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 carrier 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 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 in the package, when 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 we are overspending 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 MedicareChoice 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:

LEADERSHIP COUNCIL OF AGING ORGANIZATIONS,

Hon. Richard H. Bryan,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BRYAN: The undersigned organizations oppose the large payment of funds to MedicareChoice HMOs rather than using these dollars to help Medicare beneficiaries in the proposed Medicare Balanced Budget Act (BBA). The pending leadership proposal cuts $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 for 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, and without that commitment, the plans are not being held accountable for 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 PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask the Senator from Mississippi for 10 minutes or less on this 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.

The PRESIDING OFFICER. 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, or to 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. 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. This may be even more important 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 the House should take 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 importantly, 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 Jeffords-Dorgan proposal on the reimportation of drugs.

Simply stated, we face a situation in which American pharmaceutical manufacturers are benefiting 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 Hinchey, 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 less expensive 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 far 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 spill all 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, benefiting from tax cuts, benefiting from American research should not discriminate against Americans. We have taken a major step forward in this bill to at least reducing and I hope eliminating that kind of discrimination.

I want to express my enthusiastic support for the passage of this bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will vote for the Agriculture appropriations conference report. I want to support our farmers. They deserve our support. But I will do so with a great deal of reluctance because of what the House of Representatives did. They inserted a provision which goes directly counter to the views that were expressed in roll call votes of a bipartisan majority of both the House and the Senate. I probably shouldn't be that surprised that the House of Representatives, under the Republican leadership, has, once again, abused the legislative process. It has occurred too often. We had very strong votes in both the House and the Senate to lift sanctions on the sale of food and medicine to Cuba. After we had those votes, the House Republican leadership included a provision which prohibits any kind of public financing. What they have said is: Sure, you can have these sales. But we are going to make sure there is no way for them to happen.

We go back home and say how generous we are and how we are helping our farmers, at the same time chucking all the way out, saying it will never happen. This is bad for America's farmers. It is very bad for the Cuban people. It is certainly bad foreign policy.

In fact, they even went so far as to codify the restrictions on travel to Cuba. This strikes at the fundamental right of every American to travel freely. Some of the same people who jeeringly say we are Americans; we can go wherever we want, will say, but not to Cuba.

I yield the floor.

The PRESIDING OFFICER. Mr. COCHRAN. Mr. President, I am pleased to yield 15 minutes to the distinguished Senator from Arizona, Mr. McCain.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I regret that I have to come forward once again to oppose another of the annual appropriations bills, particularly one that is vitally important to our nation's farmers and to support social service programs for women and children. 
However, this bill once again fails to responsibly appropriate funding to the highest agricultural and resource management priorities, and instead doles out $300 million in pork-barrel spending. This amount is close to $70 million more than was included in the Senate-passed bill, and the total overall spending for this bill exceeds the Senate and House passed bills by close to $2.8 billion.

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 Porkers” 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 chicken.

No. 9. An amount of $600,000 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, North Dakota.

Sunflower research, obviously, is unable to be carried out in any other part of America, so we have to add $1 million to 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 most in need are the tobacco, sugar and pineapple communities who 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 pineapple communities.

For example, a last minute provision was added to reverse the limited reforms to the federal sugar program. Behind 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 conference that reversed the responsibility of sugar producers to pay small marketing assessments on sugar to help pay down the federal debt. 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, 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 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 taxpayer 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 burley 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, Mr. President, in conclusion I want to refer to a column by David Broder in this morning's Washington Post. The title of it is, "So Long, Surplus." That is what I have to say this morning and what I have been saying for several weeks now: So long, surplus.

I notice a lot of the Presidential debate is devoted to what we will do with the surplus, whether we cut taxes; whether we pay down the debt; whether we save Social Security; whether we save Medicare. It is not going to be there. We are spending it at an incredibly huge rate.

As a result, said Congressional Quarterly, the nonpartisan, private news service, spending for fiscal 2001, which began on Oct. 1, 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.

Let me repeat. The Concord Coalition, which is a bipartisan organization, predicts that the surplus is not going to be $2.2 trillion in the next decade; it is going to be about $712 billion. And that is with the rosiest of scenarios.

What are we doing here? What are we doing here? We are spending the surplus; we are earmarking, pork barrel spending; we are calling things emergency spending; we are counting on may already be gone.

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 in surplus to force the funding of some of his favorite projects, and the response from legislators of both parties is that we're going to try to get his, we're darn sure going to get ours.

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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 a range of programs and activities important not only to farm families and rural communities but to consumers and our nation generally.

I thank our agriculture appropriations chairmen, 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 commend them 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 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 a good portion of the bill is 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 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 written 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.

But 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 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 conference report.

These new facilities are absolutely critical for biocontainment and work with animals with highly contagious diseases. The National Animal Disease Laboratory is one of—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 1930s. Now we face new 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. 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. If we lose in the environment, could cause tremendous numbers of illnesses and deaths. So the NADL funding is not just about protecting animal life and health; it is also for protecting human life, and, I believe, in my opinion, it is the preeminent animal disease research facility in the United States.
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 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 was just joined in Minnesota yesterday. 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 Iowawhere 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 lost 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. USDA food safety funding will increase by $260 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 telling telling 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 chemical and feed 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 the 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 are hungry, and for whom 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 the right to have a reliable automobile can make all the difference in 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 federal farm safety. Next year, this Congress should work to that end.

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, there were $6 billion in emergency spending, 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. This is a record. At its peak, the 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 think, whatever happened to the promises made by the backers 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? Government programs. What is needed is a new farm bill. 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 promised when it 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 cyclical programs that farmers need.

I listened to the debate last night. We heard 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 farmer are still going out of business. We need a new direction and a new farm bill that's needed soon.

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 LDPs, and marketing loan gains. We have raised the payment limitation for loan deficiency payments and marketing loan gains to $350,000 instead of $75,000 which was the Farm Bill. It has been raised 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 can double the effective payment limitation. That means, 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 one-fifth 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 waste this amount of money, we should put it 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. 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 provisions. That 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 can’t happen. 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. Actu- tively, people who set up 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 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 prescription drugs. The cost of brand name drugs is a critical issue. I have had meetings with seniors across Iowa to talk about the rising prices of medicines and their prescription drugs. First of all, I must add that the most urgent and important thing I believe we can do here is to enact a meaningful Medicare drug benefit for all seniors. We have it pending, but the Republican leadership will not bring it up and let us vote on it. I think it is a disgrace that we have not acted on this issue before leaving this year.

The drug reimportation amendment, offered by Senators Dorgan and Jeffords, which would allow pharmacies 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 be completely unworkable.

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 Senator going to use?

Mr. WELLSTONE. I would rather the Senator go on 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 reeling 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 my state of Minnesota, 7 to 10 inches of rain fell in early June in the Red River Valley, which destroyed what was predicted 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 year, 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 rainstorm 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 that we are a nation of farmers, the 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. And my colleagues assure me 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 unfairly, 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 that help family farmers and rural communities utilize the land. We need a new farm bill.

In addition, I have found that family farmers rank last in competitive markets as a major factor in the current 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 antitrust issues related to mergers, this appropriations bill has taken some positive steps.

Included in this legislation is an increase in the Grain Inspection, Packers and Stockyard Administration's, 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 Agriculture appropriations bill, will result in an increase of $4.15 billion 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 government action to ensure fair and open competition. 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, including in the beef and pork industries. It has identified areas of increasing market concentration and has served as a catalyst for policy changes. The Appropriations Committee has taken the lead in providing the funds necessary for the development of new enforcement strategies. I believe this legislation is a step in the right direction.

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 this bill contains a provision I added to provide $3 million in grants to allow the development 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 fill 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...
adequate nutrition. The bill incorporates an amendment I offered to require a study in the next 180 days so we can learn what obstacles families face when they try to get food stamps, as well as why the rolls have declined so dramatically in recent years. It is a growing sense that the Food Stamp Program is not functioning adequately in assisting working poor families and helping to "make work pay." Although eligibility for food stamps is no longer tied to the receipt of welfare payments, the dramatic declines in the cash assistance rolls appear to have resulted in large numbers of eligible low-income families failing to receive the food stamp assistance for which they qualify, including many families who have moved from welfare to work. This study will help us understand the kinds of policy and program implementation decisions we need to make in order to better ensure that working poor families in this country are not going hungry.

The bill also includes two provisions from the Hunger Relief Act—one which will raise the vehicle allowance, and one which will raise the shelter cap deduction, for families receiving food stamps. This provision means that working poor families who have moved from welfare to work will still be able to get the food stamps that they need, and parents who spend more than 50 percent of their income on rent because they live in communities that lack affordable housing should also now be better able to get the food stamps that provide critical nutritional supports for themselves and their children. This is a very important first step, and I now hope that we will see the remaining provisions in the Hunger Relief Act enacted before the end of this session. In particular, it is critical that we restore food stamp benefits to post-96 legal immigrants as soon as possible.

