CONFERENCE REPORT ON S. 1438, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 316

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which the minority, has always been a strong advocate for our men and women in uniform.

The American people realize how important this is because we can leave nothing to chance. The primary purpose of the Federal Government is to defend our citizens, and the military is our primary source of that defense. We must act quickly to give our men and women in uniform the tools that they need to patrol our borders and to prevent terrorist attacks.

So let us pass this rule and pass the underlying defense bill. At the end of the day, we will have provided $343 billion to our Armed Forces, the largest increase in support for our military since the mid-1980s. These funds include $7 billion to fight terrorist, and at this crucial time in our history, this bill is most important.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we speak, Mr. Speaker, the brave men and women of the U.S. military are halfway around the world waging and winning the war on terrorism. Their courage and professionalism are a fitting tribute to the strength and unity of the United States of America.

At the same time, the American people have pulled together to support the war abroad, and to protect each other here at home.

Here in Congress, there is strong bipartisan support for America’s Armed Forces. The history of this defense authorization bill reflects that fact. In August, the House Committee on Armed Services reported its original version on a bipartisan vote of 58–1. The full House then passed H.R. 2586 by a vote of 398–17 on September 25. I am confident that another large, bipartisan majority will pass this conference report today.

Mr. Speaker, that is because Democrats and Republicans are strongly committed to America’s national defense and to the first rate military that carries it out. The security of the United States of America is not a partisan issue.

Mr. Speaker, this is a good conference report, and the gentleman from Arizona (Chairman STUMP) and the gentleman from Missouri (Mr. SKELTON), the ranking Member, deserve tremendous credit for their hard work for America’s troops.

This conference report provides $7 billion to combat terrorism and defeat
weapons of mass destruction, a substantial and much-needed increase. It provides for a significant military pay raise, and for substantial increases in critical readiness accounts. It strengthens research for tomorrow's weapons and equipment, while providing the weapons and equipment the U.S. military needs today.

Mr. Speaker, I am especially pleased by the substantial quality of life improvements in this bill. It includes a significant pay raise of between 5 and 10 percent for every member of the military. And to boost critical mid-level personnel retention, much of the pay raise will be directed toward junior officers.

The bill also significantly increases health benefits for servicemembers and their families, and it provides $10.5 billion, some $528 million more than the President requested, for military construction and family housing, because the men and women who defend America should not have to live and work in substandard facilities.

I am also pleased that this conference report continues to fund the wide range of weapons programs that ensure U.S. military superiority throughout the world. For instance, it includes more than $2.6 billion for the initial production of 13 of the F-22 Raptor aircraft, the next-generation air dominance fighter for the Air Force. The conference report also includes $379 million for F-22 advance procurement for fiscal year 2003, and more than $865 million for research and development for this aircraft.

Additionally, Mr. Speaker, the conference report provides some $1.5 billion for continued development of the Joint Strike Fighter, the high-technology, multi-role fighter of the future for the Air Force, the Navy and the Marine Corps. It includes $1.3 billion for the procurement of 11 MV-22 Osprey aircraft for the Marine Corps, and $359.4 million for research and development for the Navy, Air Force and Special Operations Command versions of this vital aircraft.

Mr. Speaker, all of these aircraft are important components in our national arsenal, and moving forward on their research and production sends a clear signal that the United States has no intention of relinquishing our air superiority.

The first duty of the Congress, Mr. Speaker, is to provide for the national defense and for the men and women who protect it. This bipartisan bill does a great deal to improve military readiness and to improve the quality of life for our men and women in uniform, as well as for their families.

I urge the adoption of this rule and of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is well known that Americans today have a very special challenge, the backdrop of the loss of life on September 11, we do have the responsibility to ensure that this Nation is secure.

With that, Mr. Speaker, I do rise in support of this rule and, as well, offer my support for the authorization bill. I say that because we are doing what we need to do as it relates to our military personnel. We are providing them with the necessary pay raise to provide the excellence and the remuneration that they deserve in ensuring the safety of this Nation and around the world. It is important as well that they have the necessary equipment, the necessary flight equipment and training that this legislation suggests.

Mr. Speaker, however, I believe that there are dollars expended that could be utilized in a different approach. We need dollars for homeland security, and this bill includes $8.3 billion for ballistic missile defense. There is no proof, Mr. Speaker, that this expenditure of dollars is going to make America any more secure. There is no proof that, in fact, these dollars could not be better utilized in providing dollars to our emergency first responders, our police force got commandeered. Anthrax is still a scare in this Nation and the better direction would have been to utilize these dollars. No one has determined as to whether or not this world will enter into a nuclear war and these ballistic missile dollars will be of any value.

Additionally, I would hope that the $14 billion for nuclear weapons-related activities of the Department of Energy will be used to end nuclear proliferation. That would be the better use of those dollars.

Mr. Speaker, it would have been helpful if all of us could have had the kind of input and assessment on how these dollars should have been directed. To the personnel, I say yes. To the improvement in housing and other living conditions, yes. To the necessary equipment utilized by our military, absolutely. But to the needs of those who also confront homeland defense, we did not do them a service in this legislation.

I am concerned about pushing this forward, also, at the same time that we are looking at a war that we really are not able to do much about, but I also notice that there may not be any time to be able to have that discussion. I know that the House has stood firm and negotiated in very difficult circumstances to be able to make what they felt was a very important effort in this regard. But having been a part of a process in 1995 and witnessing it firsthand and also being able to watch it and participate in another instance back in 1988 in that process and then recognizing that we may not have gained the savings that were supposed to be gained, but at the same time recognizing that a lot of the communities that were left behind were truly left behind, there was no additional resources for environmental or community cleanup. Once the facility was closed, that was it; and we were left as communities to have to struggle with that.

I am concerned about pushing this forward, also, at the same time that we are engaged in a war, which may prove to be the longest war in our history. I wanted to have an opportunity to be able to address it because I do not think at this time that it makes sense to be moving forward in this regard at the same time that we are still trying to develop the next generation of systems in terms of the depth and degree of what we are up against in terms of this worldwide effort against terrorism. I appreciate the House conferees and their resistance to this motion in this element of the bill, but I also recognize that it now is in the conference report, I wanted to have an opportunity to be able to address it because I do not think at this time that it makes sense to be moving forward in this regard at the same time that we are still trying to develop the next generation of systems in terms of our defense needs and at the same time we are trying to better ascertain whether those bases are going to be needed or not needed. And I think it is at a time where we are at war and united in the war effort, we will begin engaging communities and also areas and interests to be trying to protect those bases at the same time that we are engaged in a war, which may prove to be ultimately dividing our strength and unity that we have been able to have at this time.

