

offered. There are 16 or so amendments already pending, which represents many hours of voting, and there may be additional amendments offered. Obviously, we hope they will be limited because there is a desire, I believe, by most people to complete this bill tomorrow. But if we do not finish all the voting by 6 o'clock, then we will move the events over until Friday because this bill will be completed under either scenario.

At this time I want to thank again the Senator from North Dakota and the staff for their courtesy, their professionalism, their effort to move this bill along in a very constructive way as we moved through the debate process. I also especially wish to thank my staff, which has done a great job of getting us to this point. Tomorrow is going to be a fairly intense period for these folks and we appreciate them in anticipation of all the work they are going to have to do.

Mr. President, I will yield back the remainder of the time on this amendment and ask unanimous consent that for the purposes of this bill, all time be deemed to have expired relative to debate.

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

Mr. GREGG. Mr. President, I understand the next item of business will be the Agriculture appropriations conference report.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

Mr. CRAIG. It is my understanding that for the remainder of the day, we have completed work on budget reconciliation and we are about to move to the Agriculture appropriations conference. I understand Chairman BENNETT is on his way to the floor, and as soon as he gets here I will yield, but I thought for the few moments that remain prior to that, I would discuss that very important appropriations conference we will soon be discussing.

The reason I want to do that is because I made an effort during the appropriations conference to deal with what I believe is a major issue threatening American agriculture today that the Congress has largely ignored at this moment, and the courts are now working their will and the trial bar is working its will at the moment to try to change the intent of law.

The agricultural industry is, I think, very concerned about litigation actions being taken to apply the Superfund law, referred to as CERCLA, and its

counterpart, the Community Right to Know Act, better known as EPCRA, to emissions or discharges primarily from livestock and poultry waste produced during the normal course of farming operations.

Someone would say, You mean a dairy farm or a poultry operation ought to be plunged into Superfund? Well, that is exactly what is being attempted at this moment and, of course, we would say no. The reason we say no is because when those laws were created by Congress, agriculture was clearly exempt. It was intended to be and it was exempt at that time. If you were to put agriculture into the CERCLA/EPCRA issue, according to EPA's own description, then you have changed the whole dynamics.

According to the EPA's own description, the Superfund law is "the Federal Government's program to clean up the nation's uncontrolled hazardous waste sites. Under the Superfund program, abandoned, accidentally spilled, or illegally dumped hazardous wastes that pose a current or future threat to human health or the environment are cleaned up."

That is the responsibility of EPA under that issue. Are dairies and feedlots uncontrolled and abandoned hazardous waste sites? That is what we are talking about at this moment.

EPA goes on to say that "the Superfund law created a tax on the chemical and petroleum industries and allowed the Federal Government to respond to releases or potential releases of hazardous wastes that might harm people or the environment. The tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites."

The question is, if we allow the courts and the legal process to drive those in agriculture into EPCRA and into CERCLA—again the Superfund law and the Community Right to Know law—is Congress then ready to appropriate moneys for other concentrated herd releases that might result? Should dairies, poultry farms, farmer-owned cooperatives, and others be required to pay into Superfund as the nuclear laboratories and the petroleum industry do?

That was never the intent of Congress, and in trying to speak to that issue, Congress has to date been silent because environmental groups have moved in and are standing at the doors of some of my colleagues, wringing their hands and saying oh, no, no, communities have the right to know and it ought to be included in all of this, even though the law says not.

Now, that is not to say that these agricultural entities of the day are not responsible for clean air and clean water. They are under the Clean Water Act and the Clean Air Act. They work with EPA in those standards. They work with their State environmental councils and environmental departments to meet those kinds of standards.

What we are talking about is a legal issue attempting to shift, if you will,

these responsibilities away from the intent of the law, as spoken to so very clearly by this Congress in the creation of those two entities, EPCRA and CERCLA.

Another provision of the Superfund law allows EPA to fine violators up to \$27,500 per day. Does that sound like a sum tailored to fit a farmer? Environmental groups would have you think that, well, you know, this is only for the big boys, the big operators. But then they do not define big. They say, well, large concentrated herd areas. It is the small versus large issue. Once it is well established that large operators in American agriculture are required to comply under these acts and meet the standards of the acts, any of us who have ever watched the progress or the evolution or the migration of law through the courts over time know it is only a moment in time before the small operator is included.

I made an effort during Agriculture appropriations and Agriculture appropriations conferences to clarify this issue and to say once again very clearly to the American public the intent of the laws of Superfund and Community Right to Know, and those intents were very clear—not to include American agriculture. It isn't the big versus small issue at all. It is where do you rest the responsibility on the issue. It is not to say that American agriculture doesn't have a responsibility. Of course, they do. And they are fulfilling that responsibility under State law, under county zoning, under EPA, under the Clean Water Act and the Clean Air Act. These are issues that I hope this Congress will soon address.

As to my amendment that I attempted, that the Republicans in the Senate did support in the conference, the conference collapsed itself so that it would not have to deal with this "thorny issue" of the moment; it walked away from the National Association of State Departments of Agriculture that supported our effort and the Southern Association of State Departments of Agriculture because at the State level, State Departments of Agriculture get it, they understand it, and they know this has to be clarified. We cannot let the trial bar, if you will, and communities of interest try to rewrite public policy through the court process. That is exactly what is going on today. Several lawsuits have been filed in this effort.