Mr. President, I now ask you to turn to the prescription drug import provision which is included in this conference report. 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, I meet with 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 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 worked with Senator Dorgan the International Prescription Drug Parity Act, and with Senator Jeffords the Medicine Equity and Drug Safety Act, two bills designed to amend the Food, Drug, and Cosmetic Act to allow American 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. This will allow American consumers to affordable, safe prescription drugs.

Following their leadership, Republican members of the Agriculture appropriations conference committee ditched the bipartisan process, jettisoned the legislation, and shut the door on closing loopholes which would protect the rights of American consumers to affordable, safe prescription drugs.

What language was unilaterally rejected by the Republicans? First, was a provision that would have required manufacturers to submit their FDA-approved U.S. labels. Currently, when drugs are reimposed to the United States by drug companies, they must be relabeled with the FDA approved label. This new provision, I believe, would have assured consumers access to drugs manufactured right here in the U.S.—at lower prices overseas and then pass the huge savings along to American consumers.

This legislation has evolved quite a bit through the legislative process. Early in that process there had been two constants: bipartisanship in seeking lower prices for American consumers and opposition every step of the way by a pharmaceutical industry bent on preserving profits. We were on the verge of producing a strong bipartisan final result until the process was derailed by the Republican leadership. Rather than a bipartisan bill that would guarantee Americans the opportunity to share in lower drug prices which are available everywhere else in the world, Republicans fell in line with the pharmaceutical industry and closed the loopholes, which is why they should never have been allowed to remain in the final bill. The Secretary of Health and Human Services is given broad authority to make adverse decisions that impact the importation of FDA-approved prescription drugs, which gives me some hope.

The Secretary's authority does not lessen my outrage or that of my Democratic colleagues about the process which resulted in those major loopholes. It is unfortunate that the productive bipartisanship which had prevailed during the past year to pass this bill was discarded in the last, critical hours.

This needn't have happened. There was an effort when the conference met to close the loopholes, ensuring that the pharmaceutical industry could not make end run around the effective implementation of this bill. But, given the choice of standing with American consumers, especially senior citizens, or the most profitable industry in America, Republicans chose the industry that has sought to undermine this bill from the start.

While I am saddened about the missed opportunity to produce a stronger, water-tight legislative product, I do believe the present bill is an improvement over the status quo, and continues to have the potential for lowering prescription drug prices here in the United States. If however, the pharmaceutical industry takes advantage of the Republican-accepted loopholes, then I will be back next year with legislation to close those loopholes and make this law work.

Mr. President, again, I intend to support this agriculture appropriations bill. I thank my colleagues on the floor, Senator Cochran, Senator Kohl, Senator Harkin, and others for their very good work.

Second of all, let me especially thank Senator Kohl and Senator Harkin for their work. I had asked for 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 problem of concentration of power. So many of our livestock producers are not getting a fair shake. The IBPs and ConAgars of this world are muscling their way to the dinner table and muscling their family farmers off the farm. I think that GIPSA be able to look at this whole problem of increasing concentration of economic and, I argue as well, political power.
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 prices. I think we have been a nightmare for these farmers. I thank Senator KOHL for his good work.

I am disappointed the way this conference was done. I think this is a step forward. But I would like to have seen much more. I certainly think you have to have prescription drug benefits added onto the new farm bill. We have to focus on getting farmers a decent price in the marketplace.

The PENDING 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 done 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 a 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 won a vote 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. 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 Senator, we had 14 nominations for circuit court judges within an election year. Nine of them had hearings. 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.

Who is the one who had the hearing that has not been referred? Bonnie Campbell. What a disgrace. What a shame. What a slap in the face to an outstanding individual who has done well in the field of law. I haven’t heard anyone—Republican or Democrat—say that she hasn’t performed superbly in running the Office of Violence Against Women. Her performance is reflected in the House’s 415 to 3 vote to reauthorize the act and the Senate’s 95 to 0 vote on that legislation.

I do every day, ask unanimous consent to discharge the judiciary Committee on further consideration of the nomination of Bonnie Campbell, the nominee for the Eighth Circuit Court, that her nomination be considered by the Senate immediately following the conclusion of action on the pending matter, that the debate on the nomination be limited to 2 hours equally divided, and that a vote on her nomination occur immediately following the use or yielding back of that time.

Mr. COCHRAN. Mr. President, I object. The PENDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I knew it would be objected to. But I am going to do it every day to make the point that her name is unfairly being bottled up in the judiciary Committee. No one has said she is unqualified, or anything such as that. She has won a vote of law enforcement and service groups. I can only assume it’s that the Republicans figure maybe their nominee will win the Presidency, and all of these will fall by the wayside, and, rather than Bonnie Campbell, we will have someone else. Maybe that is the way they feel. But that is not the way to run this place.

Once you go far down that road, it may be pretty hard to turn back. Times change. There will be a time when there will be a Republican in the White House and the Senate will be Democratic. Do we want to repeat the same thing this year? Do we want to go down that road? Is that what this place has become? If you start it on that side, that is what is going to happen, because when the Democrats take charge, they’ll look back at what happened in the year 2000. We shouldn’t go down that road.

ALTERNATIVE DISPUTE RESOLUTION

Mr. LEVIN. Mr. President, we have before the Senate the fiscal year 2003 Agriculture Appropriations conference report (H.R. 4461). Included in this bill is funding which will, among other things, assist our Nation’s farmers, aid
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 the Government 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 dispute 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. It is this is a serious matter that ought to be addressed by USDA.

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. 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).

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Mr. KOHL. I appreciate these comments. It is this is a serious matter that ought to be addressed by USDA.
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, Agriculture Appropriations Bill contains language directing the Secretary of Agriculture to use funds from the Commodity Credit Corporation to compensate these growers. I expected that this assistance will be provided in a timely and efficient manner.

Mrs. FEINSTEIN. I appreciate both the chairman and ranking member's willingness to work with me on this issue. Due to this loss of income, a number of growers are currently unable to pay their bills or prepare for next year's crop.

This assistance is desperately needed, but I believe that more emphasis must be placed on preventing future infestations. I am heartened to see that in 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's Preventive Fruit Fly Program. If California's fruits were quarantined from all foreign markets because of Medfly infestations, the State estimates that 35,000 jobs would be lost and economic output would be reduced by $360 million.

Mr. COCHRAN. I understand the challenges facing California's growers. The Administration's budget request of $31.91 million for the Program earmarks only $300,000 for equipment and maintenance of the State's Preventive Release Program. The fiscal year 2001 Agricultural appropriations bill provides $32.61 million for the Fruit Fly Exclusion and Detection Program. The $700,000 above the Administration's request is to be used to enhance the release program and detection trapping in California.

Mrs. FEINSTEIN. Again, I thank the chairman and ranking member for their courtesy and understanding. On behalf of California's growers, I want to express my appreciation for your efforts to help shield the State from future fruit fly infestations.

Mr. KERRY. Mr. President, I would like to clarify for the record the intent of language under funding for the National Resources Conservation Service (NRCS) of the Agriculture Appropriations fiscal year 2001 bill. I want to point out that interagency coordination of federal resources is desirable and certainly something many of us have been supporting as a way to eliminate unnecessary activities and spending. We don't want to spend money in Washington duplicating positions and processes. We want money in the field helping local communities. The NRCS "Conservation Operations" and "Watershed Surveys and Planning" funding sections contain specific language that refers to the American Heritage Rivers Initiative, which is coordinated by an interagency committee to assist communities seeking technical assistance and opportunities for Federal grants. I would like to point out that this initiative has proven to work well for particular rural communities in my state and others.

Mr. CHAFEE. While the language in this conference report places a limitation on assistance by NRCS for activities related to the 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. Funding for this program is limited to that requested in the President's budget. It is my understanding that there are communities which are in the final stages of being included in the American Heritage Rivers program, including Vicksburg and Natchez, Mississippi.

It is not our intention to limit these funds to those communities that were included in the program when the budget was submitted. Further, if additional communities are added during fiscal year 2001, they should be eligible for all funds available for the American Heritage Rivers program. Also, technical assistance can be provided, without limitation, by the NRCS to farmers or communities in the American Heritage River designated area.

Mr. CRAIG. Mr. President, first I would like to thank Chairman COCHRAN and Senator Kohl for the hard work they have put into the Fiscal Year 2001 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill. It is a challenging process, and they have done an excellent job balancing competing interests within the confines of a balanced budget.