I wanted to register that concern about this product. I recognize that there is an awful lot here for pay raises. Our troops need the pay raises, and I noticed that there may not be any time to be able to have that discussion. I do not think that it now is in the conference report, I wanted to have an opportunity to be able to address it because I do not think at this time that it makes sense to be moving forward in this regard at the same time that we are still trying to develop the next generation of systems in terms of our defense needs and at the same time we are trying to better ascertain whether those bases are going to be needed or not needed. And I think it is at a time where we are at war and united in the war effort, we will begin engaging communities and also areas and interests to be trying to protect those bases at the same time that we are engaged in a war, which may prove to be ultimately dividing our strength and unity that we have been able to have at this time.

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Mr. Speaker, I support this rule and will support the conference report. There are some things in the conference report that are not fully satisfactory to me, as is often the case with conference reports. But the conference report also includes some items that I very much support, and I want to speak briefly about two of them.

First, the conference report includes legislation dealing with the future of Rocky Flats, the former nuclear-weapons production facility in Colorado. Under this part of the conference report, Rocky Flats will be transferred from the Department of Energy to the Department of the Interior once it is cleaned up and closed and then will be managed as a national wildlife refuge. This builds on legislation that I first introduced in the 106th Congress to preserve this area for its open space and wildlife resources and incorporates the later bill that I developed in collaboration with Senator ALLARD. I had the privilege of serving as a House conferee on this provision, and I am very pleased that the other conferees agreed to its inclusion in the final bill.

In years past, Rocky Flats made significant contributions to our Nation’s economy and the economies of the local communities surrounding it. But it was always more than just an industrial site. In fact, the Colorado Natural Areas Program determined that this 6,400-acre landscape, with its prairie grasses, creeks, and ponds, contains some of the most highly valued and rare examples of dry, upland prairie ecosystems in the country. Rocky Flats will be a most worthwhile addition to the Nation’s wildlife refuge system.

Mr. Speaker, there is another important reason that the House should approve the conference report. The report includes vital funding for people covered by the Radiation Exposure Compensation Act (RECA). The people covered by RECA include uranium miners and millers and others who worked to support the nuclear weapons program or who were exposed to its fallout. And because of that exposure, they are sick with cancers and other serious diseases. Many of them are residents of Colorado, New Mexico, Utah, and other western States.

When Congress enacted the RECA law, we promised to pay compensation for these harms. But we have failed to keep that promise. We have been slow to appropriate enough money to pay everyone who is entitled to be paid. As a result, too often the Department of Justice has had to send people letters saying that while they are entitled to the money Congress promised, they are entitled to IOUs instead of the money to which they are entitled.

Mr. Speaker, for those reasons above, I urge approval of the rule and the conference report.

Mr. Speaker, I am pleased to express my support for the provision in this bill which would transfer the former Rocky Flats nuclear-weapons facility in Colorado to the Interior Department for management as a national wildlife refuge once the site is cleaned up and closed.

This provision was developed through a collaborative partnership with Senator ALLARD. Together, we were able to produce a bill that we hope will stand as a model for transitioning former nuclear weapons sites across the country into productive natural assets for their surrounding communities.

In shaping this provision, Senator ALLARD and I consulted closely with local communities, State and Federal agencies, and interested members of the public. We received a great deal of very helpful input, including many detailed reactions to and comments on related legislation that I introduced in 1999 and discussed with Senator ALLARD and I circulated in 2000.

The Rocky Flats facility made some significant contributions to our Nation’s security and the economies of local communities. The land at Rocky Flats is owned by the federal government once it is closed. And when after that there was a suggestion of converting the site to a national wildlife refuge, I suppose I was a little surprised. But it was consistent with the principles of federal ownership, open space and habitat protection, and thorough, effective cleanup.

In fact, this 6,400-acre landscape, with its prairie grasses, numerous creeks and draws, and ponds is ideal wildlife habitat. As evidence of this value, the Colorado Natural Areas Program, which evaluates landscapes in Colorado for unique, threatened and critical natural resources, determined that the Rocky Flats area contains some of the most highly valued and rare examples of dry, upland prairie ecosystems in the country. This area will thus be a valued addition to the Nation’s wildlife refuge system and in so doing will thereby protect these resources for generations to come.

This provision contains a number of elements, which I outline in more detail below. But let me address just a couple of specific issues that have generated much discussion.

First, the National Renewable Energy Laboratory (NREL) and its National Wind Technology Center. This research facility, which is located northwest of the site, has been conducting important research on wind energy technology. As many in the region know, this area of the Front Range is subjected to strong winds that spill out over the mountains and onto the plains. This creates ideal wind conditions to test new wind power turbines. I support this research and believe that the work done at this facility can help us be more energy secure as we find ways to make wind power more productive and economical. NREL has been interested in expanding wind power research performed on this site. To accommodate that, the legislation provides for 25 acres in the northwest section of the site to be retained by DOE for the expansion of the Center.

Second, transportation issues. Rocky Flats is located in the midst of a growing area of the Denver metropolitan region. As this area’s population continues to grow, pressure is being put on the existing transportation facilities just outside the site’s boundary. Communities that surround the site have been considering transportation improvements in this area for a number of years—including the potential completion of a local beltway. In recognition of this, the legislation allows for some land along Indiana Street (the eastern boundary of the site) to be used for this purpose under certain circumstances.

Third, the legislation requires the DOE and the Department of the Interior to develop a memorandum of understanding to facilitate smooth transition from Rocky Flats’s current status to the new status provided for by the legislation. In this regard it is important to note that the legislation requires DOE to retain any “engineered structure” that may be needed to control the release of contamination. This language in no way requires the DOE to construct any facility for the long-term storage of wastes or materials. Rather, it is expected that wastes and materials presently stored on the site or generated during cleanup and closures will be transported to safe and secure off-site locations. Hence, this language is only intended to refer to the types of structures typically used to control the release of contamination, such as ongoing operation and maintenance intercept and treatment systems that are envisioned under Superfund remediations.

Fourth, private property rights. Most of the land at Rocky Flats is owned by the federal government, but within its boundaries there are a number of pre-existing private property rights, including mineral rights, water rights, and utility rights-of-way. In addressing these interests, the legislation acknowledges the existence of these rights, preserves the rights of their owners, including rights of access, and allows the Secretaries of Energy and Interior to address access issues to continue necessary activities related to cleanup and closure of the site and proper management of its resources.

