subcommittee. However, I regret to say that I was unable to sign the conference report because of a specific provision on Cuba sanctions and prescription drug re-importation.

Specifically, I am distressed that the conference did not support the Senate position on lifting food and medicine sanctions against Cuba. The House language limiting U.S. sales to a cash only or third-country financing basis will unnecessarily restrict the sales of food and medicine to Cuba.

I am further troubled by the language restricting travel by Americans to Cuba. During the Cold War, Americans were able to travel to the Soviet bloc countries, and if they were kept out, it was by the Communists, not by our own government. I believe Castro has more to fear from an invasion force of American tourists than from our sanctions. It cannot improve the ability of Americans to go to Cuba, which is possible.

I am further distressed at the Senate's inability to access cheaper drugs. These are people caught in the middle—most of whom are neither wealthy enough to afford their own drugs, nor poor enough to qualify for Medicare. There is no effort to focus re-importation on Cuban medicines, but their high cost is causing concern throughout the country. Everywhere we turn—from “60 Minutes” to Newsweek—we hear of the struggles that our nation’s patients, especially the elderly, face, and the dramatic difference in cost of prescription medicines between the U.S. and our neighbors to the North.

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The high cost of prescription medications in the United States is forcing many of our nation’s seniors to make unbelievable decisions that are harmful to their health and well-being. It is simply unacceptable that the elderly have to choose between filling a prescription or buying groceries.

A solution to the pressing problem of prescription drug coverage can’t come soon enough. In 1998, drug costs grew more than any other category of health care—skyrocketing by 15.4 percent in a single year. And that’s a special burden for seniors, who pay half the cost associated with their medications as opposed to those under 65 who pay just a third.

Seniors are reeling from the burden of their prescription drug expenses—some of the latest studies show that the average senior now spends $1,100 every year on medications. And with the latest HCFA estimates, putting the number of seniors without drug coverage at around 31 percent of all Medicare beneficiaries—or about 12 out of nearly 40 million Americans—it’s not hard to see why we can no longer wait to provide a solution. In fact, nearly 86 percent of Medicare beneficiaries must use at least one prescription drug every day.

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Who are these seniors who don’t have prescription drug benefits? Who are the ones traveling by the busload to Canada to buy their prescription drugs? These are the people caught in the middle—most of whom are neither wealthy enough to afford their own coverage, nor poor enough to qualify for Medicaid. We know that seniors between 100 percent and 200 percent of the federal poverty level have the lowest levels of prescription drug coverage.

To many eyes, it is absolutely unconscionable that any senior would be arrested after purchasing their otherwise legal prescription medication in Canada. That is why I teamed up with Senators Jeffords and Dorgan to introduce the “Medicine Equity and Drug Safety Act” as an amendment to the FY 2001 agriculture appropriations bill. The amendment was accepted overwhelmingly by a vote of 74 to 21.

I am pleased that the conference report includes a compromise on this important issue. The conference report allows pharmacists and wholesalers to import prescription drugs for sale to American customers that were made in
the U.S. or in FDA-approved facilities. The provisions require stringent safety and efficacy regulations. Drugs may only be reimported from Europe, Canada, Japan, Australia, Israel, New Zealand, and South Africa. Controlled substances, such as morphine, cannot be imported.

Drugs that are going to be reimported must meet U.S. labeling requirements and there will be stringent reporting requirements on any reimported drugs. The provision would prohibit manufacturers from entering into a contract to prevent reimportation. Drug reimportation will not be allowed unless the Secretary of HHS can certify that the reimported drugs are safe and effective. The FDA will not be allowed to send letters to individuals about their personal reimportation unless the FDA believes that the drugs the person is bringing back are not safe, not effective, or not labeled correctly. Finally, the Secretary of HHS must inform the person importing drugs that imported drugs will save consumers money.

Opponents of the reimportation of prescription medications have well-founded concerns about the safety of these medications. There is no doubt that the U.S. Food and Drug Administration is the world's premier agency in ensuring not only that drugs are safe and effective for their intended use, but that the actual manufacture of these drugs is done cleanly and safely.

So when Congress considers changing the law to allow the importation of either retail or personal use prescription medication, we must also consider the safety implications that are involved: Are other countries insisting on the same standards we are? Are other countries guaranteeing the effectiveness of the medication—medication that is purportedly identical in strength? Are other countries using the same ingredients and ensuring that there are no impurities in these ingredients?

The conference provision focuses on these safety considerations and includes substantial safeguards against the reimportation of lesser-quality prescription medication and stringent regulation to ensure that Americans have access to only the safest of products. There are 39 million Medicare beneficiaries—and these 39 million customers purchase a third of our nation's prescription medications. This represents a very large section of the market. Enacting prescription drug coverage policies that will provide these beneficiaries with access to only the safest of products will make seniors a part of a single market. It is fundamen tally unfair when seniors in Maine feel they must drive across the Canadian border to buy prescription medications.

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The conference provision focuses on these safety considerations and includes substantial safeguards against the reimportation of lesser-quality prescription medication and stringent regulation to ensure that Americans have access to only the safest of products. Clearly, seniors are traveling to Canada because the price of prescription medications is generally less expensive than in the United States. The difference in the prices between the Canadian and the American market for pharmaceutical products does not come because we are purchasing different drugs or different quantities of drugs. It is this point that I hear the most about from my constituents: why can a person buy the same exact drug, in the same exact dosage, and the same quantity, for so much less in Canada than they can in Maine?

The disparity in drug costs between U.S. and Canadian drug costs reflects our different markets, but also the government-run health care system that limits choices and prescribes doctors and care for Canadian consumers. The Canadian health care system is a government-run monopoly, an approach soundly rejected by the American public in 1994. In the U.S., costs are constrained through the market—not by the government—as health insurers, pharmacies, and preferred customers like the U.S. Department of Veterans Affairs negotiate heavy discounts based on the size of their insurance pool.

