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WASHINGTON, D.C. 20503

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(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2419 – Food and Energy Security Act of 2007
(Senator Harkin (D) Iowa)

The Administration appreciates the work of the Senate Committees on Agriculture, Nutrition and Forestry and Finance to develop a new farm bill, and looks forward to working with the Senate as the bill moves forward. The Administration understands that the bills of the two committees will be merged on the Senate floor and is providing comments on the combined bill.

The President is eager to sign a farm bill this year that includes significant farm program reform similar to the Administration's proposal which was released on January 31st.

The agricultural economy has never been stronger. The farm debt-to-asset ratio is the lowest in more than 45 years. Farm equity has risen approximately $200 billion per year for the past five years. This is a tremendous increase for the over 2 million farms in the United States. Despite this strength, the bill continues to increase price supports and send farm subsidies to people who are among the wealthiest 2 percent of American tax filers whose three-year average Adjusted Gross Income (AGI) is greater than $200,000. Payments should be targeted to those who really need them, especially those who have a meaningful connection to production agriculture. This action does not represent fiscal stewardship nor is it farm program reform.

The Administration supports continuation of a strong farm economy and of conservation programs that protect America's natural resources. Regrettably, the Committee bill does not provide for the effective and efficient achievement of these goals in a manner consistent with wise stewardship of taxpayer dollars. Unfortunately, the bill shifts the balance of support in a more potentially trade-distorting direction, continues a defective safety net, lacks real farm program reform, and uses $37 billion in increased tax revenue and gimmicks, including timing shifts and artificially ending programs, to finance significant increases in spending

At a time when net farm income is projected to increase by over $28 billion in one year, it is irresponsible to further increase commodity price supports that make payment programs more market-distorting. In addition, it is alarming that the Senate farm bill shifts the timing of farm payments in a fashion that does not allow for the proper accounting of $9.8 billion in actual government outlays. The Administration hopes these concerns can be addressed by continuing to work with Congress. However, if the bill were presented to the President in its current form, his senior advisors would recommend that he veto the bill.

The final farm bill must:

- better reflect the program reforms, and not exceed the spending levels, as proposed in Administration's farm bill legislative proposal in connection with the President's fiscal year 2008 budget submission;

- include reforms in marketing loan benefits for all years of the farm bill to address the "pick your price" issue;

- remove the provisions that make it more difficult to defend farm programs against trade challenges and distort our ability to advance the goal of free trade in international markets;

- eliminate timing shifts and unrealistic program sunsets that mask $22 billion in hidden costs to the taxpayer; and

- eliminate tax increases.

Tax Provisions/Funding Gimmicks

The Administration's farm bill proposal would provide a strong safety-net for farmers and funding to meet important priorities like conservation, nutrition and renewable energy without altering the tax code. The Administration has significant concerns regarding the revenue offsets in the bill. In particular, the Administration opposes the provision to codify the "economic substance" doctrine and urges Congress to eliminate this provision from the final legislation. The economic substance doctrine is a judicial rule that is best left for the courts to apply in appropriate cases.

The Administration also strongly opposes provisions in the bill that would authorize two new types of expensive and highly inefficient tax credit bonds. Tax credit bonds add significant complexity to the tax law and generally cost more in lost revenues than would direct appropriations. The Administration believes that tax credit bonds allow Congress to finance spending through lost revenue and mask the true costs of those bonds outside the annual budget process.

The Administration supports the bill's provision making permanent, as proposed in the President's budget, the special rule encouraging contributions of real property for conservation purposes. The Administration is opposed, however, to tax credit provisions in the bill requiring the Treasury Department to administer very complex farm and conservation programs that are more appropriately administered by other agencies.

In addition, the bill fails to generate legitimate savings to pay for its spending. The Administration cannot support provisions in the bill that generate almost $9.8 billion in illusory savings by merely shifting payments outside the budget window or collections into the budget window. Similarly, the Administration cannot support the permanent disaster assistance provisions in the Senate Finance bill, which limits costs by artificially ending the program and not accounting for the more than $5 billion that would be required to fund this permanent program beyond five years. Such budget gimmicks will discredit farm programs and the farm bill. Moreover, the permanent disaster provision could lead to false expectations among farmers.

The Administration also strongly objects to the bill's attempt to hide almost $7 billion in long term costs for most of its proposed Food Stamp policies by sunsetting the provisions after five years. It would be senseless for States to implement these program changes only to phase them out later. The Committees actions are clearly intended to merely mask the long term budgetary consequences of its actions.

Commodity and Crop Insurance Programs

The Administration is pleased that the Committees recognized and agreed with many of the Administration's priorities such as renewable energy, conservation, specialty crop assistance, rural development, and assistance for beginning farmers. In addition, the Committees ended the ability of farmers to collect payments in multiple ways, ending the so-called "three-entity rule," and replaced it with direct attribution to each producer. The Administration supports this important change.