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. Departments of Agriculture, Transportation, and Health and 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. We must continue to 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 the Partnership. 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 freestanding legislation can be passed.

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.

Senator CRAIG. Mr. President, this 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 Secretary of Agriculture would take into consideration the few remaining resources available to these communities when allocating discretionary funds from the fund.

Mr. JEFFORDS. Mr. President, I would like to echo my colleagues' support of the National Rural Development Partnership and its affiliates, state rural development councils. These councils, in Vermont and over 35 other states, are playing an important role bringing together the many governmental and non-governmental entities that work to improve conditions in rural areas. I sincerely hope that Secretary of Agriculture will continue to support this program while legislation is finalized by the Congress.

Mr. COCHRAN. I commend the Senators for their interest in this program.
I want to assure the gentlemen that it is the Committee's belief that the Secretary of Agriculture should continue to provide funding from discretionary amounts for this program.

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 on which institutions are eligible to receive grants.

SOLID WASTE MANAGEMENT GRANT PROGRAM

Mr. WELLS. Mr. President, I ask unanimous consent to engage in a colloquy with my colleague, Senator KOHL, the ranking member of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies. In particular, I would like to discuss the Department of Agriculture's solid waste management grant program that is funded as a line item within the utilities section of the Rural Community Advancement Program. Authorized in section 310B(b) of the Consolidated Farm Development Act, these grants allow public agencies and nonprofit organizations to provide technical assistance to local communities for reducing water pollution and improving solid waste management.

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, assistance organizations known as Rural Community Assistance Programs. These organizations have done an outstanding job serving the smallest, poorest and hardest to serve rural communities in the Midwest and across the country. The Rural Community Assistance Programs are key partners within USDA's Rural Community Advancement Program. Their nationwide network of technical assistance providers—serving water and sewer systems of thousands of rural communities—is highly qualified and well placed to improve the effectiveness of rural solid waste management.

For example, the regional Rural Community Assistance Program which serves my State of Minnesota is the Midwest Assistance Program (MAP). Based in New Prague, MN, MAP serves nine midwestern States. The organization has carried out solid waste projects in collaboration with USDA, the Environmental Protection Agency, and with individual tribes in communities throughout the region. MAP is now beginning to target assistance to Minnesota communities for the development of small transfer stations, to improve recycling and better manage solid waste.

Mr. KOHL. Mr. President, I appreciate the Senator's attention to this issue. He is pointing out the positive role of the Rural Community Assistance Programs in helping carry out this and other important activities in rural areas. The Senator is aware that the President requested $5 million in solid waste grants for these programs for fiscal year 2001. But whereas there is a general acknowledgment of the effectiveness of the program, we are able to fund the program only to a level of $2.7 million in this bill, due to broader fiscal constraints. In view of that limitation, I think the Senator is correct to urge the Department to give special consideration to those very small, often poor, rural communities which can be the hardest to serve. For that reason, I agree, and I believe the subcommittee would agree, that the Department should be urged to consider directing up to $1 million of the solid waste grants to the regional Rural Community Assistance Programs, which have an excellent record of serving such communities.

Mr. DODD. Mr. President, I rise today to speak once again about the Agriculture appropriations conference report, and specifically to comment on two major provisions that cause me grave concern. These provisions relate to several aspects of U.S.-Cuba policy, and the other to the reimportation of prescription drugs from abroad. I spoke on October 6, when the language first became public, at some length about my opposition to the Cuba provisions in the conference report. At that time, I also expressed support for other provisions of this legislation that dramatically loosen the licensing and financing restrictions on sales of food and medicine to other countries that have been designated as terrorists—North Korea, Iran, Sudan, and Libya.

I continue to find it appalling that Cuba has been singled out for more restrictive treatment than the other countries I have just mentioned, who are far more of a potential threat to U.S. foreign policy and national security interests than Cuba has ever been.

I would call my colleagues' attention to a remarkable photo that appeared in the front section of the New York Times on October 11. This photo showed President Clinton meeting with high ranking North Korean General Jo Myong-Nok—the first official meeting of its kind in more than 50 years. The purpose of the general's visit to Washington was to open a dialogue on ways to enhance relations between our two countries. Secretary Albright has announced she will visit North Korea in the next several weeks. And I won't be surprised if President Clinton also decided to return to the White House.

Let me be clear. I am not opposed to diplomatic efforts to ease tensions on the Korean Peninsula. But I think it is fair to say that North Korea, with its missile programs and hostile government, represents a much greater threat to the United States than Cuba. Cuba no longer seeks to export revolution to its neighbors and is no longer financed by the Soviet Union. Yet there have been no high level meetings of Cuban and American officials held to explore the possibility of improving relations between two close neighbors. In fact, it has been quite the opposite—the only one of any significance was conducted by the Cuban Foreign Minister. When we visit Havana or conduct discussions with Cuban officials about such matters. To say that our policy is incredibly skewed when it comes to matters related to Cuba is an understatement.

Emotions and raw domestic politics prevent us from having normal discourse with a small island 90 miles off our coast while, at the same time, we are trying to normalize relations with an island 90 miles off Florida. A contradiction? I think so.

We cannot have our cake and eat it too. By singling out Cuba for highly restrictive treatment, while throwing the door wide open for countries like Iran and Sudan, we are seen as hypocrites in the realm of foreign policy, and we are arbitrarily rewarding one oppressive regime while castigating another.

American farmers will not be deceived for very long by supporters of this language who are assuring them that they will indeed be able to sell their crops in Cuban markets. It will quickly become apparent the first time they try to put together a deal that the complexity of the law makes it virtually impossible to complete a sale to that country.

Furthermore, the codification of existing travel restrictions on Americans wishing to travel to Cuba is shameful and irresponsible. By passing this bill, we take away the administration's discretion to grant licenses on a case-by-case basis in circumstances that do not fall into the new codified categories of permissible travel, significantly harming our ability to work to change Cuban society. These restrictions are unfair, hypocritical, and inexplicable to average Americans who believe that their right to travel is a fundamental freedom enshrined in the Constitution. I also take issue with another major provision that was jammed into this legislation by the Republican leadership—I am speaking of a provision which will allow the reimportation of pharmaceuticals from foreign countries back into the United States. This provision is of concern for several reasons, not the least of which is that it ignores the larger question of whether Congress is going to give all seniors an affordable, reliable drug benefit through Medicare. This provision is far more likely, through the back door, to undermine the comprehensive solution to the very real problem millions of seniors face all over the country in affording their medicines. It is my hope that the
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 bill because it contains 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 prescription drugs are available and affordable for every American family. These issues are not going to go away with the adjournment of Congress and, in my time, reason will prevail on these matters. The American people will demand it.

Mr. CRAIG. Mr. President, I rise in support of the FY2001 Agriculture Appropriations bill. First I would like to thank Chairman COCHRAN and Senator KOHL for the hard work they have put into the Fiscal Year 2001 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill. It is a challenging procedure to work through a national problem 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 Congress and, in my time, reason will prevail on these matters. The American people will demand it.

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The other Hunger Relief Act provisions would raise the cap on the food stamp excess shelter cost this March and then adjust it for inflation beginning October 1, 2001. The shelter deduction reflects the commons sense principle that the same money cannot be spent on both housing costs and food. It provides that when a household is spending more than half of its income on food or mortgage, utilities, and similar costs, the amount of those costs that exceed half of its income will be deducted when calculating how much the household can be expected to spend on shelter. The shelter deduction is also important in rural America, in part because fewer people in rural communities receive housing subsidies and in part because housing costs can easily exceed half of the relatively modest wages that some low-income families receive in rural areas. Unfortunately, the shelter deduction is arbitrarily capped at $300 for households that do not contain an elderly or disabled member. This means that low-income families that are not getting housing subsidies and that are struggling under the burden of extremely high shelter costs are getting unrealistically low food stamp allotments.
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 hard-pressed families, who are 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 re-importation provision included in the Agriculture Appropriations bill. This provision recognizes that the vast majority of whom have children.

One of the folks who went with me during the conference was Sylvia Miller 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 taking a 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, "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. It is ironic that $1 in the United States costs only 64 cents in Canada, 65 cents in Great Britain, 57 cents in France, and 51 cents in Italy. Those price differences compel many seniors to leave the United States to get lower prices elsewhere.

In fact, during the Senate's debate on the Agriculture Appropriations bill, Senator Jeffords and I, along with Senators Wellstone, Gorton, and others, offered an amendment to allow U.S. pharmacists and wholesalers to re-import 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. Emerson, Canada, is 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 exactly the same prescription drugs available at half price 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.