Seniors in the U.S. have limited bargaining power to negotiate down drug costs because they are not part of a single pool. Yet if seniors were united in a single group, they could exercise substantial clout in the marketplace to negotiate lower drug costs.

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When American seniors find they have no market power, they often determine that their only recourse is to buy that drug in a completely different market. It is fundamentally unfair when seniors in Maine feel they must drive across the Canadian border to buy prescription medications.

Allowing the reimportation of prescription medications is, at best, an interim approach. It can be implemented while Congress debates the larger issue of Medicare reform, and enabling meaningful prescription drug coverage for Medicare beneficiaries. Again, Mr. President, I rise in support of these provisions and I thank the conferees for their willingness to address this vital issue and their dedication to hammering out a workable compromise.

Mr. ROTH. Mr. President, I rise today to express my grave concerns regarding a provision relating to our trade remedy laws that is currently under consideration. I am concerned about the provisions that would not otherwise merit it. After all, the cash payment will not be likely to be obtained in any future negotiation, such as market access on agriculture, to preserve what will undoubtedly be described as a private right of action to garner industry-specific government support. Internationally, the industries that traditionally rely on the dumping and countervailing duty laws will also likely get little benefit from this proposal. While I understand the frustration of some of those who have suffered from foreign dumping and subsidization, this measure, ironically, will do nothing to eliminate unfair trade practices or to ameliorate the conditions that allow these unfair trade practices to persist. We will only have undercut our own efforts to impose greater disciplines on European agricultural subsidies, Japanese support for its steel industry, or Korean support for their automobile industry. This is manifestly bad trade policy and, to the extent that it further undermines those who have suffered from foreign dumping and subsidization, this measure, ironically, will do nothing to eliminate unfair trade practices or to ameliorate the conditions that allow these unfair trade practices to persist.

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Now I understand that the money under this proposal is supposed to be funneled to research and development, and other legitimate purposes. But money is fungible, and I fear that we will only be encouraging illegal dumping. Who will benefit from this proposal? It is certainly not our consumers, who will pay significantly higher prices as a result, and who will likely have to suffer from an even greater number of cases being filed.

Our farmers and our other export industries will not benefit. After all, what will now happen with the enactment of this measure is that we will likely be obliged to pay in some future negotiation, such as market access on agriculture, to preserve what will undoubtedly be described as a private right of action to garner industry-specific government support. Internationally, the industries that traditionally rely on the dumping and countervailing duty laws will also likely get little benefit from this proposal. While I understand the frustration of some of those who have suffered from foreign dumping and subsidization, this measure, ironically, will do nothing to eliminate unfair trade practices or to ameliorate the conditions that allow these unfair trade practices to persist. We will only have undercut our own efforts to impose greater disciplines on European agricultural subsidies, Japanese support for its steel industry, or Korean support for their automobile industry. This is manifestly bad trade policy and, to the extent that it further undermines those who have suffered from foreign dumping and subsidization, this measure, ironically, will do nothing to eliminate unfair trade practices or to ameliorate the conditions that allow these unfair trade practices to persist.

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Mr. President, this is an ill-considered proposal that not only damages our broader trade policy interests, but it also up-ends the committee structure. I am a strong supporter of our trade remedy laws, but this proposal distorts them in a way that makes no constructive purpose. This is unfortunate and unnecessary, and I regret that the Agriculture Subcommittee chose to take this action.

Mr. COCHRAN. Mr. President, the conference report includes a provision that is designed to eliminate an inequity that has arisen regarding a special grade designation of rice known as sweet rice. This rice had been ineligible for price support for some time, but the Department of Agriculture changed the rules in December 1999 to make the 1999 crop eligible for marketing loans and loan deficiency payments for the first time. Unfortunately, producers of this rice had not been notified by the county offices of the crop's eligibility until after they had already obtained loans and loan deficiency payments had expired.

The provision in the conference report is designed to correct this inequity. The provision would extend the eligibility date for such loans and loan deficiency payments and allow producers of such rice who lost beneficial interest in the crop on or before May 31, 2000, the final date for obtaining loans or loan deficiency payment, to obtain such loans or loan deficiency payments based on the payment rate in effect on the date they lost the beneficial interest. Producers who lost the beneficial interest in their production after May 31, 2000 would be eligible to receive a loan deficiency payment based on the payment rate in effect on May 31. The conferers had agreed that this provision was necessary to make whole those producers of the crop who had lost the opportunity to obtain price support through no fault of their own.

Mr. COCHRAN. Mr. President, with sections 745 and 746 of this bill, the Congress intends to facilitate access for Americans to reimport U.S.-made prescription medicines, as long as it does not lower the safety standards that previous Congresses and Administrations have carefully developed in consumer, health and safety protection legislation over the years. Under these provisions, Americans are allowed access to U.S. products sold overseas at lower prices provided that those medicines, when reimported, are demonstrated to be safe and effective.

At the time the Senate considered this appropriations bill, the Senate adopted an additional safeguard to protect consumer health and safety. By a vote of 96 to 0, the Senate agreed to an amendment which Senator KOHL and I offered to the amendment of Senator JEFFORDS to include the Medicine Equity and Drug Safety Act of 2000 on this bill. That amendment is retained in this conference report, and requires the Secretary of Health and Human Services to make two determinations before the changes to the Federal Food, Drug and Cosmetic Act, FFDCA, in section 745(c) can be implemented. The Secretary is required to demonstrate to the Congress that implementation will: (1) pose no additional risk to the public's health and safety, and (2) result in a significant reduction in the cost of covered products to the American consumer.