However, the bill does not reform and improve the farm safety net. The bill continues all of the existing programs, does not reform the marketing loan program to eliminate the "pick your price" phenomenon other than for 2008, and even increases loan rates (minimum farm prices) and target prices for some field crops and support prices for dairy and sugar. In fact, the Committee bill raises sixteen out of twenty seven loan rates and eighteen out of twenty-two target prices (income support levels). The Administration strongly opposes increases in loan rates and target prices for program crops and sugar. These changes make farm programs more production distorting and needlessly raise taxpayer costs. These increases shift the balance of support in a more potentially trade-distorting direction, and possibly encourage farmers to plant for government payments rather than market demand. We can expect that our trading partners will question how these increases and subsidies for domestic cotton mill users are consistent with our existing World Trade Organization (WTO) obligations to limit trade-distorting support. The Administration also supports fully lifting the fruit, vegetable, and wild rice planting restrictions to eliminate any question that direct payments are "green box" in light of the WTO rulings in the Cotton dispute with Brazil.

The Administration appreciates the Committees willingness to consider a revenue-based counter-cyclical payment program. However, as devised, the program is only offered as an option. In lieu of the Committee's revenue-based counter-cyclical program and permanent disaster program, the Administration's proposed revenue-based counter-cyclical program coupled with crop insurance gap coverage, which allows farmers to be compensated for up to 100 percent of their losses, would provide superior support for farmers at a lower taxpayer cost. In any event, eligibility for "green box" programs should not be linked to any option by a producer to receive a price or production related payment.

The Administration's farm bill proposal addressed the changes occurring in the sugar sector and would maintain a no federal cost sugar program, while the sugar program in the Committee's bill would dramatically increase the cost of the program. Under the sugar-to-ethanol provision in the Committee bill, USDA would not be permitted to dispose of the sugar through uses other than ethanol production even if those uses would yield a much higher return for taxpayers. The Administration strongly opposes these changes to the sugar program.

The bill also increases the payment rate for the Milk Income Loss Contract (MILC) program and increases the quantity of milk that is eligible to receive MILC payments. These increases likewise do not signify reform, result in more market distorting policy, and increase government costs.

The Administration opposes the authority for the crop insurance companies to collude during the renegotiation of the standard reinsurance agreement. This is counter to anti-trust laws, and weakens the negotiating position of the government. The Administration also urges the Senate to adopt additional Crop Insurance reforms proposed by the Administration, including mandatory purchase of crop insurance for Title I recipients along with all of the related offsets.

Conservation Programs

The Administration proposed a record level of funding for conservation programs and supports the Committee's action to include funding for the Wetlands Reserve Program (WRP) and the inclusion of the Regional Water Enhancement Program, which would provide resources needed to improve water quality and water conservation.

The Administration opposes the option of shifting Conservation Reserve Program funding from the traditional cost-share and incentive payments to tax credits. Providing program participants this option will cost $770 million more than current law without increasing the number of acres enrolled or obtaining the desired associated environmental benefits.

On October 20, the President announced a new initiative to conserve wild birds, which includes restoration and protection of priority bird nesting habitat, including grasslands. Grassland nesting birds are experiencing some of the greatest population declines in North America, making it important to prevent conversion of remaining grassland acres. While the Senate proposal to limit crop insurance eligibility on converted grassland acres is a good start, it fails to meet the comprehensive protections provided by the Administration's proposed "sod saver" program. Our proposal states that converted grassland acres shall be permanently ineligible for any part of a payment, loan or benefit that is based on the acreage of converted grasslands, or the production from that acreage.

Trade and Food Aid Concerns

With respect to food aid, the Administration strongly opposes the $600 million hard earmark on non-emergency P.L. 480 Title II. This non-emergency minimum, which cannot be waived for emergencies, will reduce emergency food aid by $250 million—equivalent to the entire food operation in Darfur, Sudan for a full year. This restriction will cut off U.S. food aid to up to 8 million people, significantly undermining the ability of the U.S. to save lives in emergency situations. The Administration urges the Senate to adopt its proposal to authorize the use of up to 25 percent of P.L. 480 Title II funds for the local or regional purchase and distribution of food assistance to meet emergency needs. The Administration also strongly opposes any attempt to move proposed funding for a local and regional procurement pilot to the International Disaster and Famine Assistance (IDFA) account. The IDFA account is required for other emergency needs related to man-made and natural disasters and could not fund the pilot without harming the Administration's ability to meet those needs.

Nutrition Programs

The Administration supports inclusion of nutrition proposals to improve access and better reflect the needs of Food Stamp recipients and state agencies, and proposals to remove penalties for college and retirement savings, child care expenses and military combat pay. The Senate should further reduce unnecessary costs and improve program integrity by limiting categorical eligibility to those who receive only Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) cash benefits.

The Administration opposes the Committee's expansion of the Fruit and Vegetable Program to all States, which would increase direct spending by nearly $1 billion over five years. The Administration's farm bill proposal increases the availability of fresh fruits and vegetables through the school meal programs, which make better use of existing purchase authorities and existing programs.

In addition, the Administration opposes the Committee's proposal allowing dietary supplements to be considered accessory food items. The Food Stamp Program is intended to help low-income Americans increase their purchasing power for food, which excludes vitamins and other dietary supplements.