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Time and again over the last several years I have been asked by North Dakota consumers and pharmacists travel to Canada to buy these same medications at the lower prices and pass along the savings to their customers? Good question.

The answer is that, under current Federal law, only the pharmaceutical manufacturers can re-import prescription drugs into the United States from other countries. Thus, effectively, these drugs were originally made in America and approved by the Food and Drug Administration. The lack of competition in the U.S. marketplace has created a situation in which the big drug companies can charge American consumers a premium.

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. Instead, the FDA said that we should require the drug companies to provide importers with the FDA-approved labeling. I think it is pretty indisputable that I, 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.

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. However, 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 any other tact altogether to achieve fairer drug prices for American consumers.

The point that I want to make clear is that this legislation sends an important message to the big drug companies that Congress will no longer tolerate unfair prescription drug prices. But this legislation is just one step, and it is no substitute for adding a prescription drug benefit to the Medicare program.

I have been saying all along that we have a two-prong problem with prescription drugs in this country. First, prescription drug costs are too high, and I have been fighting for a strong re-importation provision so that we can put pressure on the drug companies to lower their prices. Second, there are
too many Medicare beneficiaries who have no prescription drug coverage, and they need it. When the Medicare program was created in 1965, prescription drugs weren’t the significant part of the practice of medicine that they are today. This is the most important reason we should modernize the Medicare program by creating a prescription drug benefit in Medicare, and we should do it this year.

Mr. BROWNBACK. Mr. President, I rise today to put on the record my concerns about numerous provisions contained in this year’s conference report of the Ag appropriations bill. Specifically, I am greatly concerned that this year’s bill single-handedly turns back a number of reforms made by the 1996 farm bill and moves us further away from an agriculture policy that looks to the markets rather than government for survival. The danger of following such a philosophy is that government is not likely to have the will to sustain the ag industry indefinitely, so the political and economic imperative to support agriculture dries up, there will be massive calamity.

There are legitimate ag emergencies occurring in the country right now. My family is still on the farm. Kansas is the 4th largest agricultural producing state in the Nation—and I myself served as Secretary of Agriculture for the State of Kansas before coming to the U.S. Senate. I am not here to find fault with providing additional aid to farmers, it is in our national interest to do so. My problem is not with the concept of government assistance to farmers—but rather in the shape this assistance is beginning to take—especially this year.

Specifically, I am referring to the treatment of pet commodities like sugar and tobacco—which have been exempt from the market-oriented reforms faced by most other commodities—including the wheat growers of my state. For example, these reforms were set forth in 1996 to move farmers closer to the market. Some of my Democratic colleagues have accused us of abandoning a financial safety net for farmers—I don’t see how they can honestly make that claim since farm spending has gone up dramatically since the ’96 law was enacted. The Congressional Research Service notes that program payments combined with emergency spending for calendar year 1999 was $10 billion—the highest ever and we have continued to provide substantial support to our farmers in 2000—well above which would have been allowed under previous farm bills. If this conference report merely continued this tradition of backing up the market—reform of the 1996 farm bill—I would have no problem—but this conference report takes serious steps to undermine those reforms—and that is wrong.

This conference report contains a provision to change the 1996 farm bill language on marketing loans for sugar—now, instead of having to meet a certain threshold, non-recourse loans will be guaranteed for the next two years. This clears the way for additional payments to sugar producers on top of an already complex quota system which allows them to control the amount of imported competition. We don’t do this for wheat, corn or soybeans—we slash for sugar.

One of the most egregious parts of this bill is language which will promote increased tobacco production from the same government which is trying to decrease domestic demand for tobacco products.

Currently, co-ops can and do purchase low quality or remaining tobacco not bid on by cigarette companies in order to artificially keep the price high. This bill will now allow the co-ops to then sell their inferior tobacco to the government (through Commodity Credit Corporation funds). This measure is estimated to cost the government $510 million and cuts out flute-cured tobacco grown in North Carolina. Call likely be a similar fix that doubles the cost to the taxpayer.

After obtaining this left-over tobacco, the U.S. is not allowed to market this tobacco domestically for fear of displacing the controlled market and we will not be able to unload it on the world market due to restrictions about exporting tobacco and the already high amounts of world production that are much cheaper than this U.S. price-inflated tobacco—especially since this is the inferior “left-over” tobacco.

To make matters worse, this language prevents this government action from affecting the quota limits for tobacco growing. This means that once the oversupply is wiped out by selling excess tobacco to the government, tobacco quotas will increase and allow for the growing of more tobacco—which will lead to the need for another budgetary correction of the tobacco market and adjust to the new world economy.

Unfortunately, the Senate does not have the opportunity to vote on these measures—we are forced to vote for these offensive programs because they are tied to an agriculture appropriations bill which is so important to our Nation—which provides a measure of unilateral sanctions reform many of us in this body have fought for—for years. This is no mistake—the numerous faulty provisions in this bill were added at the last minute in conference—precisely because they would never pass on their own, nor should they.
adulterated, misbranded, and counterfeit drugs were entering the U.S. market, posing as American-made. You noted that the problems found in our investigation were addressed by FDA's enforcement and inspections designed to prevent the “introduction into U.S. Commerce of prescription drugs that were improperly stored, degraded, and for which there were ‘opportunities for importation of counterfeit and unapproved prescription drugs.”

Your letter went on to state, “In my view, the drug industry 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 total or the partial passage of legislation to repeal PDMA’s prohibition on re-importing drugs. Furthermore, I believe that such a change in policy would re-create a substantial public health risk: PDMA was designed to eliminate.”

Your September letter now says, “If FDA is given the resources necessary to ensure that imported, FDA-approved prescription drugs are the authentic product, made in an FDA-approved manufacturing facility, you believe FDA can in reality undertake the very tasks proposed. The Committee on Oversight and Investigations would appreciate your help:

1. A June 8, 2000, hearing by the Subcommittee on Oversight and Investigations of the Committee on Commerce revealed that FDA has been transshipped to multiple countries where a drug originated, or even if a product made in one country was mixed into shipments made in another country, before ultimately being bought by an American patient. In October 18, 2000

2. In light of the major public health implications associated with loosening importation and re-importation policies, would you re-importing drugs. Furthermore, I believe that such a change in policy would re-create a substantial public health risk: PDMA was designed to eliminate.”

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2. If this undertaking will occur, what this undertaking will actually cost. For example, while FDA has provided the Committee with a cursory three-page document on expected budgetary needs (approximately $23 million for the initial ramp-up years, and approximately $90 million for subsequent years), I remain concerned at the lack of specificity in FDA’s effort.

3. FDA staff were told by several scientific community that a test for the shelf life of the drug, there is no guarantee that a product imported from another country will arrive with roughly the same shelf life as manufactured by the importer. If drug products have been subjected to temperature extremes while being shipped or stored, or are improperly repackaged, the medicines could not be guaranteed to meet its specifications up to the expiration date. Your letter went on to state, “In my view, the drug industry 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 total or the partial passage of legislation to repeal PDMA’s prohibition on re-importing drugs. Furthermore, I believe that such a change in policy would re-create a substantial public health risk: PDMA was designed to eliminate.”

4. I urge you to address these concerns by dropping these provisions from the Agriculture Appropriations Act and current ban on pharmaceutical reimportation. At the time, there was considerable evidence of both the counterfeiting and diversion of pharmaceutical products outside the United States. I do not believe that the situation has changed. In fact, it may have become worse with the rise of Internet purchases. I agree that seniors need help paying for their prescription drugs, and voted for our plan to do that. But now is not the time to weaken the rules that protect American patients for more than a decade.

Sincerely.

JOHN D. DINGELL,
Ranking Member.

SEPTeMBER 20, 2000

HON. JOE SKEEK,
Chairman, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, Committee on Appropriations, Washington, D.C.

DEAR JOE: As you know, the House adopted two amendments to the Agriculture Appropriations Act relating to the importation and re-importation of pharmaceutical products from abroad. I voted against both these amendments and remain concerned about the potential impact of these proposals on the health and safety of American consumers and the future integrity of the U.S. drug supply.

While the House amendments were characterized as simply providing for the personal importation of pharmaceuticals for personal use, they actually go beyond this to reverse longstanding policy in this regard. In my view, such an important change with implications for American consumers should not be implemented through the appropriations process. Such changes warrant careful thought and deliberation through the regular legislative process.

I recall the congressional investigation in the mid-1980’s that led to the enactment of the Prescription Drug Marketing Act and current ban on pharmaceutical reimportation. At the time, there was considerable evidence of both the counterfeiting and diversion of pharmaceutical products outside the United States. I do not believe that the situation has changed. In fact, it may have become worse with the rise of Internet purchases. I agree that seniors need help paying for their prescription drugs, and voted for our plan to do that. But now is not the time to weaken the rules that protect American patients for more than a decade.