I am certainly going to be back, as I know many of my colleagues will, in attempting to deal with this very important issue. I do respect what Chairman BENNETT had to do to move the Agriculture appropriations conference forward. I had hoped we could get the CERCLA and EPCRA amendment into the conference, but it is not here. The conference is silent to it. The conference did good work. I am pleased to see that we could get as far as we could get in a variety of issues.

The chairman and the ranking member are now in the Chamber. They had

a tough road to meet budget reconciliation with what they were allocated. I know that was difficult, and I appreciate the work my staff was able to do with the chairman and the ranking member's staffs to get where we got with what we have today. I wish we had my amendment. I don't want those who say they stand for agriculture walking away from this issue and allowing the courts to rewrite public policy. If we are responsible practitioners of public policy—and that is what we are—then this is an issue we well ought to take on. Every State in the Nation has this problem today, and we ought not let the bar, the courts, and a few interested parties rewrite our laws.

I hope we can address this again at another time.

I do appreciate the work that was done. There were a lot of issues left on the table in this conference I hoped we could have addressed, that we could then get to, certainly those which dealt with healthy forests, categorical exclusions, and other issues, but that is debate for another day.

The chairman is in the Chamber. It is 6 o'clock. It is his time to bring forth the Agriculture appropriations conference report. I thought I would use some of the limited time we have to debate this important appropriations conference report.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

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APPROPRIATIONS FOR AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2006—CONFERENCE REPORT

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report to accompany the Agriculture appropriations bill; provided further that following the completion of that debate it be laid aside, that the vote occur on adoption of the conference report tomorrow morning immediately following the remarks of the two leaders.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT. Mr. President, it is my understanding we now have 2 hours equally divided to discuss the conference report.

The PRESIDING OFFICER. Once the clerk reports the conference report by title, that is correct.

The clerk will now report.

The assistant legislative clerk read as follows:

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the

House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by a majority of conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of October 26, 2005.)

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I ask unanimous consent that at the conclusion of my remarks, the following Senators on our side be allowed to speak on the conference report: Senator BURNS for up to 15 minutes; Senators ENZI, CRAIG, and THOMAS for up to 10 minutes each; Senator THUNE for up to 7 minutes; and Senator CORNYN for up to 5 minutes.

Mr. DORGAN. Reserving the right to object, I assume the request means we will go back and forth in rotation across the aisle.

Mr. BENNETT. Mr. President, that is my understanding. This is the reservation of time on my side so that Senators will know the time is reserved for them, and if one Senator might otherwise be tempted to run on, the order can be called so that every Senator will have his right for speaking reserved. It does anticipate time will go back and forth between the two sides.

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

Mr. BENNETT. Mr. President, I am pleased to present to the Senate the conference report to accompany H.R. 2744, which provides funds for the Department of Agriculture, Food and Drug Administration, and the Commodity Futures Trading Commission for fiscal year 2006.

I will mention a few highlights of the bill to demonstrate why it benefits not just farmers and ranchers but every constituent of the Members of the Senate.

On nutrition, this bill provides for more than \$12.6 billion in child nutrition programs, \$5.2 billion for the Women, Infants and Children nutrition program, and nearly \$108.3 million for the Commodity Supplemental Food Program.

I know particularly in response to Katrina that there has been great concern about WIC in the country as a whole. This bill funds WIC.

For the farmers, ranchers, and conservation, there is more than \$2 billion in farm ownership and operating loans, \$840 million for conservation operations, and more than \$1 billion total for all USDA conservation programs.

For those of us who are concerned about research, there is more than \$2.5 billion for research on nutrition, crop and animal production, bioenergy, genetics, and food safety.

There is funding for cooperative research with agriculture and forestry schools in every State and with Native

Americans, Hispanic, and historically Black centers of learning, and extension programs that teach nutrition in low-income communities.

In pest and disease control, there is more than \$820 million to protect American agriculture, forests, and horticulture from plant and animal diseases.

For those interested in rural development, the bill provides for nearly \$5 billion in single and multifamily housing in rural areas, and more than \$6 billion in electric and telecommunications loans.

Turning to the Food and Drug Administration, there is a \$62 million increase over fiscal year 2005, with key increases of \$10 million for drug safety, \$7.8 million for medical device review, and \$10 million for food safety. Overall, however, the spending level remains consistent with the previous year and does not represent for the entire bill a major spending increase.

I ask for the support of all Senators for this conference report.

I reserve whatever time may be left after the Senators have exercised their rights.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise today in support of the appropriations conference report for Agriculture, Rural Development, FDA, and related agencies.

Our conference allocation of just over \$17 billion was a \$258 million reduction from the Senate-passed level, but I think we did a good job preserving the Senate priorities. This bill contains funding vital for research, conservation, nutrition programs, rural development, and the Food and Drug Administration. Some of the bill's highlights include the following:

For research programs, including the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service, the bill provides an increase of nearly \$66 million to support work on solutions to many problems faced by farmers—including research programs for BSE or mad cow disease, Johne's Disease, soybean rust, and countless other programs.

The conservation title of this bill contains funding for important watershed improvements, including soil and water erosion control, flood control, and watershed dam rehabilitation. The Natural Resources Conservation Service received an increase in this conference report of more than \$12 million over last year.

Nutrition programs also received increases over last year in this conference report. Child nutrition programs receive \$12.6 billion, an increase of more than \$870 million to provide school lunches to low-income kids. The WIC program received \$5.257 billion, an increase of nearly \$22 million, and language proposed by the administration to restrict eligibility and cap administrative funds was not included.