As contained in section 745(c), section 804(1) enlists the expertise and conscience of the Secretary of Health and Human Services to make a specific and clear determination that assure these changes to the law will produce their intended result and do no unintended harm. In a written report to the Congress, the Secretary is to demonstrate the factual basis for his or her decision. That report should include relevant analysis and information that implementation of these changes in law will pose no additional risks to the American public's health and safety and will significantly reduce retail drug prices.

After all, the motivation for these changes in law is to let U.S. drugs be brought back from Canada and other countries where they cost less, allowing these drugs to be available to individual American consumers at lower prices. If reimportation results primarily in profits for importers and does not result in a reduction in the price of drugs to American consumers, then the intent of these provisions is not achieved.

I believe that with the additional safeguard provided by the original amendment adopted by the Senate, we can be more assured that this new drug reimportation system, if implemented, will not have adverse unintended effects on public health and safety and will achieve its intended result of making drugs more affordable for individual American consumers.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. COCHRAN. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont, Mr. JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have come to the floor to urge my colleagues to support this Agriculture appropriations conference report. I want to thank Senator COCHRAN, the chairman of the Senate Agriculture Appropriations Committee, for his work on this important legislation. In particular, I want to thank him on behalf of the dairy farmers across the nation, New England and Vermont. Included in this agriculture spending bill is badly needed support for dairy farms. These dairy assistance payments will bring approximately six thousand, four hundred dollars for the average 80-cow dairy farm. At a time when the nation's dairy farmers are facing low milk prices, these payments will help make ends meet.

In Vermont, these payments will give our dairy farmers a much needed boost heading into the long winter. I also want to make a few brief remarks to reiterate my support for the prescription drug provision included in this bill, and to address some of the unfortunate rhetoric that I have heard during this debate.

We all know why this provision is in this bill. The American people are fed up with the situation that exists today, where Americans pay far more for FDA-approved, American-made prescription drugs than patients in any other country in the world. I am not here to demonize the drug industry. It's true that these companies are making some miraculous breakthroughs and improving the lives of many Americans. But why must Americans have to shoulder seemingly the entire burden of paying for research, development and a healthy return to shareholders? I believe it is time we put an end to this unfair burden. I don't think it is fair to expect Americans, especially our senior citizens living on fixed incomes, to pay the highest costs in the world for prescription medicines, many of which are manufactured within our borders. That's why more than a year ago I started working with the Food and Drug Administration to find a way to see if there were a way we could safely reimport prescription medicines into our country.

We found an overwhelming vote of 74-21, the United States Senate agreed to an amendment I offered with Senators WELSTONE, DORGAN, GORTON, SNOWE, and others to do just that. Just three weeks ago, President Clinton endorsed the Jeffords language, saying "I support the Medicine Equity and Drug Safety Act of 2000 which the Senate passed" and "I urge you to send me the Senate legislation." The negotiators for the House and Senate on the agriculture appropriations bill have now considered their work. Unfortunately, the process used in reaching this agreement was marred by partisanship. That is regrettable. But the product is as strong as the one endorsed by the Clinton administration, and even stronger in some respects.

Some of my Republican colleagues have criticized this proposal for going too far. My Democratic friends have criticized this for not going far enough. The legions of lobbyists for pharmaceutical companies, especially our senior citizens living on fixed incomes, are seeing the safety of the drug supply in this country to see if there were a way we could safely reimport prescription medicines into our country.
section of the bill: "No manufacturer of a covered product may enter into a contract or agreement that includes a provision to prevent the sale or distribution of covered products imported pursuant to subsection (a)."

I do not mean to be more clear and simple than that. But just in case my colleagues think that stronger language is needed, the bill grants to the Secretary the ability to react to unanticipated challenges through language in another provision which requires that the Secretary issue regulations containing any additional provisions necessary "as a means to facilitate the importation of such products." Such broad authority will ensure that this provision works. In fact, less than 10 days ago, at the very time that the Clinton administration was changing its position on the Jeffords amendment, the New York Times reported that it planned to implement the Patient's Bill of Rights by regulation. It is hard to understand why the administration so eagerly sees regulatory authority where many do not, yet cannot see it when plainly written in the statute. Critics have claimed that the latest version of the bill contains a loophole regarding labeling requirements. The fact is, the bill requires manufacturers to provide all necessary labeling information, and the provision that I just quoted gives the FDA very broad powers to write any other rules necessary to accomplish their task in implementing the provision. Moreover, this labeling language is unchanged from the version that adopted by the Senate and endorsed by President Clinton.

Critics have claimed that the bill unfairly restricts the countries from which these products may come. The fact is that the bill lists 23 countries to start the process, and lets the FDA expand the list at any time. Critics have complained that this bill will expire after about 7 years. The fact is that this is a vast improvement over the House-passed version which would have expired after only one year. As we all know, major legislation is frequently amended, and simple than that. But just in case our critics calling this a defeat for the industry? That should tell you something about what they really think the effect will be of this provision. As I said before, Mr. President, I am disappointed with the ideas that has been at becoming, but I am glad that the President has said he will sign the bill. I am calling on Congress to put partisanship aside and pass this bill. And I am calling on the Clinton administration to quickly write these regulations so that ordinary Americans can realize savings on prescription drugs as soon as possible.

Mr. President, I rise also today in support of two important food stamp provisions included in this conference report. Based upon S. 1805, the Hunger Relief Act of which I was proud to be an original co-sponsor.

The language in the bill will allow low-income people who spend more than 50 percent of their income on housing to receive food stamp benefits at a level that more accurately reflects their need. Additionally, it will allow low-income people who need a car to find or keep work to still receive food stamp benefits and continue to own a reliable car.