With regard to water rights, the legislation protects existing easements and allows water rights owners access to the site to maintain their rights. With regard to mineral rights, the Secretaries of Energy and Interior, through the MOU, are directed to work together to address any potential impacts associated with these rights on the refuge. Finally, with regard to utility rights-of-way, the legislation provides for a line from a high-tension line that currently crosses the site, the legislation preserves the existing rights-of-way for these lines and allows the construction of one power line from an existing line to serve the growing region northwest of Rocky Flats. The DOE is presently working with Xcel to locate the final alignment for this power line extension to the site’s eastern boundary.
Fifth, the Rocky Flats Cold War Museum. The legislation authorizes the establishment of a museum to commemorate the Cold-War history of the work done at Rocky Flats. Rocky Flats has been a major facility of interest to the Denver area and the communities that surround it. Even though this facility will be cleaned up and abandoned when the appropriate conditions have been met, and it will be transferred to the DOE, there is no substitute for the hard work done here, what role it played in our national security and the mixed record of its economic, environmental and social impacts. The city of Arvada has been particularly interested in this idea, and took the lead in proposing the inclusion of such a provision. However, a number of other communities have expressed interest in also being considered as a possible site for the museum. Accordingly, the legislation provides that Arvada will be the location for the museum unless the Secretary of Energy, after consultation with relevant communities, decides to select a different location after consideration of all appropriate factors such as cost, potential visitation, and proximity to the Rocky Flats site.

Finally, cleanup levels. Some concerns were expressed on the establishment of cleanup levels that will be established in the Rocky Flats as a wildlife refuge in a less extensive or thorough cleanup of contamination from its prior mission that otherwise would occur. Of course, that is not the intention of this legislation. The legislation specifies that the establishment as a wildlife refuge cannot reduce the level of cleanup—thereby establishing that the wildlife refuge designation provides the minimum standard for cleanup while still allowing for more cleanup that will remain in federal environmental laws and regulations, and public acceptability.

Specifically, the cleanup is tied to the levels that will be established in the Rocky Flats Cleanup Agreement (RFCA) for soil, water and vegetation. There will be a public process to review and reconsider the cleanup levels in the RFCA. In this way, the public will be involved in establishing cleanup levels and the Secretary of Energy will be required to conduct a thorough cleanup based on that input. In addition, and very importantly, the legislation specifies that the establishment of the site as a wildlife refuge cannot reduce the level of cleanup—thereby establishing that the wildlife refuge designation establishes a minimum standard for cleanup while still allowing for more cleanup that will remain in federal environmental laws and regulations, and public acceptability.

I also want to say thank you for all the work and input of the many individuals and groups involved with Rocky Flats and with developing this refuge area as a national wildlife refuge. There are too many to mention, but I would like to specifically acknowledge and thank all of the entities that comprise the Rocky Flats Coalition of Local Governments—Boulder and Jefferson Counties, and the cities of Arvada, Boulder, Broomfield, Superior and Westminster. I also want to thank the past and present members of the Rocky Flats Citizens Advisory Board. My thanks also go to the members of the Friends of the Foothills and Rachael Carson Group, the local chapter of the Sierra Club.

In the past, Rocky Flats has been off-limits to development because it was not a weapons plant. That era is over—and its legacy at Rocky Flats has been very mixed, to say the least. But it has left us with the opportunity to protect and maintain the outstanding natural, cultural, and open-space resources and value of this key part of Colorado’s Front Range area. This provision will accomplish that end, provide for appropriate future management of the lands, and will benefit not just the immediate area but all of Colorado and the nation as well.

Here is a brief outline of the main elements of this part of the conference report. It—

Provides that the Federal-owned lands at Rocky Flats will remain in federal ownership; that the Lindsay Ranch homestead facilities will be preserved; that no part of Rocky Flats can be annexed by a local government; that no through roads can be built through the site; that some portion of the site can be used for transportation improvements along Indiana Street along the eastern boundary; and that 25 acres be reserved for future expansion of the National Wind Technology Center just northwest of the site.

Requires DOE and the U.S. Fish and Wildlife Service to enter into a Memorandum of Understanding after enactment to address administrative issues and make preparations regarding the future transfer of the site to the Fish and Wildlife Service and to divide responsibilities between the agencies until the transfer occurs; provides that the cleanup funds shall not be used for these activities.

Specifies when the transfer from DOE to the Fish and Wildlife Service will occur—namely when the cleanup is completed and the site is closed as a DOE facility.

Directs that the transfer will not result in any costs to the Fish and Wildlife Service.

Directs the DOE to continue to be required to clean up the site and that in the event of any conflicts, cleanup shall take priority; maintains DOE’s continuing liability for cleanup.

Requires the DOE to continue to close and close the site under all existing laws, regulations and agreements.

Requires that establishment of the site as a National Wildlife Refuge shall not reduce the level of cleanup required.

Requires the DOE to clean up the site to levels that are established in the Rocky Flats Cleanup Agreement as the agreement is revised based on input from the public, the regulators and the Rocky Flats Soil Action Level Oversight Panel.

Requires DOE to remain liable for any long-term cleanup obligations and requires DOE to pay for this long-term care.

Establishes the Rocky Flats site as a National Wildlife Refuge 30 days after transfer of the site to the Fish and Wildlife Service.

Provides that the refuge is to be managed in accordance with the National Wildlife Refuge System Administration Act.

Provides that the refuge’s purposes are to be consistent with the National Wildlife Refuge System Administration Act, with specific reference to preserving wildlife, enhancing wildlife habitat, conserving threatened and endangered species, providing opportunities for education, scientific research and recreation.

Directs the Fish and Wildlife Service to convene a public process to develop management plans for the refuge; requires the Fish and Wildlife Service to consult with the local communities in the creation of this public process.

Provides that the public involvement process shall make recommendations to the Fish and Wildlife Service on management issues—specifically issues related to the operation of the refuge—transportation improvements, any perimeter fences, development of a Rocky Flats museum and visitors center; requires that a report is to be submitted to Congress outlining the recommendations resulting from the public involvement process.

Authorizes the establishment of other public process for the Rocky Flats site, such as mineral rights, water rights and utility right-of-way; preserves these rights and allows the rights holders to access their rights.

Allows the DOE and the Fish and Wildlife Service to impose reasonable conditions on the access to private property rights for cleanup and refuge management purposes.

Directs the DOE and the Department of the Interior to address any potential impacts associated with mineral rights and other property rights on the refuge.

Allows Xcel, Colorado’s public utility, to provide an extension from their high-tension line on the site to serve the area around Rocky Flats.

Authorizes the establishment of a Rocky Flats museum to commemorate the history of the site, its operations and cleanup.

Requires the DOE and the Fish and Wildlife Service to inform Congress on the costs associated with implementing this Act.

Mr. PASCRELL. Mr. Speaker, I urge all my colleagues to vote in favor of the DOD authorization bill. It includes funding for a program that helps a group of people that are near and dear to all of our hearts, our firefighters.

The DOD bill authorizes $900 million per year for the next 3 years for the Firefighter Assistance Grant program, that bill which was introduced in 1999 and passed last year with a tremendous amount of support across the aisle.

Today, we authorize this grant program at the level it should have been authorized in the first place. We are sending a message to the appropriators, letting them know how valuable we think this program really is. Just last month, we passed the VA–HUD appropriations bill which provides funding of $150 million for fiscal year 2002. It is far from the amount that I think the members of our fire services deserve and need. But it is a start. If September 11 taught us anything, it is the importance of the firefighters as first responders to the public safety equation. We had to scrape and beg to get $100 million last year in an emergency spending bill.