I urge you to address these concerns by dropping these provisions from the Agriculture Appropriations bill in conference.

With best personal regards,

Sincerely,

BILL ARCHER.

Mr. HATCH. Mr. President, I appreciate the many long hours of work by my colleagues on the Agriculture Appropriations Subcommittee 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 this legislation. I believe it is critical that this legislation be enacted and provide a stable and predictable framework for the future 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 combat weed problems using 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 enhance farmers’ losses 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 experienced such 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 assistance to shore up this important source of water.

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. This reimportation proposal is patient safety.

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 foreign drug market that led 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, misbranded, improperly stored or shipped, beyond their shelf life, or even bald counterfeits 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 counterfeits, falsely described as imported U.S. produced, 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 in this area. It is going to lead to needless injuries and death.”

As chairman of the Judiciary Committee which has jurisdiction over counterfeiting, I am concerned that our members may have had an opportunity to make a careful study, in collaboration with the Food and Drug 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 on the floor, even the best of intentions in trying to lower drug prices surely can’t be adequate justification for sacrificing patient safety.

I recommend 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 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.

House hearings have 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 people but 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 respected by 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 11 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 time bomb on the public 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 chairman of the Senate Judiciary Committee, I do want to raise some troubling aspects of the reimportation provisions as they relate to intellectual property.

Here is a case that would have been preferable for the Judiciary Committees of both the House and Senate to have had an opportunity to carefully study the rapidly evolving language that was inserted into this appropriations bill.

I share the legitimate concerns of all Members of Congress about the difficulties the many Americans, particularly our senior citizens, have in gaining access to affordable drugs.

In fact, one of my chief concerns about drug reimportation measures is public safety, intellectual property, and trade policy concerns aside—is whether consumers will get any substantial benefit when a new phalanx of middle-men get their piece of the action for bringing these drugs into the United States. I am not convinced that consumers will get much in the way of savings. And, what little benefit they get will come at what cost?

I believe that any country 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 perceived in the same fashion in other 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 developed and developing world, backed 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 rights of our 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 this 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.

I imagine my surprise and disappointment. Make it find the 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)."" Makes no sense the 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 products. 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 particular 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 if, 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 inhibit the implementation 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 affect 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.

**E X H I B I T 1**

**U.S. SENATE, COMMITTEE ON THE JUDICIARY, Washington, DC, October 4, 2000.**

Hon. TRENT LOTT, Majority Leader of the Senate, Washington, DC.

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

Hon. DENNIS HASTERT, Speaker of the House of Representatives, Washington, DC.

Hon. J OE SKEEN, Chairman, Subcommittee on Agriculture, Committee on Appropriations, Washington, DC.

**DEAR MR. SPEAKER: As Chairman of the House Judiciary Committee, I urge you to reject intellectual property provisions, disguised as a "non-discrimination" requirement, advocated by Mr. Waxman for inclusion in the drug re-importation measures in the Agriculture appropriations bill or in other legislation. The Waxman gambit is an anti-business, anti-intellectual property effort to force pharmaceutical patent owners to give up their patent rights with respect to re-importation into the U.S. of their patented product, by denying their freedom in contracting. Mr. Waxman further wants to compel drug manufacturers to sell unlimited quantities of their prescription medicines to foreign buyers, including those who fly-by-night operations that are unlikely to be held accountable for patient health and safety. This proposal has not been the subject of a single hearing and falls squarely with the jurisdiction of the House Judiciary Committee, whose members have not been consulted on this.

Beyond the serious jurisdictional issue and erosion of intellectual property rights, I further object to the Waxman proposal because it clearly increases risks to the health and safety of American patients, advanced by our medical community and promotes the development of the next generation of medicines, this proposal must be rejected. Sincerely,

**ORRIN G. HATCH,** Chairman,

**U.S. SENATE, COMMITTEE ON THE JUDICIARY, Washington, DC, October 4, 2000.**

Hon. TRENT LOTT, Majority Leader of the Senate, Washington, DC.

**DEAR MR. SPEAKER: I understand that the situation on the drug import provisions in the Agriculture Appropriations bill is fluid and that now there is language being proposed that modifies the House proposed text that I have previously criticized. Unfortunately, I must register my objection to this new language as well. It is my understanding that the new language states: "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." How can this restrictive provision square with the concept of private property and freedom to contract? It seems to me that Congress, like the courts, should not get into the business of rewriting contracts.

In my view this new "compromise" provision does not escape the fundamental problems presented by the earlier House language because a flat prohibition on the ability of a manufacturer to limit the future sale or distribution of its products in the face of current law and policy. I must report to you that as this language circulates among the bar, reputable attorneys are concerned that it presents serious constitutional issues. As Chairman of the Judiciary Committee, I believe it wise for our committee to consider this issue before such language is adopted. Given that the import provisions will not go into effect until the FDA issues a complex set of safety testing regulations, I see no need why the Congress must rush to act. I urge you to re-open the debate.

Sincerely,

**HENRY J. HYDE,** Chairman,
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 would like to insert into the RECORD a letter addressed to me 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 organization that have authored these letters have shown tremendous leadership in getting us where we are today. I extend my sincere appreciation for their support throughout this entire process.

Would like to address one final point, Mr. President, with regard to the intent of those that have drafted this sanctions reform proposal. Senator Hagel and I, as the drafters of the underlying sanctions reform bill, are submitting a statement of intent on how the proposal should be read 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 FY2000 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 table, 52 to 48, and the amendment, after modifications, was accepted by voice vote. There was not a comparable provision in the House appropriations bill, and ultimate legislative 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 FY2001 Agriculture Appropriations Bill (H.R. 4461, S. 2536) in both the Senate and House during

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 medicine.

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 EU ban on U.S. beef. However, 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 in this 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. In 1998, the last year for which statistics are available, Cuba imported about 10,000 metric tons of pork from Canada, Mexico and the European Union.”

These 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 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 years despite changes in administrations. 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 current 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.

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 if 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 is both fair and 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 communities.

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.

As with any major reform of U.S. policy is not my preference, I will point out 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 is both fair and 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 communities.

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.
as well as sanctions on the use of federal pro-

product is to lift sanctions on commercial sales.

cally chose not to use another definition in

cover all value-added products and proc-

tially chosen not to use another definition in

livestock, and fiber. In addition, value added

also includes fer-

speech explanation below). Further-

cultural commodity’ shall also include fer-

codels and medicine, or medical devices that

is the intent of the drafters that this pro-

impose sanctions permanently as Section 905

is the ability to impose sanctions in cer-

in extraordinary circumstances. Fur-

impose sanctions in certain limited instances.

tion to develop a licensing system that is,

SECTION 905—CONGRESSIONAL PROCEDURES

This section requires the President to ter-

shall be submitted to the appro-

section defines this term broadly to include

cultural commodities shall also include fer-

loss. For example, the 24-month limit for

is no more restrictive than license excep-

pletely free of bias. The Administration must

the least burdensome for the exporter. This sec-

section defines the term broadly to allow maximum

for the purpose of the act—to support en-

This section requires quarterly and

exports to the Government of Syria and

the President under Section 903 or

that are state sponsors of international ter-

for licenses administered by the Depart-

The Administration must put in place a system for agricultural com-

result only for sales to the ‘‘governments’’ of

The purpose of this title is clear: to

effective as of the

This section provides a number of excep-

which state sponsors of international ter-

also recommends to Congress a continuation

ined to, crutches, bandages, wheelchairs, etc.

and including supplies, such as but not lim-

sponding to the sale or export of products cov-

The overall purpose of this title is clear: to

eliminate unilateral food and medicine san-

lished in the House Agriculture Appropria-

tion(s) for exports to specific sub-entities

appropriate committee or committees of the

purposes of this pros-

that are categorized under Section 903 shall be submitted to the appro-

This section provides the title of the Act, the

warranted by the President under Section 903 or

imposed sanctions might fall under one of the

rimes for exports to specific sub-entities

clude food, feed, fish, and live-

all for value-added products and pro-

tion can feed, clothe, and heal people.

in the national security interest of the Untied States to do so.

specifically with regard to paragraph (2), it is the intent of the drafter of this pro-

These provisions may be maintained only if the Presi-

sanctions that are in effect as of the

be used in extraordinary circumstances. Fur-

that these exceptions be narrow. Therefore, if a question exists as to whether the pro-

sanctions that are categorized under Section 903 or

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This section contains the title of the Act, the

Agricultural Program: The intent of the

“Weapons of mass destruction” include any projec-

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Agricultural Commodities: The drafter used the definition of “agricultural commod-