These provisions will provide important relief for needy families in Vermont and all around the United States. In Vermont alone, 42,000 people, the great majority families with children or senior citizens, are on food stamps.

Both provisions in this conference report are important to my state of Vermont. First, the increase in the food stamp housing deduction to qualify for food stamps is important as we have lately seen housing prices increasing rapidly in Vermont. Without the increase contained in the conference report, rapidly rising housing prices are diluting the effectiveness of the food stamp program because the true need for food stamps is not being adequately represented. The vehicle allowance provisions are vital in a rural state like Vermont where a reliable car is almost a necessity to get to or find work. Providing flexibility in the vehicle allowance will allow low-income individuals to qualify for food stamps while being able to continue to own a reliable car.

While I would have liked to have seen the entire Hunger Relief Act included in this appropriations bill, the inclusion of these two provisions is an important first step forward. I will continue to push for Congressional passage of the entire Hunger Relief Act, but I wanted to express my gratitude to the conference for the inclusion of these provisions which are so important to my constituents.

Mr. President, as the principal author of the drug importation amendment included in the Agriculture Appropriations bill, I am taking this opportunity to provide a detailed explanation of the provisions of the drug importation section.

Conference report to H.R. 4461 amends the Federal Food, Drug, and Cosmetic Act and expands the entities permitted to import certain drugs into the U.S. under Section 803 of the Act, to include pharmacists and drug wholesalers. The Secretary of Health and Human Services will promulgate regulations to carry out the importation provisions after consultation with the United States Trade Representative and the Commissioner of Customs.

Under the new section 804(b), the regulations promulgated by the Secretary must ensure that each drug product that is imported under this section complies with section 501, 502, and 505, and any other applicable provisions of the Federal Food, Drug, and Cosmetic Act (FFD&C Act) and is safe and effective for its intended use, as well as the provisions of this section. This provision also grants broad discretionary authority to the Secretary to include additional provisions in regulations that are necessary to protect the public health and to facilitate the importation of drug products under this section.

Subsections (c) and (d) outline extensive record keeping requirements that must be met in order to import under this law, including:

(1) the name, amount and dosage description of the active ingredient;
(2) the shipping date, quantity shipped, and points of origin and destination for the product, price paid by the importer, and price sold by the importer;
(3) verification of the original source and amount of the product received;
(4) the manufacturer's lot or control number;
(5) the name, address, and telephone number of the importer, including the professional license number of the importer (if any);
(6) lab records assuring that the product is in compliance with established standards;
(7) proof that testing was conducted at a qualifying laboratory; and
(8) any other information the Secretary determines is necessary to ensure the protection of the public health.

For a product that is coming from the first foreign recipient, the importer must also demonstrate: (1) that the product was received from a U.S. manufacturer, (2) the amount received and that the amount being imported into the U.S. is not more than the amount received, (3) for the first shipment, documentation showing that each batch was subjected to authenticity and degradation, and (4) for all subsequent shipments, documentation that a statistically valid sample of the shipments was tested for authenticity and
degradation, and (4) that the product meets labeling requirements and is approved for marketing in the U.S.

For a product not coming directly from the first foreign recipient, the importer must have documentation demonstrating the drug product was statistically sampled and tested for authenticity and degradation, and (2) that the product meets labeling requirements and is approved for marketing in the U.S. All testing must be performed at an FDA-approved U.S. laboratory.

Subsection (e) requires that manufacturers provide information to importers sufficient to authenticate the product being imported and to meet the labeling requirements of the FFD&C Act. This provision is understood and intended to require manufacturers to provide such labeling information as is necessary for importers to comply with applicable labeling requirements sufficient for sale and marketing in the U.S. It is also understood and intended that the requirements and authority granted in this provision are supplemented, if necessary, by the broad discretionary authority contained in §804(b)(3) to facilitate the importation of drugs into the U.S. This information shall be kept in strict confidence. Pursuant to the “Enhanced Penalties” subsection below, violation of this subsection is punishable by 10 years in prison or a fine of $250,000 or both.

Subsection (f) refers to an initial list of countries with recognized regulatory structures from which drugs may be imported under this section. The list includes Canada, Australia, Israel, Japan, New Zealand, Switzerland, South Africa, and the EU (Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, England, Liechtenstein, and Norway). The Secretary may expand the list at any time, taking into consideration protection of the public health.

Subsection (g) requires the Secretary to suspend imports of specific products or by specific importers upon discovery of a pattern of importation of counterfeit or violative products, until an investigation has been completed.

Subsection (h) prohibits contracts or agreements that include any provision preventing the sale or distribution of imported drugs under this section. This provision is understood and intended to prevent manufacturers from “gaming” the system or interfering with importation under this section through contractual arrangements that utilize restrictions or disincentives for reselling the drugs into the U.S.

Subsection (i) requires the Secretary to conduct a study regarding the compliance of importers with the requirements of this section, and the incidents of importation of nonconforming, understated, or misbranded drugs under this section, as well as the effect of importations under this section on trade and patent laws. The Comptroller General will study the effect of this provision on prices of covered products.

Subsection (k) provides definitions for a number of terms in this act, and includes certain controlled substances are not eligible for importation, and that biological products are also ineligible. In order that this act not create a disincentive for charitable contributions of drugs to foreign countries or humanitarian aid, the Secretary has discretion to allow importers of such products to obtain from the Secretary, in return for the provision of information necessary for testing, or labeling of the products, to meet the requirements of this section.

This provision also recognizes that many parenteral drug products (drugs that are administered through IVs, injections, or other means other than orally) are considered by the Secretary to be more sensitive to improper storage and handling, and may be at a higher risk of degradation or present more difficulty in testing for authenticity or verification of origin. Therefore, the §801(d)(1) importation restriction shall continue to apply to parenteral drug products, the importation of which, according to the Secretary, may pose a threat to the public health. The definition of pharmacist is similar to that in the Senate-passed bill, and is presumed to include a licensed pharmacist, since such a pharmacy is required to have a licensed pharmacist of record.