The leadership told us they did not believe us when we said the fire services needed this money desperately. Boy, were they wrong. Of the 32,000 fire departments in this country, over 30,000 of them applied for these grants, totaling up to $3 billion in requests. I am a bit chagrined that we are still scraping and begging the appropriators...
I know our contribution to this worthy cause will continue to rise as each of you hears from your own constituents about the need for more fire personnel, more safety equipment and vehicles.

Mr. Speaker, I want to thank folks from both sides of the aisle.

Mrs. MYRICK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, pursuant to House Resolution 316, I call up the conference report on the Senate bill (S. 1438), to authorize appropriations for the fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 12, 2001, at page H 9333.)

The SPEAKER pro tempore. The gentleman from Arizona (Mr. STUMP).

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on the fiscal year 2002 Defense Authorization Act.
This bill moves the military substantially toward new ways of fighting. It helps the Army and Marine Corps move faster. It boosts the Air Force's edge, and the pay raise is just the most basic part of our comprehensive improvements in quality of life for America's finest.

Now, more than any time in the last decade, the world is on the edge. This vote will not be seen only in Kabul and Baghdad, but Diego Garcia, Fort Irwin, Norfolk and White man Air Force Base. Americans are under fire. Let us give them this support and protection they deserve.

Again, Mr. Speaker, I commend the gentleman from Arizona (Chairman Stump) and I agree with the nation for their work so hard to find compromises that address the concerns of all members. Mr. Blumenauer, I agree with your concerns. This conference report makes tremendous progress in strengthening our nation's policies in dealing with unexploded ordnance, the bombs and shells that did not go off as intended. I very much appreciate the efforts Chairman Bos Stump and Ranking Member Ike Skelton in raising the profile of this important issue, and including several meaningful reforms to address the problems these discarded military munitions cause communities throughout our country. Our colleagues in the Senate also made valuable contributions and I appreciate their wisdom and hard work. The sections addressing unexploded ordnance are 311, 312, and 312 in the conference report. I hope that the activity on this issue during consideration of this year's defense authorization signals potential for additional steps forward in the future.

Two of the four major provisions of the bill I have introduced, the Ordnance and Explosives Risk Management Act (H.R. 2605) have been legislated in this report. Congress has finally stepped up to the plate in the campaign to remove this menace to our community. To that end, I am so pleased that by requiring this inventory and prioritization scheme and establishing a separate account, we've rounded first, and we're on our way to second base. In the near future, I hope Congress will reinforce efforts within the Pentagon to put someone in charge of munitions response and to fund that response at a level that will address the problem over the next two decades, rather than the next two centuries. We also need to ensure that the Department of Defense, the U.S. Environmental Protection Agency, and the states are following the same regulatory framework.

It is important that another round of base closures is authorized in this conference report. However, delaying that effort until after the next two Congressional elections and the next presidential election is problematic at best. Maintaining the infrastructure of military bases left over from earlier eras when needs were different is a tremendous unnecessary cost that prevents us from making the investments needed to address today's changed security environment.

Our annual defense authorization and appropriations bills provide opportunity to respond to changes in our global security conditions. This bill authorizes spending $343 billion in fiscal year 2002 on our military. In addition, there is $23 billion in post-September 11th supplemental and it is highly likely that we will consider at least one other supplemental in 2002. That means that throughout this fiscal year, our military spending will be at least a billion dollars a day. It has been over three months since the tragedy of September 11. We had the chance to make adjustments in this authorization based on the new security environment. Instead, this conference report increases spending on national missile defense nearly 50 percent over last year. It also continues to fund construction of the Crusader mobile howitzer designed for a war from an age long past. The Army has said it needs lightweight force that can go anywhere in under 100 hours, yet the Crusader is too heavy to carry on even our largest plane. We need a new beginning now more than ever.

Despite improvements in a few areas, I must continue my reservations about the fiscal year 2002 overall defense authorization and the direction it takes us in. I will oppose this conference report.

Mr. BentSEN. Mr. Speaker, I rise in support of this legislation, which provides for support for U.S. troops at home and abroad who are fighting terrorism, while providing the necessary resources to improve quality of life and readiness.

Overall, this conference report provides much needed funding increases in several critical areas, including weapons procurement, research and development, military construction, operations and maintenance, and personnel. In budgetary terms, the conference report authorizes $343 billion for U.S. defense needs, matching the President's amended request for fiscal year 2002. The conference report represents the most significant defense budget increases since the mid-1980s, needed to assist the men and women of our armed services in their ongoing efforts to combat terrorism. I believe this legislation establishes an appropriate foundation of budgetary resources to allow the President and Congress to pay for the war on terrorism and address many other critical needs currently facing our nation's military.

Today, as our military services are being called to conduct combat operations, we must ensure that our military remains the best-trained, best-equipped and most effective force in the world. We must take the steps necessary to reverse recruiting and retention trends which are down throughout the military. To that end, I am pleased that this legislation provides the largest military pay raise since 1982, including a 6 percent minimum to enlisted members and 5 percent to officers. This pay raise will cut the pay gap between military and private-sector pay from 10.4 to 7.5 percent. I believe the inclusion of these much-needed provisions will improve retention of highly qualified military personnel and their families.

With respect to counter terrorism, the conference report includes $5.6 billion for DOD efforts to combat terrorism, including force protection, intelligence gathering, and anti-terrorism programs. In addition, the conference report increases the President's budget by nearly $300 million for procurement and research and development programs to assist in the war against terrorism. H.R. 2586 also includes more than $400 million to reduce the threat posed by chemical, biological and nuclear weapons under the threat reduction initiative in the former Soviet Union. With respect to homeland defense, the conference report increases the firefighter grant program from $300 million to $900 million per year through 2004, and expands the grants program to include equipment and training to assist first responders to terrorist attacks or against weapons of mass destruction.

While I will vote in support of this legislation, I have concerns about two areas addressed by this measure: base closures and missile defense. With regard to base closures, I was disappointed that the Committees included compromise language originally included in the Senate Defense Authorization bill, which would enact the first round of base closings in...
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2005. As someone who has consistent record of supporting cost-savings in all areas of the federal budget, I do not believe that another round of base closures should be conducted until the DOD can adequately evaluate and define its military strategy and future requirements. The most prudent course of action would be for the DOD to allocate the budget given the current realities, and to avoid any actions that might damage military modernization, readiness or personnel requirements.