SECTION 905—TERMINATION OF SANCTIONS

This section provides for a sunset of any

This section provides for the export of

Medical Device and Medicine: These terms

slightly comprised due to the use of federal pro-

the Federal Food, Drug and Cosmetic Act, and

that these exceptions be narrow. Therefore, if a question exists as to whether the pro-

These licenses shall be provided for a pe-

that the sales of products under the license can span

American exports to Cuba with respect to

SECTION 908—STATE SPONSORS OF

The overall purpose of this title is clear: to

Finally, this section requires quarterly and

That is, the Administration would

This provides the House language that had been inserted during com-

The section contains the title of the Act, the

SECTION 904—EXCEPTIONS

This section provides a number of excep-

This section provides for exports to specific sub-

These licenses might be used to support the ex-

This section requires quarterly and biennial reports on these licensing activities to

These licenses might be used to support the ex-

This section provides for the export of

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Finally, this section requires quarterly and

This section requires quarterly and biennial reports on these licensing activities to

That is, the Administration would

The section contains the title of the Act, the

SECTION 906—MEDICAL DEVICE AND

These terms include items such as

Medical Device and Medicine: These terms

This section contains the title of the Act, the

SECTION 902—DEFINITIONS

Definitions in the section are broadly

This section contains the title of the Act, the

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SECTION 902—DEFINITIONS

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SECTION 909—PROHIBITION ON UNITED STATES ASSISTANCE AND FINANCING

Section 909(a)(1) prohibits the use of United States government assistance and financing for exports to Cuba. However, consistent with the overall intent of the measure, this prohibition is not intended to modify any provision of law allowing assistance to Cuba.

The provision also restricts the use of government assistance for commercial exports to Iran, Libya, North Korea, and Sudan, unless the transaction is for national security or human rights reasons. In recent months, the Administration has taken several steps to liberalize these regulations.

Specifically with regard to Cuba, subsection (b) of section 909 prohibits any United States person from financing U.S. agricultural exports to Cuba. However, in order to accommodate sales of agricultural commodities to Cuba, subsection (b) specifically authorizes Cuban buyers to pay U.S. sellers with cash in advance, or to utilize financing through third country financial institutions.

While they cannot extend financing to Cuban buyers, U.S. financial institutions are specifically authorized to confirm or advise letters of credit related to such sales. In addition, some countries subject to U.S. sanctions may extend financing to Cuban buyers.

U.S. financial institutions may act as exporters' collection and payment agents, confirm letters of credit, and guarantee payments to the U.S. exporters. The provision of such export-related financial services by U.S. financial institutions assists in the export of agricultural commodities, medicine, and medical devices to countries subject to U.S. sanctions.

Subsection (b)(3) of section 909 requires the President to issue regulations that are necessary to carry out this section. In addition to waiving the restrictions on assistance as appropriate for Cuba, these regulations need to facilitate the export of agricultural commodities, medicine, and medical devices. In particular, the regulations need to accommodate these specific authorized exports by waiving the restrictions with respect to vessels engaged in trade with Cuba found at 31 C.F.R. § 515.207.

SECTION 911—EFFECTIVE DATE

This section takes effect on the date of enactment and apply thereafter in any fiscal year. The bill does not expire with the expiration of the FY 2001 Farm Bill or the FY 2002 Appropriations Bill. The legislation is consistent with the overall Act's purpose of expanding "authorized" commercial sales of agricultural commodities to Cuba.

American Farm Bureau Federation
American Soybean Association
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Corn Growers Association
National Cotton Council
National Milk Producers Federation
National Sunflower Association
Rice Millers' Association
U.S. Canola Association
U.S. Durum Growers Association
U.S. Rice Producers Association
U.S. Rice Producers' Group
World Export Trade Education Committee

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 members. 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 conferee on 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 specific provisions on Cuba sanctions and prescription drug re-importation.

Specifically, I am disturbed that the conferees 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. 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, which cannot impact restricting the ability of Americans to go to Cuba could possibly advance our shared goal of peaceful change toward democracy and a free market economy in Cuba.

With regard to prescription drug re-importation, too many Americans struggle to afford prescription drugs that their doctors believe are necessary to alleviate or prevent illness. Unfortunately, those who can least afford these drugs because they do not have insurance coverage for prescription drugs generally pay far more than the “most favored” purchasers such as Health Maintenance Organizations, HMOs, and other big insurers.

Instead of dealing with the real issue of providing comprehensive, affordable drug coverage to all America’s seniors and the disabled, this conference report takes a much more limited step. It is billed as a means to provide our constituents with access to better priced medicines by allowing for the re-importation of drugs sold at lower prices in other countries. This provision includes measures to ensure the safety of these re-imported products by requiring drug re-importation. However, the language attached to this conference report still includes several pharmaceutical industry-backed loopholes that will undermine consumer ability to access cheaper drugs. These loopholes were added late in the process and give the potential to nullify the entire provision.

Drug companies will be able to limit supplies in foreign countries to thwart re-importation efforts. Nothing in the language of the conference report addresses this issue. In fact, the limitation on the countries from which wholesalers and pharmacists may re-import drugs will clearly aggravate this loophole. The language also omits provisions that would prevent the pharmaceutical industry from forcing foreign wholesalers to sell products at the inflated American price. Without such a provision, the drug industry will not be able to prevent consumers from obtaining more affordable medicines. There is no effort to focus re-importation so as to benefit the most severely disadvantaged Americans: the elderly and the disabled.

I am convinced that Congress needs to address prescription drug coverage and the cost of pharmaceutical products here at home. Torturous transport through other countries to re-import products that were originally manufactured here in the U.S. is not the most effective remedy for the high prices that American consumers pay today.

Mr. President, I would like to note with appreciation that this conference report includes important assistance for our nation’s farmers who are facing another year of low prices.

The assistance farmers received last year helped many Illinois farmers. An October 1999 study by the University of Illinois projected that average net farm income for Illinois farmers would have been $1.2 billion in 1999 without federal assistance. But with federal assistance, their income rose to $25,000.

Although the U.S. economy continues to thrive, farmers and those who live in rural America do not appear to be reaping the benefits. This measure provides $3.6 billion for weather-related crop losses and livestock assistance, and it increases funding for the Farm Service Agency to carry out vital farm programs and emergency measures. The conference report also doubles the loan deficiency limits to ensure farmers are able to receive the income support they need.

The conference report also contains $1 billion for P.L. 480—Food for Peace, $697 million for the Food Safety and Inspection Service, $2.5 billion for USDA Rural Development programs, $9.5 billion for child nutrition programs—including a School Breakfast pilot program, and $1.2 billion for the Food and Drug Administration.

Mr. President, although I have some serious reservations with regard to Cuba sanctions and prescription drug re-importation, I am voting for this conference report because of its other valuable provisions that are simply too important to Illinois agriculture to delay.

Ms. SNOWE. Mr. President, I rise today in support of the prescription drug reimportation provisions in the conference report for the FY 2001 agriculture appropriations bill. I also want to thank my colleagues, especially Senators JEFFORDS and DORGAN for their hard work and dedication to this important issue.

The United States is in the midst of a time of amazing prosperity. Nearly every week it seems that we hear of astounding new breakthroughs in biomedical research and in new prescription medications. And there is no question in anyone’s mind that we have the best—the very best—health care in the world.

But our health care system is not without its flaws. Prescription drugs cost average seniors more than $5,000 a year, 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 between the U.S. and our neighbors to the North.

The high cost of prescription medications in the United States is forcing many of our nation’s seniors to make unthinkable 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 prescription drug coverage as opposed to those under 65 who pay just a third.

Seniors are reeling from the burden of their prescription drug expenses—one of the latest studies shows 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.

Who are these seniors who don’t have prescription drug coverage? Who are the ones traveling by the busload to Canada to buy their prescription drugs? These are 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.

In my eyes, it is absolutely unacceptable 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 amendment. The conference provision 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. New provisions 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 ensure 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 Canadian 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 and safety? 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 medications. Stringent regulations to ensure that Americans have access to 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 its choices and proscribes 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, pharmaceutical companies, 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. 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 for Medicare beneficiaries will make senior consumers a group whose purchasing power will be greater than the Medicare benefit. This market force will allow seniors as a group to negotiate discounted pharmaceutical costs that will not only be the generic brand solution, but will also guarantee seniors coverage of their prescription drugs.

When American seniors find they have no market power, they often determine that their only recourse is to buy the cheapest drug, with the hope of finding a completely different market. This fundamental unfairness when seniors in Maine feel they must drive across the Canadian border to obtain affordable 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 a part of the agriculture appropriations conference report. The provision I am concerned regarding this measure relate both to the way this provision found its way into this conference report, as well as its substance.