Subsection (l) is similar to the amendment offered by Senator Cochran and adopted unanimously by the Senate during the floor debate. The provision, as included in this conference report, has been changed to require the Secretary to “demonstrate” (instead of “certify”) in Senate-passed version) that implementation will “pose no additional risk” (instead of “pose no risk”) in the Senate-passed version. The provision is otherwise identical to the Senate-passed version.

This act is no longer effective after 5 years from the effective date of the regulations promulgated hereunder. The 5-year clock will begin to run after the regulations are finalized and any litigation is completed.

The conference report includes a new subsection which clarifies that a violator of this section is a prohibited act under the FFD&C Act. This new provision also provides for enhanced penalties (20 years in prison and/or $250,000 fine) for manufacturers who fail to provide information necessary for testing or labeling of imports, and importers who divuge such information for any purpose other than verifying authentication or degradation tests.

The conference report includes a provision that passed the House earlier this year pertaining to the importation of prescription drugs imported for personal use. Current FDA practice has become to confiscate certain drugs reported imported for personal consumption, but, in many cases, to send intimidating warning letters that do not specify how the law is being violated.

This bill includes provisions prohibiting the FDA from sending warning notices unless it includes a statement of the underlying reasons for the notice.

Finally, Mr. President, I would like to thank my colleagues that worked so closely with me on this issue. Specifically, I would like to thank Senators Gorton, Weldon, and Dorgan, and their staffs, Kristen Michal, John Gilman, and Stephanie Mohl for their countless hours of work on this provision. Without the bipartisan cooperation of my colleagues, passage today of this provision would have been impossible.

I urge my colleagues to support this provision and support this Agriculture appropriations conference report.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. Mr. President, I yield 4 minutes to Senator Byrd.

Mr. BYRD. Mr. President, now before the Senate is the conference report on H.R. 4461, the Fiscal Year 2001 Appropriations bill for Agriculture, Rural Development, the Food and Drug Administration, and Related Agencies. This conference report includes many items important to West Virginia, and to all states, relating to agricultural research and production, conservation, rural development, food assistance, human health, and many other priority areas. I congratulate Thad Cochran, Chairman of the Agriculture Subcommittee, and Senator Herb Kohl, Ranking Member, for their hard work in finalizing this very important conference agreement.

This conference report provides a total of $74.486 billion in new non-emergency budget authority. This total includes $34.691 billion for agricultural programs (including reimbursement to the Commodity Credit Corporation for net realized losses); $973 million for conservation programs; $3.1 billion for rural development programs; $34.117 billion for domestic food programs; $1.091 billion for international trade assistance programs; and $1.688 billion for related agencies, including the Food and Drug Administration.

It is important to note that this conference report includes more than the annual Fiscal Year 2001 appropriations for programs under the jurisdiction of the Agriculture Subcommittee. This conference report also includes $3.642 billion in emergency spending. This funding is related, in large part, to action taken by the Senate Appropriations Committee on May 9, 2000, when the Committee approved Fiscal Year 2000 Supplemental Appropriations. The House of Representatives approved a similar FY-2000 Supplemental Appropriations bill on March 30, 2000.

Included in the $3.642 billion in emergency spending are provisions to provide assistance to those who have suffered from natural disasters which have occurred this year and to partially offset certain market losses suffered by the agriculture sector. When
the Appropriations Committee considered supplemental spending more than five months ago, I offered a number of amendments, which were adopted, to provide a timely response to predicted summer drought conditions. One of those would provide $200 million for livestock-related losses, more than double the amount available last year. Another item provided an additional $50 million in loans and grants to provide water supply in rural communities affected by drought conditions. I am happy to report that this conference report includes these two items and levels of $400 million and $70 million, respectively.

One other item included in this conference report is a provision which I proposed on the subject of compensation to U.S. industries for losses sustained as a result of unfair foreign trade practices. The U.S. agricultural and manufacturing sectors have been able to avail themselves of legal remedies to challenge foreign actions, but have not had adequate means to recover from the losses resulting from those actions. Such a mechanism will be in place and U.S. farmers and workers of all trades affected by unfair trade practices will be able, in essence, to recover monetarily rather than simply having the right to file a complaint.

This extra step is necessary. Current law has simply not been strong enough to deter unfair trading practices, whether in the agriculture or manufacturing industries. Continued foreign dumping and subsidy practices have reduced the ability of our injured domestic industries to reinvest in their workers, equipment, or technology. My proposal simply provides a mechanism to help injured U.S. interests benefit from the harmful effects of illegal foreign dumping and subsidies. And, most importantly, if our foreign trading partners play by the rules, my provision is used to ensure that they will.

Mr. President, I yield 5 minutes to the distinguished Senator from Louisiana, Mr. Breaux.

Mr. BREAUXX. Mr. President, congratulations to the chairman and Senator Kohl for the work they have done on this appropriation bill. I thought it was very important and that it addressed very important things in it dealing with agriculture, which is what we would think an Agriculture appropriations conference report should deal.

I highlight, however, one thing that I think is very bad public policy: that is, the question of an amendment to this bill allowing for the importation of foreign drugs manufactured in foreign countries, under foreign standards, to be imported into the United States under the guise of "this is the solution" or even a partial solution to the high costs of prescription drugs and the unavailability of prescription drugs under our Medicare program for the 40 million senior citizens of this country who need prescription drugs.

Many people said when the bill left the Senate that this provision that was added was a sham. I thought it was a shame. And it is a worse sham and it is a worse sham than when it left the Senate. This is "Son of Sham," or a double sham, in the sense that this makes absolutely no sense.