As the BRAC process moves forward, I would also encourage the DOD to consult closely with Members of Congress and potentially affected communities before making any final decision on base closures. I recognize and applaud the DOD’s commitment to reducing excess considered. The loss of a military base can be devastating for defense-dependent local economies, especially in areas where defense jobs are critically important to the economy, including many such bases in Texas. I would also note that both the House and Senate versions of this bill were marked up prior to September 11, and prior to the onset of military campaign in Afghanistan. As such, I believe the DOD and Congress should be cautious in planning the closure of bases that will be carrying our military’s mission in coming months and possibly years.

While I disagree with the process of base closures and military health care, this conference report includes a provision that authorizes funds for initial deployment of a national missile defense system in Alaska that would be barred by the 1972 ABM Treaty, from which the president has now said the United States will withdraw. While I respect the administration’s point of view on this issue, and have consistently supported research and development of a missile defense system I am concerned that the deployment of an unproven missile defense program could lead to the unraveling of the ABM treaty, which has served as a primary factor in our relations with Russia and the former Soviet Union. To unilaterally abrogate our responsibility under the ABM Treaty at this time could send the wrong message to our allies, and to our potential nuclear adversaries, including China, which has indicated that at the U.S. action may lead to an arms race.

While I have concerns about these provisions, I support this Conference Report because it is an important signal that Congress speak with one voice on behalf of our armed services. On balance, the initiatives included in this bipartisan legislation are right on target, and will provide our dedicated mean and women in uniform with the necessary resources to advance our national interests with the best equipment and training available. I urge my colleagues to vote in support of this important legislation.

Mr. SHOWS. Mr. Speaker, today I am voting in favor of the Conference Report for the National Defense Authorization Act for Fiscal Year 2002, but I rise to express my grave concerns about provisions in the bill relating to base closures and military health care. Despite my reservations, I am voting for the Conference Report because we must support our military establishment at this most crucial period in our history.

However, Mr. Speaker, I am concerned that this Conference Report authorizes another round of base realignment and closures. While we are contending with homeland security, now is not the time to consider letting down our guard. It’s a false economy to suggest that BRAC will save money.

In addition, closing military bases could have the unintended consequence of stripping health care away military retirees and their families. Later today we debate the “No Child Left Behind Act” education bill. Well, in the previous rounds of BRAC, we left behind thousands of military retirees and their families who received health care at military bases.

When these bases closed, they lost their military health care because their healthcare alternatives just didn’t add up. We should be fixing this injustice, but instead we will compound this problem if we proceed with another round of BRAC without addressing the loss of health care for military veterans and their families.

Finally, Mr. Speaker, this Conference Report does not adequately address the military health care issue known as “concurrent receipt.” Under current law, the retirement pay of military retirees with service-connected disabilities is reduced to offset disability compensation paid by the Department of Veterans Affairs.

This policy is just plain wrong. Military retirees who are also disabled veterans earned, need, and should receive all the benefits to which they are entitled; 379 of us are cospon- sors of a bill that would correct this injustice.

This Conference Report authorizes concurrent receipt only if the President submits a budget providing offsets to pay for it. In other words, we are putting the issue over to the White House. That’s wrong. We should step up to the plate for our military veterans. We should authorize and fully fund concurrent receipt.

But, like all Conference Reports, this is not a prefect bill and I can only cast an up-or-down vote. I am unable to vote “yes” on the provisions that I support or “no” on those I oppose.

Mr. Speaker, while I am voting in favor of this Defense bill today, I will continue to oppose efforts to tear down our defense infrastructure through further rounds of base closures.

And I will continue to make sure that we keep our promises to America’s military retirees, so we don’t break faith with the people who defend us.

Mrs. WILSON. Mr. Speaker, today I rise to applaud some of the exceptional provisions of S. 1438—National Defense Authorization Act for Fiscal Year 2002 Conference Report and to highlight a major disappointment within the bill. As our campaign against terrorism continues today, this conference report delivers vital enhancements to our homeland security and equips U.S. soldiers with the tools they need to fight and win America’s wars.

Homeland defense in this conference report provides approximately $15 billion for programs to combat terrorism, defeat nuclear, biological, and chemical attacks, and protect the United States and our interests against ballistic missile attack. Our number one priority is to defend America from attack.

One of the principal responsibilities of this Congress is to also ensure that we place a great emphasis on improving military quality of life and readiness. To that end, this legislation contains the largest military pay raise since 1982, significant construction efforts to improve facilities where military personnel live and work, and substantial increases to readiness accounts that support operations, maintenance, and training.

Another responsibility of this Congress is to provide for exceptional health care for Americans who wear and who have worn the uniform. This bill makes significant improvements to the TRICARE program and provides care that is within the capabilities of the military health care system. The bill fully funds the TRICARE military health care program for the first time in years and protects the integrity of the military health care system. It also enhances the freedom of TRICARE beneficiaries to choose their providers by eliminating most of the requirements for pre-authorization of care under TRICARE. This legislation adjusts the Military Retiree Health Care Trust Fund to ensure the proper functioning of the fund and continued smooth operation of the TRICARE For Life program.

Unfortunately, I will not be able to support the conference report today because of the base realignment and closure language otherwise known as BRAC, which is in the bill. Mr. Speaker, now is not the time for this process to move forward. Right now, our soldiers are deployed abroad fighting a war, how can we tell families who have a loved one deployed in that fight that we may be closing their base, closing their home.

In addition, Mr. Speaker, while the Administration makes general claims about savings and excess real estate, I have asked personally and directly for the data that supports the claims and they said that they do not have it. There is no evidence that money has been saved during the last round of base closure.

Finally, Mr. Speaker, I believe that strategy should drive force structure, and force structure should determine basing. The defense department has not defined what new strategy is or what forces are required. Without answering those questions, deciding to cut communities through another BRAC is indefensible.

It was for these reasons that this House considered and rejected another round of base closure. We were right to do so.

Mr. Speaker, there are many good things in this bill that I support. But I cannot support base closure.

Mr. McHUGH. Mr. Speaker, at a time when Americans are waging a war on terrorism, we have before us the strongest national defense authorization conference report in recent memory. I rise in support of the Conference Report on S. 1438, the National Defense Authorization Act for Fiscal Year 2002, and urge my colleagues to vote “yes” when it comes up later for a vote.

The strength of this conference report comes from many provisions, but especially from those benefiting military personnel and their families. For example, the conference report:

Provides $6.9 billion more for the military personnel accounts than in fiscal year 2001. That’s the biggest one-year increase in military personnel accounts since 1985.

Authorizes the largest military pay raise since 1982—a 5 percent across-the-board increase for officers and a 6 percent across the board for all enlisted personnel, combined with a targeted increase ranging from 9.3 percent to more than 10 percent—for noncommissioned officers and mid-grade commissioned officers.
Increases the defense health operations accounts by $6 billion over fiscal year 2001 levels, reflecting a commitment by DOD and Congress to fully fund health care.