With regard to procedure, I am troubled to say the least, that a significant modification of our trade laws is being made with no consideration or deliberation by the committees of jurisdiction. I would have hoped that the Agriculture Subcommittee of the Appropriations Committee would have considered the importance of allowing the committee of jurisdiction—the Committee on Finance—to review this provision before deciding to adopt this measure in conference. After all, this amendment represents a dramatic change in the function and purpose of our trade laws.

Currently, our trade laws are designed to address any dumping or subsidized sales and to impose an offsetting duty on imports. With the enactment of this procedure, however, not only will the domestic producer enjoy the benefit of having a surcharge applied to the sales of its foreign competitor, but we will also guarantee a significant cash payment courtesy of the U.S. treasury. This is not an insignificant amount. According to the U.S. Customs Service, over $200 million of dumping and countervailing duties were assessed on imports last year.

What this will likely do is to encourage the filing of cases in circumstances that would not otherwise merit it. After all, the cash payment will not be available to pay in some future case.

Now I under stand 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 ensuring litigation. 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 subsidies. 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 under-cut 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 completely unwarranted.

Mr. ROTH. Mr. President, I rise today to express my grave concerns regarding a provision relating to our trade remedy laws that is a part of the agriculture appropriations conference report. The provision I am concerned about is this: what will we do in the future to eliminate these unfair trade practices to persist. We will only have undermined 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 completely unwarranted.
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 a way that these laws were intended and do not serve a 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 their marketing 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 and loan deficiency payments, to obtain a deficiency payment 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 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 their marketing loans and loan deficiency payments had expired.

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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 dare 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 bill 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 power to write any other rules necessary to accomplish the purposes of 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 only one year. As we all know, major legislation is frequently anticipated challenges through language in another bill 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 power to write any other rules necessary to accomplish the purposes of the provision. Moreover, this labeling language is unchanged from the version that adopted by the Senate and endorsed by President Clinton.

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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 each batch is 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. A preponderance of evidence has been presented that the requirements and authority granted in this provision are supplemented, if necessary, by the broad discretion authority contained in 804(b)(3) to facilitate the importation of drugs for personal use. Current FDA practice has historically 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.

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. Therefore, the 804(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. This provision also recognizes that the requirements and authority granted in this provision are supplemented, if necessary, by the broad discretion authority contained in 804(b)(3) to facilitate the importation of drugs for personal use. Current FDA practice has historically 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 (i) requires the Secretary to conduct a study regarding the compliance of importers with the requirements of this section, and the incidence of importation of noncompliant prescription drug products 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.

This provision prohibits 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, Welsome, and Dorgan, and their staffs, Kristen Michal, J ohn Gilman, and Stephanie Mohl for their countless hours of work on this provision. I urge all 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 OFFICIAL. 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 provides more than the Senate-passed version. The 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 Senator 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 $74.458 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 crop insurance programs; $3.642 billion for rural development programs; $34.117 billion for domestic food programs; $1.091 billion for international trade assistance programs; and $1.168 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 $400 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 suffering from drought conditions. I am happy to report that this conference report includes these two items and levels of $490 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 provision simply provides a mechanism to help injured U.S. industries to reinvest in their workers 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.

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wanted to bring it to the attention of my colleagues.

Having said that, I intend to vote for the overall product because of the many good things it has in it for American agriculture and American farmers. I think our two leaders are to be congratulated for that product they bring before the Senate.

Mr. COCHRAN. Mr. President, I yield 5 minutes to the distinguished Senator from Alabama, Mr. SESSIONS.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to share a few remarks about the Agriculture bill. I thank Senator COCHRAN and his committee for their work on a very difficult issue at a very difficult time for agriculture. There are no easy solutions to the problems farmers are facing. We know farmers are in trouble. One experienced farmer who heads the Alabama Farm-er's Federation told me that without Federal help, he believes in just the next 2 years, one-third of the farmers in Alabama would have gone out of business. It has been costly, but I believe what we are doing is the right thing to do.

Also before I make those remarks, I would like to say I did return, with quite a number of Senators this afternoon, from the memorial service at Newport News to recognize the sailors who lost their lives in this attack on the Cole. We want to remember the Cole. We have to remember them. For a whole lot of reasons it was a very meaningful experience for me and I believe for their survivors. I was able to meet a number of sailors who had been wounded. I think all of us in this country need to pause, periodically, to remember how much we owe to the men and women in uniform.

This year, farmers in my home State have faced the worst drought in over a century. Particularly, farmers and cattlemen in the southeast region of the state, have been devastated. This drought has come after two previous years of drought. Scorching temperatures and virtually no rain have made it extremely difficult for these fine men and women to continue to farm. In Headland, AL, for example, only 18 inches of rain has fallen this year. This is a part of the State that normally sees over 45 inches by this time.

Moisture has come lately but not nearly enough and not soon enough to compensate for the earlier losses. Corn yields are down 40 percent. The peanut crop has had a very bad year, and the cotton crop has been very bad. It has not been a good year at all for Alabama farmers. This drought has been one of the most severe on record. At some point since March 1, all parts of Alabama have been classified "exceptional drought" by the U.S. Drought Monitor. This is the most severe drought rating.

The entire State has been declared a disaster by the Secretary of Agriculture, and the Department of Agri-culture has done some good work in helping to respond to the crisis.

However, I continue to hear from farmers at home that they question how long they can actually stay in business if the situation doesn't improve. While crops have been harvested and low prices can be devastating. Some livestock producers have liq-uificated their herds. Nearly all of them had to sell their stock earlier and lighter than normal, costing them money. Over 50 percent of this year's peanut crop has been harvested, and this is just in Alabama. There have also been droughts in other States such as Mississippi, Georgia and Texas.

The $3.6 billion in emergency disaster aid included in this conference report is needed to assist these families and others who have experienced losses from drought, fire and other natural disasters.

I am especially pleased that Senator COCHRAN and the conference committee agreed to retain my amendment in the Senate version of the bill to assist Alabama in its emergency hay and feed operations for livestock producers. The Commissioner of Agriculture and Industries, Mr. Charles Bishop; the Alabama Farmers Federation; and other organi-zations have worked together to provide assistance to struggling cattlemen throughout the summer. Unfortunately, the funding for this assistance has run out. The State funding has collapsed. The $5 million in this conference agreement will go a long way to help these cattlemen make it through the winter without having to sell off their herds, which undermines their ability to have a productive eco-nomic enterprise.

I am also pleased that the conference report contains funding for a number of fine agricultural research projects in Alabama and all over the country. These projects are on the cutting edge of agriculture, and it is the only way we will be able to compete success-fully in the world market. It includes catfish disease research. Catfish is one of the biggest cash crops for agriculture in the State. Peanut allergy re-search is a critical issue for us. I am particularly pleased the funding for Satsuma orange research was retained in the conference report.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I ask unanimous consent for 2 additional minutes.

Mr. COCHRAN. Mr. President, I yield the distinguished Senator what time he may consume.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the funding for Satsuma orange fruit re-search will go a long way to nurturing this fledgling industry along the gulf coast.

At the beginning of the 20th century, Satsuma orange groves flourished throughout the gulf coast. Indeed, they were running advertisements encouraging people around the country to come down and grow Satsuma oranges. In fact, 18,000 acres of the sweet, easy-to-peel fruit were farmed during the twenties and thirties along the upper gulf coast. However, a period of severe winters around 1940 led to the decline of Satsuma production.

Today, fledgling Satsuma groves exist in Alabama, Louisiana, and Texas. Research by Auburn University, one of the finest research institutions in the world, is being conducted to determine how to make this fruit more frost resistant. There are some ideas percolating that may actually do that. This funding will give us the opportu-nity to revitalize this industry.

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 wrestled with it for years, and his leadership will help this bill pass with overwhelming support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I thank and congratulate the chairman of the subcommittee, Senator COCHRAN, for all of his work in crafting this conference report. This measure does a very good job of providing funds for ongoing work at USDA, FDA, and the other agencies covered in this bill. It also provides much needed emergency relief for farmers and ranchers suffering from both market loss and natural disasters.

However, I am disappointed that the conference committee could not come to a better conclusion on two highly controversial issues involving trade sanctions and reimportation of prescription drugs.

With regard to the Cuba provision, I would have preferred the Senate language. That language received broad support in this body.

With respect to the reimportation of prescription drugs, I am concerned the language in this report has too many restrictions and may not result in lower drug prices for our seniors, as well as others.

While some of us disagree on the language of these two items, nevertheless this conference report does provide immediate and targeted economic relief to struggling producers. Some producers are receiving the lowest prices for their products in over 20 years.