Members of both sides of the aisle have said: We are against drug price controls because that is un-American; that is not the way we encourage businesses to operate; we want businesses to compete against each other and the public to determine the best job for the price get the business. That is what the American system is all about.

Instead, we have in this bill a provision that says, we might not like price controls in this country, but we are going to import not only the drugs from other countries but their price control systems—as if that somehow makes it all right. The concept is other countries have price controls; therefore, it is cheaper. The fact is, in Canada, to whose point, there are some drugs that are cheaper because of price controls, but there are many other drugs that, in fact, cost more in Canada than they do here. In most cases, the drugs we have here are simply not available in Canada at all, or maybe a year or two after they are available in the United States, because of the adverse impact of a price control system we are now trying to import into our country.

In addition to that reason that this is bad policy, there are about 10 former Food and Drug Administration agencies that said: Wait a minute; hold on, Congress. What in the world are you doing? This is not a safe process you are legislating into law. We are not going to be able to determine the safety of these drugs. Maybe in Canada it would be all right, but what about Pakistan or what about a Third World country, which we have very little to do with? Are we going to let the drugs come in from those countries as well, which this bill allows? How are we going to be able to guarantee that the same safety or pharmaceutical effect (in a Third World nation are in effect here in the United States in order to protect the consuming public? How are we going to know that the little pill that is the same size has in it that material that it has in this country, that has been approved by our Food and Drug Administration?

This may give some of our colleagues a feeling we have done something to solve the prescription drug cost problem for our seniors. It does not. It does not come close. This is not even a fig leaf of coverage for those who reply to: What have you done on the issue of prescription drugs? The answer is, we probably made the system worse by bringing in drugs the quality of which we cannot guarantee. We cannot guarantee where they came from, how they were produced, or who has been producing them since they left the factory and ultimately found their way into the United States. The answer is not that complicated. What it takes is a lot of political courage to do what is right and to tell our seniors there are no real easy answers to this problem.

What we need to provide to America's seniors is the same thing that I have as a Member of the Senate, that every one of my colleagues has and every one of the Members of the other house and the other country's Federal employees have; that is, coverage under their health insurance plans that cover prescription drugs. When I walk into a drugstore, I do not pay full retail price, not one of us does. We get a discount because we do volume purchasing under our Federal insurance plan. In addition to that, we have a very small copay, which allows us, instead of having to pay full price, to pay only a fraction of the price. That is the same type of system we should put into effect for our Nation's seniors.

The PRESIDING OFFICER (Mr. VOINOVICH). The 5 minutes of the Senator has expired.

Mr. COCHRAN. Mr. President, I yield the distinguished Senator 2 additional minutes.

Mr. BREAUX. I don't want to belabor the point, but when I walk into a drugstore, the retail price may be $100. But because of volume purchasing, it may only cost me $70, and because I have coverage, I don't pay $70. I pay a small copayment of maybe $30. I walk out of the drugstore with $100 worth of drugs paying only $30 because I am covered. A Medicare recipient who has no coverage pays the full retail price of $100. That is what is wrong with the system as it is currently constructed.

The answer clearly is not to say we are going to allow people to import drugs from other countries. We cannot guarantee the quality. That is not the way to do it. It was a sham when it left the Senate. It is a sham as it is being presented to the Senate today. We should have the political courage to address this in a very serious way.

To those of my colleagues who have worked so hard on this, I thank them for their understanding and their participation. I do not fault them for what has happened. It passed the House by a huge margin. It passed the Senate by a huge margin. It is not the right policy and doesn't solve the problem.
would like to share a few remarks from Alabama.

I am certainly pleased with the overall agricultural spending. We have a lot of emergency assistance for farmers this year because it has been a particularly bad year in some areas of the country, including Alabama. Again, I thank Chairman COCHRAN for his leadership. He understands this issue; he understands this Senate. He has dealt with it for years, and his leadership will help this bill pass with overwhelming support.

I yield the floor.

Mr. COCHRAN. Mr. President, I yield 5 minutes to the distinguished Senator from Alabama, Mr. SESSIONS.
funding for the operations and programs of the U.S. Department of Agriculture, the Food and Drug Administration and other agencies. This conference report includes much needed emergency relief to assist farmers hurt by economic and weather-related crises and other disasters. The conference report also includes legislative language regarding food and medicine sanctions and language regarding the reimportation of prescription drugs. I am pleased that the conference agreement also included a provision that will make it easier for citizens to participate in the federal food stamp program.

From the beginning of this year's appropriation cycle, I have been honored to work with the very distinguished Chairman, Senator Cochran. The Senator from Mississippi has done an outstanding job of steering this bill through the appropriation process and I believe that with his leadership we have achieved a very fair and balanced conference report.

There are two highly controversial issues relating to this conference report which prevented the House and Senate conferences from moving this bill prior to today. In fact, the FY 2003 Agricultural Appropriations bill was reported by the full Appropriations Committee on May 20, 2000 and was approved by the full Senate on July 20, 2000. With farmers and ranchers struggling with some of the worst market losses and natural disasters, it was my hope that we would have moved this legislation to the President's desk prior to the August recess period.

With regard to the Cuba language, I am disappointed that the conferees did not accept the language that was included in the Senate version of this bill. The language approved by the Senate received broad support and would have created expanded opportunities for Americans to sell food and medicine to Cuba and would have removed the current travel restrictions on Americans going to Cuba. While some of us may disagree with the outcome on the Cuba sanctions and re-imported drug issues, this conference report does provide immediate and targeted economic relief to struggling farmers and ranchers. In my state of Wisconsin alone, we are losing three dairy farmers a day. While the dairy market loss payments included in this conference report does not solve the larger problems facing our industry, it is an appropriate and vital step necessary to protect our family farmers.