In addition the conference report:

Reduces out-of-pocket housing costs from 15 percent in fiscal year 2001 to 11.3 percent in fiscal year 2002, thereby keeping faith with the plan to eliminate housing out-of-pockets by fiscal year 2005.

Improves the ability of military absentee voters to more effectively and easily exercise their right to vote.

Reduces the costs that service members and their families incur while moving between assignments. Right now, DOD only reimburses them for 62 percent of their costs. When implemented over the next couple of years, the provisions of S. 1438 will reduce that out-of-pocket cost to approximately 10 cents for every dollar expended.

There are many more important measures contained in H.R. 2586. For all these reasons I urge all Members to support the conference report.

Mr. POMEROY. Mr. Speaker, I rise in reluctant opposition to the conference report for the defense authorization act. This bill contains many valuable provisions but also one serious flaw—a new round of base closures, which I believe does not serve the best interests of our national security nor the best interest of communities throughout the country that host military installations.

I strongly supported the defense authorization bill when it was approved by the House. I believe that Chairman SLEETON and Ranking Member SKELTON of the Armed Services Committee correctly decided not to authorize additional base closures in the House bill. I am disappointed that they were forced under the threat of a presidential veto to accept a provision authorizing a new round in 2005.

First, the purported cost savings associated with base closure are dramatically overstated at best, and, more likely, are illusory. The reality is that base closures cause significant short-term costs in exchange for marginal long-term savings. Contrary to the claims of base closure proponents, another round will not relieve the genuine budget pressures being experienced by our military.

Second, we should not embark on a new round of base closures when the Armed Forces are still processing the more than 100 closures and realignments undertaken in the previous four rounds. We should not underestimate the upheaval these actions create for our men and women in uniform and their families. Nor should we ignore the impact of these events of the past several months, it is that base closures causes significant environmental cleanup costs. To be certain, the conferees attempted to address questions about the politicization of the process and the true costs savings. However, the procedures that they put in place do little more than offer lip service to these very legitimate concerns.

For instance, there is evidence that past rounds of base closures have not only fallen woefully short of the budget boons they were expected to bring, but that they have in fact cost us more than expected due largely to significant overruns and delays. To be sure, proponents of BRAC can find statistics that indicate cost savings. But, given the conflicting information available, those statistics are spurious at best. The real problem is that limited and faulty auditing has left Congress with very little to go on regarding the true costs and savings of the process.

The conferees require the Secretary of Defense to certify that there will be annual cost savings for each service by 2011 before the Commission can be appointed. But, if we have not fully supported the auditors in the past, we should not be surprised if the auditors are equally unsatisfied with the inclusion of any base closure process, but that they will, in the end, support this report. For my part, I am certain that the BRAC provisions are not in the best interests of Virginia’s Fourth District or of our Nation, and I cannot support them. But, I do not question the patriotism or the wisdom of these colleagues.

So, while it is with a heavy heart that I cast my vote today against this conference report, it is with a clear mind. I appreciate the work of my chairman and my colleagues, and look forward to working with them to continue to improve the quality of life for our servicemen and the readiness of our forces.

Mr. SMITH of Michigan. Mr. Speaker, I rise in support of the conference report to S. 1438, the National Defense Authorization Act for Fiscal Year 2002.

This bill addresses the needs of the Department of Defense. It increases pay and benefits for our men and women in uniform, will improve our readiness, and support efforts to develop defenses against missile and terrorist attacks.

As a conferee on this bill from the science committees, I want to spend a minute drawing...
the House's attention to a program authorized in the bill that, while not in the Defense Department, is nonetheless critical to our security. I am talking about the Assistance to Firefighters Grants Program, which provides help to fire departments throughout the country.

According to the Association of Fire Fighters, more public safety officers were lost in September 11 attacks than in any other single event in modern history. There is no telling how many lives these brave men and women saved, but it is estimated in the thousands.

The Assistance to Firefighters Grants Program, which is administered by U.S. Fire Administration, provides funds to fire departments for training, personnel, protective equipment, communications equipment, and other tools.

This program is vital to ensuring that our nation's fire departments are up to the job with which we have entrusted them.

After September 11, no one can doubt that if the terrorist enemy can deliver a weapon of mass destruction—be it chemical, biological, or nuclear—it will. As the first line of defense after terrorists strike, firefighters must be prepared to respond to these sorts of incidents.

However, without proper training, staff, and equipment, fire departments may not be as prepared as they would like to be. If we are to ask firefighters to assume these responsibilities, we must provide them support for personnel, training, communications equipment, safety equipment, and other tools to improve their readiness and capabilities.

Last year, $100 million was provided for this program. For fiscal year 2002, more is needed.

As a conferee to this bill, I offered an amendment for a substantial increase in funding for this program. I am pleased, bill after bill that the conferees have agreed to boost authorized funding for this program to $900 million for each of fiscal years 2002 through 2004.

Also, to ensure that adequate personnel are available to implement the program, the amendment sets aside three percent of the authorized amount for administration. The Fire Administration should not be made to short fund the program.

On September 11, the Nation's firefighters showed the world what courage means. If we expect the fire services—most of whom depend on volunteers—to deal with these kinds of disasters, we have a responsibility to provide them with the resources they need. This conference report does that, and I urge my colleagues to support it.

Mr. RAHALL. Mr. Speaker, in my capacity as the Ranking Democrat on the Committee on Resources I was a conferee on the fiscal year 2002 authorization bill. I have been concerned with the controversy between the federal government and Puerto Rico related to Vieques in current law, as well as provisions advanced by the Bush Administration in this area.

To those of my colleagues who believe that U.S. citizens should not be subjected to live-fire military training exercises, that bombs and munitions should not be exploded in the vicinity in which they live, and that their land should not be laid waste with a legacy of ordnance and toxic substances, I say to you that this conference agreement seals their fate to these very situations.

Currently we have in place the Clinton-Rosello agreement, negotiated by the former U.S. President and former Governor of Puerto Rico, Roberto E. Rossello. I supported this agreement and I still support it today because it gives the people of Puerto Rico, our fellow Americans, assurances that their concerns and their voices were being heard in the halls of this Congress. Clinton-Rosello demonstrated that the threat to American citizens living within earshot and bull's-eye range of our own U.S. military, did not fall on deaf ears or blind eyes.

Under this agreement, the people of Vieques were given an opportunity to participate in a referendum to determine whether a portion of the island should remain available for live-fire training. It also authorized $50 million in economic assistance to the people of Vieques if they chose to allow continued military exercises. Most importantly, however, the agreement made clear that the people of Vieques simply said no to further live-fire training by the U.S. military on their island, that activity would halt and land administered by the Navy on the eastern side of the island would be transferred to the U.S. Department of the Interior to be managed as a wildlife refuge.

This was a good and fair agreement, keeping within the traditions of this great country, by empowering the people themselves to make decisions that will affect their lives and livelihoods.