With respect to the dairy industry, the emergency provision included in the conference report do not solve the larger problems facing our industry. However, it is an appropriate and vital step in protecting family dairy farmers. I encourage all Senators to support the conference report.

The conference report accompanying the fiscal year 2001 Agriculture appropriations bill provides $78.5 billion in
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 the current dairy market losses. 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 committee 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 conferees from moving this bill prior to today. In fact, the FY 2001 Agriculture 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 owing to 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. While some of us may disagree with the outcome on the Cuba sanctions and re-imported drug issues, this conference report makes it more difficult for these sales to take place, by preventing U.S. financial institutions from providing financing. The provision also codifies travel restrictions on Americans going to Cuba, making it more difficult for farmers to travel to Cuba to negotiate a sale. Although I do not believe we should be lifting our broader embargo on Cuba until we see democratic reform in Cuba and the end of the repressive Castro regime, in the meantime, I believe that blocking the sale of food and medicine has done little to bring us closer to that goal and has the unintended consequence of harming the very people we want to help.

With regards to the reimportation of prescription drugs, I am extremely disappointed by the process by which the conference provision was developed. We started with a very bipartisan process to develop a workable language, but unfortunately, that process was hijacked. Instead, decisions were made in back room deals behind closed doors. Even when improvements were suggested that would improve the language, they were ignored. This process was a disgrace to the Senate and to our nation’s seniors who would benefit far more from a bipartisan process.

American consumers are rightly concerned about prescription drug prices. I believe reimportation could help alleviate the high costs for many seniors, but I am concerned that the language in this conference report has several loopholes that will prevent it from being fully effective. In particular, I am concerned that the sunset provision will have a chilling effect on pharmacists and wholesalers, who may not invest in reimportation because the program will expire in five years. And I am very concerned that drug companies can still keep American prices high by demanding that foreign sellers charge American pharmacists and wholesalers the higher, American-wholesale prices even when they reimport drugs.

That said, I hope that the spirit of the reimportation provision to lower drug prices for American consumers—will become a reality as it is implemented. Let me remind the drug companies in this country that reimportation was overwhelmingly supported in both Houses of Congress. We fully expect drug companies to comply with the intent of the law, and not look for loopholes to continue to inflate their profits.

Most importantly, let me say that while reimportation is an important step towards helping seniors with high drug prices, make no mistake: this is not a substitute for a Medicare prescription drug benefit. Anyone who claims that reimportation is the answer to the outrageous drug prices seniors face is out of step with reality.

Drug prices are a major problem—but so is coverage. With one-third of seniors lacking any drug coverage at all, it is critical that we pass a Medicare prescription drug benefit as soon as possible.

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 that would have provided payments for farm losses of certain commodities “95%” of the previous 5 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, he believes that 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 others. The FY 2001 Agricultural Appropriations bill that produced this conference report makes it more likely 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 the following question answers 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 already 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 $3.85 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 payments will be eligible for a payment of substituting their actual production marketed during the 12 months from October 1,
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 sub-committee staff for all their work on this conference report. I urge all Senators to vote in favor of this important conference report.

I thank the Chair, and I yield the floor.

Mr. COCHRAN. Mr. President, what is the status of the bill 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 that is under 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 research projects that had been funded by Senator Dole in Arizona as if these were pork barrel projects. One response has already been made, and that was by the distinguished Senator from Alabama as he talked about some of the specialty crops and ornamental and aquacultural activities in his State. He explained the importance of ongoing research initiatives that will help improve the opportunities for agricultural producers to grow those crops and engage in those agricultural and aquacultural pursuits, and to do so profitably, helping to guarantee safe and wholesome supplies of food and food products for people in that State and throughout the country.

We have had a very difficult time in agriculture this year, and because of research, we are able to overcome some of those difficulties and provide hope that in these areas of particular stress in agriculture and aquaculture, we will be able to offer better days in the future.

A considerable attempt and a determined attempt is made in this legislation to identify ways to help improve the opportunities for U.S. agricultural producers to stay in business, to deal with the problem of drought, of infestation of insects and pests, to deal with the problems of weeds and other threats to efficient operation and production of our agricultural lands.

There is nothing wrong with the Government providing Federal funds to help identify better ways of dealing with these problems in agriculture.

One other comment that particularly distresses me is the emphasis on criticizing the existing farm bill as if it is the reason farmers are having such a difficult time.

I recall several years ago when we first realized that in the Asian economies they were getting to the point where they were no longer able to import from our country agricultural commodities in the quantities that they had in the past because of the economic crisis. Particularly countries such as Korea, Japan, and other Asian neighbors were suffering—the so-called “tiger economies” of Southeast Asia. And to hear today a statement that for several years in a row we have had to adopt agricultural disaster and economic assistance programs because Freedom to Farm failed, that Senators have forgotten some of the problems that our agricultural producers and exporters have had to overcome that had absolutely nothing to do with the Freedom to Farm Act, but everything to do with a worldwide economic crisis? That is the main problem that agriculture had in the first 2 years of this existing farm bill.

To hear some Senators today indicting, again, the Freedom to Farm bill for some of the results of last year's drought is another new stretch of the imagination and credibility of this institution. Senators know enough not to believe that.

The Senator from Alabama was pointing out in his State the problems that had developed in the cotton industry in his State—and not just this year but add to the problems that occurred last year—and you understand how serious, how desperate the situation is in agriculture in California this year, to cite an example. I believe that having to do with the Freedom to Farm Act.

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 they 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 provide a predictable level of support for agricultural producers that were eligible for benefits—those new producers and those few who have the option of updating their base period production should need to fill out new applications.

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 difficulty this year and above those that were expected. Because of findings made by the Senate and the House and the administration, this justifies emergency...
funding, and it is included in this legislation. So I am hopeful and I am confident that the Senate is going to recognize the legitimacy and the importance of adopting this conference report. It reflects a lot of work by members of our Appropriations subcommittee that developed the legislation, working in a bipartisan fashion, and working with our colleagues in the other body after our bill was passed and we negotiated this conference report with them, to come up with the best possible work product under the circumstances that we find ourselves today. But no matter how much money we appropriate for research, for disaster assistance, for export assistance, trying to help stimulate our sales in overseas markets, we cannot solve all the problems of agriculture by the passage of this one bill. Everybody knows that. But it is a major and important step, and it will benefit a lot of American agricultural producers.

There is also more in this bill than just production agriculture assistance, but it is an important aspect of this legislation. This is a $78 billion bill. Nearly $40 billion of the funds relates to agriculture. Language on disaster assistance, research to try to help do the things you have to do to maintain efficiency, understand the new technologies, translate the research from the laboratory to the farm through extension programs so that we have the finest, the most efficient, the most dependable agricultural sector in the world. This bill achieves those goals.

We also, at the same time, provide food safety programs, an inspection service that is fully funded, a food safety initiative that is fully funded at the request of the administration, to make sure that we have a wholesome supply of food, and it is fit for consumption by Americans, and it is reasonably priced. We believe that goal in this legislation. There are many in our country who do not have the benefit of high incomes. We have low-income people who live in poverty areas who need food assistance. This legislation includes school lunch program and school breakfast program funding. It includes Women, Infants, and Children Program funding, Food Stamp Program funding, assistance to soup kitchens, to those who use surplus commodities to provide lunches and meals for people who cannot afford food, so that we do not have people who are out of work and out of food. This legislation provides that important benefit as well.

So, on balance, this is a good bill. It deserves the support of the Senate. I hope all Senators will support it. The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I yield my time.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

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
Akaka
Ashcroft
Baucus
Bayh
Bingaman
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee, L.
Cleland
Cochran
Collins
Conrad
Craig
Crapp
Daschle
DeWine
Dodd
Domениcki
Dorgan
Durbin
NAYs—8

Allard
Feingold
Gramm
Biden
Feinstein
Harkin
Hagel
Baucus
Byrd
Chamberlain
Chesler
Collins
Conaway
Craig
Crapo
Cornyn
Dodd
Dorgan
Durbin
NAYs—8

Kyl
McCain
Nickles
Grams
Kennedy
McConnell
Mikulski
Moynihan
Murray
Reed
Robb
Reed
Reid
Miller
Mikulski
NOT VOTING—6

Smith (HI)
Volovich
Brownback
Brownback
Chafee, L.
Chafee, L.
Kennedy
Lieberman

MORNING BUSINESS

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

riod 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 Hapel, 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. Of Mr. Hapel’s poignant remarks 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 so ordered to be printed in the RECORD, as follows:

THE CATHEDRAL YEARS

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

“We have seen that without the involution 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 or 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 conditions. In Richard 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 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 garage on P St with a problem attached to his first plan for the facade of the Cathedral rejected (along with all the other sculptors). 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