Section 805 of the conference report provides assistance to dairy farmers in an amount equal to 35% of the drop in the price this year from the previous five year average. Let me restate that, “35%” of the “drop” in price. By contrast, earlier this year the administration proposed a farm emergency package for program crops that would have provided payments to guarantee farmers of certain commodities “95%” of the previous five year average “total gross income.”

I cannot overstate the devastation that the recent dairy price collapse is bringing to family farms all across America. Back home in Wisconsin, the crises is overwhelming. Recently, I received a call from a dairy producer named Tom LaGesse of Bloomer, Wisconsin. Mr. LaGesse informed me that in his small town, located in northwest Wisconsin, five producers within the span of one week went out of business. He also told me that if we do not provide immediate, and direct emergency payments within 60 days, we could lose the next producer to go out of business. All too often we hear a lot of talk about saving the family farm but little action.

Mr. President, these dairy payments will hopefully save Mr. LaGesse and many, many other farmers. The FY 2003 Agriculture Appropriations bill contains language that producers may have questions regarding the implementation of the dairy payments included in this conference report. That is why I would like to insert into the Record a few questions that may address the concerns of producers across the country.

**Questions and Answers Regarding Emergency Dairy Payments**

**Question:** How soon after the President signs this bill into law can dairy producers expect to receive payments?

**Answer:** For existing dairy farmers who received Dairy Market Loss Assistance payments earlier this year, payments should go out fairly quickly. New producers who have not previously applied for or received Dairy Market Loss Assistance payments from USDA may wait a little longer.

**Question:** How will payments be calculated?

**Answer:** Each producer's payment will be calculated by multiplying their “eligible” production by the payment rate. The payment rate equals 35 percent of the decline in the market value of milk in 2000 from the previous five year average. During 1995-99, the market value of all farm milk as reported by USDA was $14.25 per hundredweight. USDA currently projects that the all milk price will average $12.40 per hundredweight in 2000, so the projected payment rate would be 35 times $1.85 or about 65-cents per hundredweight.

Eligible production for existing producers who received payments under the earlier program will, in most instances, be their actual milk production marketed in either 1997 or 1998, whichever is higher, up to a limit of 3.9 million pounds. Eligible production for existing producers who received payments under the earlier program, but had no production in 1997 or 1998, will be their actual milk production marketed in 1999 up to a limit of 3.9 million pounds.

Existing producers in either of the above categories who had less than 12 months of production in the base year used to calculate their earlier payment would be eligible for the provision of substituting their actual production marketed during the 12 months from October 1, 2000.
1999, through September 30, 2000, up to a limit of 3.9 million, if it is greater than their base period marketings used for the earlier payments. Finally, eligible production for new producers who did not receive payments under the earlier programs will be their actual production marketed during the 12 months from October 1, 1999, through September 30, 2000, up to a limit of 3.9 million pounds.

Question: Does a producer have to fill out forms or can they expect to automatically receive their payment?

Answer: The Secretary of Agriculture will decide exactly how to administer the program. However, I believe he can automatically pay existing producers who participated in the earlier payment programs and that only those new producers and those few who have the option of updating their base period production should need to fill out new applications.

Question: How much should producers expect to receive?

Answer: First, a producer’s payment does not depend directly on the number of cows on the farm but on the producer’s eligible production as described above. A producer can estimate his own payment by multiplying his eligible production by the estimated value of 65 percent per hundredweight. An average milk cow produces 17,200 pounds of milk per year. Using this average, producers can expect about $112 per milk cow. A herd of 225 average milk cows will reach the 3.9 million pound limit and receive the maximum payment of about $25,000.

Also included in the conference report is a cranberry relief package that provides assistance to cranberry growers who are suffering with record low prices. This year, my state of Wisconsin will lead the nation in cranberry production. The language in the conference report provides $20 million for direct cash payments to growers and language directing the USDA to purchase $30 million worth of cranberry products.

The cranberry direct payments provision is similar to other market loss assistance provisions in the bill. In order to ensure that the funds are equitably distributed in the market place, the provision includes a cap on payments that would be limited to not more than 1.6 million pounds per separate farm unit, regardless of farm ownership.

In recent weeks, the cranberry industry has been working very closely with USDA and the recipients of federal food distribution programs to support purchases of juice concentrate, frozen fruit, and cranberry products. It is important to remove the highest quantities of surplus fruit from current inventory. The industry and USDA is working to ensure a nutritious and easy to use product for the recipients of federal food distribution programs. In my view, this provides the close cooperation of the Department on this and urge them to move quickly to address this disastrous surplus situation through additional purchases of products containing high concentrations of cranberry products provided for in the bill.

I close by reminding my colleagues that I support the conference report. I also express my sincere appreciation to Senator COCHRAN for his leadership, his fairness, and expertise in the many programs and accounts included in this bill. I thank Senator COCHRAN’s subcommittee staff for all their work on this conference report. I urge all Senate co-sponsors to support the important conference report.

I thank the Chair, and I yield the floor.

Mr. COCHRAN. Mr. President, what is the status of the AMA and the allocation between both sides?

The PRESIDING OFFICER. The Senator from Mississippi has 10 1/2 minutes, and the Senator from Wisconsin has 2 minutes 50 seconds.

Mr. COCHRAN. Mr. President, I appreciate very much the comments that have been made by a number of Senators about the development of this legislation and the efforts we have made to negotiate an agreement with the House and bring back this conference report for final consideration by the Senate today.