On some level President Bush thought so too. As the Republican Presidential candidate, he stated that he would uphold the Clinton-Rosello agreement. And despite his own party's resistance, I think President Bush has made his best effort to keep with the spirit of those terms.

Though the Administration is not supporting a referendum in Puerto Rico on continued military training, President Bush did announce over the summer a target date for the withdrawal of military forces from the Vieques range.

The critical point here is that under either the Clinton-Rosello agreement, or the positions stated by the Bush Administration, there was a light at the end of the tunnel for the people of Vieques because they could reasonably expect the withdrawal of the U.S. military from the island.

Yet, the Republican majority in this body apparently feels otherwise. The version of the pending legislation originally passed by this body runs roughshod over the Clinton-Rosello agreement and flies in the face of the stated Bush Administration positions by containing provisions that almost guarantee the military will not withdraw from Vieques. There are draconian changes to current law and policy, and changes that have largely been incorporated into the final conference agreement pending before us today.

What the people of Puerto Rico now face, what the residents of Vieques now must contend with, is not the Clinton-Rosello agreement and not the Bush Administration's stated May 2003 military withdrawal from Vieques.

Rather, under the pending legislation it would be up to the Secretary of the Navy to decide the fate of the island by certifying to the President and the Congress the military's intention to cease using Vieques for military training exercises. I find it highly unlikely the Navy would take that action.

Yet, this legislation dictates that even if the Navy Secretary did halt military training on the island, after consultation with the Chief of Naval Operations and the Commandant of the Marine Corps, it would be conditioned upon the identification of one or more alternative training facilities and the immediate availability of such a facility or facilities.

So what once was an agreement responsive to the concerns of Puerto Rico, respecting our citizens' right to choose what is better for them, has degenerated into what the Republican Majority in this body wants to impose on them.

Mr. Speaker, we have entered a new century, yet what is contained in this conference report as it relates to Vieques harkens back to the age of colonialism. This legislation gives the people of Vieques the opportunity for economic growth. No chance to demonstrate their patriotism. No option to assert for themselves what they truly desire. We give them no voice. Mr. Speaker, this is a tragedy of epic proportions.

Certainly, I realize our world has changed since the terror of September 11th. Every American, whether residing in a State or a Territory, understands how important it is to protect our freedom. And everyone is willing to do his or her part. We seem to have forgotten that Puerto Ricans, also an American people, also want to be part of the solution. We want to be part of the victory.

In support of S. 1438, the National Defense Authorization Act for fiscal year 2002, I want to specifically address the provisions in the bill relating to military readiness.

First, I would like to express my personal appreciation to the readiness subcommittee leadership. . . . and to my colleagues, on both the subcommittee and the full committee. . . . for their active participation, support and cooperation in addressing critical Readiness matters during this accelerated session. I feel confident that our efforts to improve the readiness of the forces are being reflected in the performance of our deployed forces worldwide. They truly deserve our best efforts.

Mr. Speaker, the readiness provisions in the bill reflect some of the steps that are necessary. . . . with the dollars available. . . . to continue to make some of the readiness improvements that are sorely needed. But it still does not provide all that is needed. As I have said before. . . . while the readiness of the force has shown some improvements in some areas. . . . much remains to be done. And we cannot afford to wait until they are involved in conflict to properly resource them. September 11 was a reminder for all of us just how vulnerable we are as a free and open society. As such, we must ensure that we have the necessary force that is capable of responding to threats to our national security. I look forward to continuing to initiate and support efforts to address two
areas that have been neglected for a number of years . . . the readiness of our dedicated civilian employees and the modernization of our failing infrastructure.

Mr. Speaker, the readiness provisions in this bill do represent a step in the right direction. They permit continued investment to build on the improvements that have been started in an area that is crucial to our national security. I would hope that as we continue through with the passage of this bill and in future consideration of supplemental later in the fiscal year, we continue to search for opportunities to increase the resources available for the readiness accounts without having to trade off funds for other critical needs.

Mr. Speaker, while I have expressed strong support for the readiness provisions in this bill, I still have reservations about some other portions of S. 1438. Specifically, I think the BRAC provisions are ill-timed and costly. We are approving these BRAC provisions at a time when the nation is at war and the economy is in bad shape. Funds that could be used to improve readiness will have to be diverted to begin the costly and complex process of BRAC’s.

Based on our past experiences, once an installation is identified as a candidate for BRAC consideration, resources have been diverted, resulting in further deterioration of the installations prematurely. We are all aware that historically past BRAC rounds have had a devastating effect on the morale and performance of the civilian workforce.

Notwithstanding my reservations about having BRAC in the bill, I strongly urge my colleagues to support S. 1438. In this time of national emergency, I think that we have a defense authorization bill. There are a significant number of provisions that are necessary to ensure essential support for our military forces, their family members, and the dedicated civilian workforce that supports them.

Mr. HEFLEY. Mr. Speaker, I rise today in support of the conference report on S. 1438, the National Defense Authorization Act for fiscal year 2002. During this extraordinary time in our national history, our military forces need our support more than ever. We must provide our defendable men and women with the necessary resources to continue to go in harm’s way with the best equipment and training available. The readiness of our military’s forces is the responsibility of every Member of Congress.

The conference report on the fiscal year 2002 Defense Authorization bill provides a significant increase for readiness funding this year as compared to last year. As an example, funding for flight operations has increased by over $5 billion, which includes the increased and attention of providing severe spares shortages. In addition, there is an increase for training of over $825 million, an increase for facilities repair and sustainment of nearly $500 million, and an increase of $1.2 billion for depot maintenance and repair of equipment. We have also provided $6 million for protection of critical needs. The conference report on S. 1438 supports these and other increases in critical readiness funding.

Mr. Speaker, the conference report before us today provides the military services with an acceptable level of funding necessary to maintain readiness and to help reduce the continued stress on our military forces. At a time when our military services are being called upon to conduct combat operations, we must ensure that our military remains the best-trained, best-equipped, and most effective military force in the world. We must also ensure that we take the necessary steps to reverse declining readiness rates throughout all of the military services. At the same time, we must take action to ensure that the living and working conditions for our service members and families are at acceptable levels. This conference report accomplished all these goals.

To do anything less would allow the readiness of our military forces to continue to put the lives of countless men and women in every branch of the military.

I urge my colleagues to vote yes on the conference report, vote yes for improved military readiness, and vote yes for the men and women of our military forces.

Mr. WAXMAN. Mr. Speaker, it is with great reluctance that I support S. 1438, the Fiscal Year 2002 Defense Authorization Conference Report. While I believe that passing this bill is that it authorizes funds for the deployment of the brave men and women deployed to defend the American people and our strategic interests around the world, I staunchly oppose the tremendous increase in funding the bill provides for the development and deployment of the National Missile Defense (NMD) that would violate the 1972 Anti-Ballistic Missile (ABM) Treaty with Russia.