Credit and Rural Development Programs

The Administration appreciates that the Committee bill includes funding for priorities identified by the Administration regarding rural hospitals and the backlog of water and waste water treatment facilities. While these provisions are not identical to the Administration's proposal, their inclusion is positive.

The Administration strongly opposes provisions in the bill that are inconsistent with Federal credit policy (which would increase the financial risk for potentially billions of dollars of Federal loans and loan guarantees) and that create and extend unnecessary programs, some of which are duplicative of other Federal efforts.

The Administration opposes the provision that makes all current electric and telecommunications borrowers permanently eligible for electric and telecommunications loans regardless of the population. These loans should be intended for areas where the cost is higher than urban areas due to the rural nature of the community. An area that is no longer rural should no longer need the government-subsidized loans to provide affordable energy and communications.

Livestock and Marketing

The Administration opposes several provisions relating to livestock marketing and related programs. In particular, we strongly oppose the creation of a Special Counsel for Agricultural Competition. The Special Counsel provisions would harm American agriculture by, without showing any need: shifting focus away from financial protection investigations and enforcement; creating an unnecessary new bureaucracy that would duplicate functions and weaken the existing and effective enforcement arms within USDA; and harmfully circumventing the critical and longstanding authority and management roles of the Attorney General and the Solicitor General over litigation involving the Federal government. These concerns are exacerbated by the provision regarding appointment of outside counsel, which would outsource inherently governmental law enforcement functions.

The Administration also strongly opposes the prohibition on packer ownership and the provision regulating production contracts because they would unduly interfere with the freedom to contract, require the divestiture of assets by entities that have operated lawfully, limit opportunities for farmers and ranchers to participate in marketing alliances, and increase prices for American consumers.

Program Management and Other Concerns

The Administration appreciates efforts of the Committee to enhance our nation's agriculture and food defense and to codify roles prescribed in Homeland Security Presidential Directives. However, the Administration continues to believe that the farm bill is not the right vehicle for security language.

The Administration opposes inclusion of language that alters the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards regulatory program in a way that requires it to regulate a particular chemical along geographic lines. Singling out individual chemicals works against the Department's efforts for a comprehensive approach toward chemical security. The Department's revised Screening Threshold Quantity (STQ) for propane has been carefully adjusted to exclude the vast majority of American small businesses and farms. The STQ will focus DHS efforts on large commercial propane establishments (such as industrial and major consumers, regional suppliers, bulk retail, and storage sites) and away from non-industrial propane customers.

The Administration appreciates the Committee's recognition of the need to modernize the information technology and communications systems of the Farm Service Agency (FSA). FSA's plan to modernize its aging and outdated information technology infrastructure is based upon improving service to the customer through a modern, flexible web-based application that will increase efficiency and decrease response time. To fund this necessary effort, the Administration urges the Committee to amend the Commodity Credit Corporation Charter Act to allow for the assessment and collection of a nominal fee to offset the cost.

The Administration strongly opposes an amendment adopted by the Committee that prevents the Farm Service Agency from consolidating "Critical Access FSA County Offices," which are defined as any county office proposed for consolidation during 2007. Since 2006, FSA has been following language in the Agricultural Appropriations bills that specifies the process, including public and congressional notification of potential office consolidation. Additional restrictions that are wasteful and bureaucratic interfere with the Agency's ability to effectively manage its field structure and ultimately divert resources that could be invested in improved service to the customer.

The Administration appreciates the Senate's support for renewable energy technologies, but is concerned that certain aspects of the bill do not adequately maintain the distinct roles between USDA and the Department of Energy in support of renewable energy projects.

Potential Floor Amendments

The Administration understands that amendments may be offered to facilitate trade with the Cuban regime, raise the wage cost of agriculture-related construction, such as ethanol facilities, and disrupt Federal organizations that conduct agricultural inspections. The President's senior advisors would recommend that he veto the bill if it contains any such amendments. Therefore the Administration strongly opposes any amendment that:

- would loosen current sanctions and restrictions against Cuba. The Administration believes that it is critical to maintain sanctions and restrictions to deny economic resources to the Castro regime. Lifting the sanctions now, or limiting our ability to enforce them, would provide assistance to a repressive regime at the expense of the Cuban people.

- attempts to include an expansion of the Davis-Bacon provisions. An expansion is contrary to the Administration's long-standing policy of opposing any statutory attempt to expand or contract the applicability of Davis-Bacon Act prevailing wage requirements.

- would transfer the Agricultural Inspection Function from the Department of Homeland Security (DHS) to USDA. Such a transfer of thousands of employees would divert attention from the real mission to prevent the entry of harmful plant and animal pests, disease, and threats to our agricultural resources and food supply. Furthermore, a transfer would degrade enforcement and seriously undermine the integrated border enforcement capabilities created with the formation of DHS. A transfer would also delay efforts to identify needed improvements in agricultural inspection, and set the program back for several years while another readjustment occurs for both USDA and DHS.

In addition, the Administration would strongly oppose any amendment that would appear to alter the roles and responsibilities of USDA, DHS and other departments defined in Homeland Security Presidential Directives (HSPD) 5, 7, 8, 9 and 10, and the Homeland Security Act of 2002.

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