There have been some statements made on the floor today that I think require a response. There was some singling out of individual producers, problems, and language directing the USDA to make available incentives for producers that were eligible for benefits—what that indictment and that criticism is just not accurate, it is not supported by the facts, and it has nothing whatsoever to do with this legislation. It ought to have a response. I am pointing out at least two instances where that indictment and that criticism is just not accurate, it is not supported by the facts, and it has nothing whatsoever to do with this legislation.

This legislation includes, however, $3.6 billion in additional assistance of an emergency nature to try to assist those who have had difficulties this year and above those that were expected. Because of findings made by the Senate and the House and the administration, this justifies emergency assistance provisions in the bill. In order to have a predictable level of support, which the Federal Government could provide support and rules under which the Federal Government could make available incentives for production agriculture, stabilize prices, and help to avoid the ups and downs, the Senator from Wisconsin has been working very hard to craft the farm bill.

Many worked very hard to craft the farm bill of 1996. Democrats and Republicans in the Senate and in the House—of course, it was not unanimous. But we worked hard to develop the best possible legislation under which we could provide support and rules under which the Federal Government could make available incentives for production agriculture, stabilize prices, and help to avoid the ups and downs, the problems of this year—and you understand how serious, how desperate the situation is in agriculture in Alabama this year, to cite just one example. It has nothing to do with the Freedom to Farm Act.

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There appears to be. The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll. Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Minnesota (Mr. GRAMS) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 86, nays 8, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—86

Abraham     Edwards    McNamara    Murkowski
Akaka       Enzi        Moynihan    Murray
Ashcroft    Fitzgerald  Murkowski    Murray
Baucus       Frist      Nickles      Reed
Bayh      Gorton       Reed       Robb
Bingaman    Grassley     Robb        Brownback
Bond        Gingles     Roberts       broccoli
Boxer         Hatch     Roth        Brown
Breaux      Hollings    Santorum     宝安
Brownback   Harkin      Schumer      Schumer
Bryan        Hollings    Schumer      Schumer
Bunning     Hutchinson    Schurick      Schurick
Burns        Inhofe      Sessions      Sessions
Byrd      Inouye       Sessions      Sessions
Campbell     Johnson     Smith (OR)    Smith (OR)
Chafee, L.    Kerrey      Snowe       Snowe
Cleland      Kerrey      Snowe       Snowe
Cochran      Kerrey      Snowe       Snowe
Collins      Kohl         Smith (OR)    Smith (OR)
Conrad        Landrieu    Thomas       Thomas
Craig      Lautenberg    Thompson      Thompson
Crapo        Lindsey      Torricelli    Torricelli
Daschle     Leary        Thurmond     Thurmond
DeWine       Levin       Torricelli    Torricelli
Dodd        Lincoln      Warner        Warner
Domenici      Lott       Wellstone    Wellstone
Dorgan        Lugar      Wyden         Wyden
Durbin         McGehee    Wyden         Wyden

NAYS—8

Allard       Feingold    Smith (NH)
Alford         Kyi          Smith (NH)
Feingold       McCain     Smith (NH)
Gramm       Nickles      Voynovich

NOT VOTING—6

Biden       Feinstein    Kennedy       Lieberman
Feinstein     Grams       Kennedy       Lieberman

The conference report was agreed to. Mr. COCHRAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to. Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll. Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNIGN BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there be a pe-

for morning business with Senators permitted to speak therein for up to 10 minutes each. The PRESIDING OFFICER. Without objection, it is so ordered.

MEMORIAL TRIBUTE TO FREDERICK HART BY REVEREND STEPHEN HAPPEL

Mr. THURMOND. Mr. President, it was only a little over a year ago when the nation lost one of the most inspiring, talented sculptors of the 20th century. Frederick Hart’s passionate spirituality and his extraordinary ability to transform human emotions into physical elements were reflected throughout his works of art, and his tragic death has left a tremendous void. I know that I convey the thoughts of all who had the privilege of knowing Rick as I again extend my condolences to his wife, Lindy, and their two sons, Lain and Alexander.

On October 6, 2000, Reverend Doctor Stephen Happel, Dean of the School of Religious Studies at Catholic University, paid tribute to Frederick Hart at a memorial service held in his honor at the Washington National Cathedral. Dr. Happel’s poignant remarks are a testimony to a man who embraced the complexity of God and art, and I ask unanimous consent that his remarks be printed in the RECORD.

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

THE CATHEDRAL YEARS

(Remarks of Stephen Happel, Memorial for Frederick Hart, National Cathedral, 6 October 2000)

“We have seen that without the invocation of matter upon itself, that is to say, without the closed chemistry of molecules, cells and phyletic branches, there would never have been either biosphere of noosphere. In their advent and their development, life and thought are not only accidentally, but also structurally, bound up with the contours and density of the terrestrial mass,” (P. Teilhard de Chardin, The Phenomenon of Man [New York: Harper Torchbook, 1961], 273). “The term of creation is not to be sought in the temporal zones of our visible world, but the effort required of our fidelity must be consummated beyond a total metamorphosis of ourselves and of everything surrounding us.” (P. Teilhard de Chardin, The Divine Milieu [New York: Harper & Row, 1960], 78). The evolution of everything cannot fulfill itself on earth except through reaching for something, someone outside itself. In doing so, literally everything is transformed.

These quotations from the Teilhard de Chardin’s Phenomenon of Man and The Divine Milieu were the human milieu that I found when I walked into Frederick Hart’s life in 1973-74. He had joined an Inquiry Class at St. Matthew’s Cathedral during a particularly difficult time in his life. Inquiry classes are traditional Catholic ways for people investigating new knowledge and spiritual meaning. Rick was living in his studio, a garbage-filled attic that he attached, his first plan for the facade of the Cathedral rejected (along with all the other sculptures). He was looking for a comprehensive vision in his own work to be born. Or better, his artistic work struggled to evolve and create a world, an environment...