The tragic attacks committed against the United States on September 11, 2001, demonstrate that terrorism is the greatest threat facing America today. It is clear that ensuring the safety of our citizens and our cities will require the development and deployment of military resources capable of facing challenges much more diverse than isolated missile threats by rogue nations.

I am highly disappointed that this Conference Report contains $8.3 billion for missile defense, a 56 percent increase over the current level, while authorizing only $6 billion for anti-terrorism programs. I am also concerned that the deployment of a National Missile Defense (NMD) system in Alaska, a move that would automatically violate the ABM treaty requirement that anti-ballistic missile systems only be installed in the vicinity of our national International Continental Ballistic Missile (ICBM) complex, based in North Dakota, or near the nation’s capital in Washington, DC.

These policies are a poor reflection of our nation’s priorities. We should be using this opportunity to focus on military intelligence, preparedness against chemical and biological weapons attacks, and nuclear threat reduction. By diverting so many resources toward a faulty missile defense program plagued by massive cost-overruns and technological deficiencies, we are defunding our investment in other vital areas and jeopardizing the cornerstone of U.S.-Russia military cooperation at a time when coalition building and international alliances are critical.

In June 2001, my staff on the Government Reform Committee conducted an analysis of the Coyle Report, a comprehensive study conducted by the Pentagon’s chief civilian test evaluator that revealed serious weaknesses in the NMD test program. The report also demonstrates the futility of scheduling deployment when basic elements of the system, such as the ability to defend against countermeasures, multiple engagements, and against accident or unauthorized launches, have repeatedly failed.

Considering that the ABM treaty is not holding back the design and development of the technology needed for NMD, nor slowing the testing of the system, I think it is shortsighted and irresponsible for the Conference Report to authorize measures that would violate the treaty or for the Bush Administration to propose unilateral withdrawal from it.

At the same time, at the critical stage in our nation’s history, I believe the U.S. military and its brave soldiers deserve full Congressional support. Although I have opposed previous Defense Authorization bills, I support this bill because it contains the largest single-year increase for military personnel in nearly a decade and invests in technology and hardware that will keep our soldiers safer in the field. Such attention to pay, housing allowance, and family assistance, give recognition to the sacrifice they make and help our military compete for the best and brightest.

I commend all of the soldiers and reservists from Los Angeles, California, and across the country for their dedication, and I urge the Bush Administration to take immediate action to change its misguided course on the ABM treaty.

Mr. BLIRAKIS. Mr. Speaker, I rise in support of S. 1438, the National Defense Authorization Act.

Some military retirees—individuals who are eligible for military retirement benefits as a result of a full service career—are also eligible for disability compensation from the VA based on an injury they incurred while in the service. Under present law, these service-disabled retirees must surrender a portion of their retired pay if they want to receive the disability compensation to which they are entitled. More than 500,000 disabled retirees are impacted by this inequitable offset.

For over 15 years, I have introduced legislation, H.R. 303, to repeal this unjust offset. I am pleased that the conference report we are considering today includes language that will authorize the concurrent receipt of military retired pay and VA disability compensation. However, under the bill, these provisions only become effective if legislation offsetting the costs of concurrent receipt is subsequently enacted into law. This is the same language that was approved by the House earlier this year.

This conference report also increases the amount that certain severely disabled retirees may receive under the special compensation program which was enacted during the 106th Congress. I am pleased that the conferees added these provisions to the final bill.

While not perfect, I do believe that the language in the conference report is an important step in the efforts to repeal the offset between military retired pay and VA disability compensation. First, the passage of this language puts the House of Representatives firmly on record as supporting the elimination of the offset. Although I have introduced H.R. 303 for more than 15 years, this is the first year that the House has actually voted on this issue.

Second, I originally proposed this language because I wanted to ensure that concurrent receipt language was included in the Fiscal Year 2002 authorization act. In previous years when language has been included in the Senate bill, and no language was included in the House bill, the Senate has receded to the House, meaning no language was enacted into law.
By authorizing the concurrent receipt of military retired pay and VA disability compensation now, we are one step closer to repealing the offset once and for all. Next year, I will be working with my colleagues to secure the enactment of legislation to fund the concurrent receipt of military retired pay and VA disability compensation.

Each of the thousands of disabled military retirees answered when America called. Now it’s time for America to answer their call.

I urge my colleagues to support S. 1438.

Mr. Speaker, I rise today in support of the conference report on S. 1438, the Department of Defense Authorization bill for fiscal year 2002. This is a good bill, one that addresses the critical needs of our military as we engaged in the war against terrorism. S. 1438 also contains a provision allowing the transfer of an old, unused Army Reserve Center in Kewuenae, WI to the city. This transfer will allow the property to be put to good use by the City of Kewuenae instead sitting dormant and a benefit to no one.

While S. 1438 is a good bill, it is not a perfect bill. The glaring imperfection in the bill is a provision that fundamentally alters a Department of Justice program known as the Federal Prison Industries, or FPI.

Language in S. 1438 would basically exempt the Department of Defense from the mandatory-source preference of the FPI program. Eliminating mandatory-source preference for DoD means that approximately 60% of FPI’s business will be lost. Obviously, this would dramatically undermine FPI.

I will not delve into a full explanation or defense of the language here. Frankly, debate over FPI should not even take place within the context of a defense bill. Debate over FPI has been actively engaged in educating Congress on this important issue. On September 25, 2001 we sent a letter to the Senate Leadership and Senate Judiciary Committee and, on November 13, 2001, a letter to all Defense Authorization Committees on our concerns. Chairman STUMP and others have previously provided extensive training for FPI customers to ensure that they have received calls, e-mails, faxes and personal visits from office furniture vendors and their dealers on this legislative language.

Our customers report being told, “FPI’s mandatory source has been eliminated”, “federal agencies no longer have to buy from FPI”, and that “customers can now buy directly from commercial vendors without considering FPI.”

Several customers have also forwarded us e-mails from the furniture coalition and or company members thereof, in which they indicate their intent to influence the conference to “strengthen” the Senate adopted language to include all agencies, not just the Department of Defense.

The result has been that many of our customers now feel, mistakenly, that changes are already in effect and that customers are going to hold their orders in the worst light possible. As you know, all the big furniture companies have previously provided extensive training to their commercial sales staff on how to write to federal customers, waive requests for FPI so as to specify those commercial company’s unique product features as “must have” items, thereby justifying a price premium for their products. If language regarding purchases from FPI is adopted into final legislation, there is no doubt that we will see a significant decline in future office furniture orders. Since DoD represents 65% of our future sales, a significant reduction in orders from DoD will have devastating consequences for us. Depending on how significant the decline is, it undoubtedly will affect our ability to support the capacity we currently have and will cause us to reduce our staff and inmate employment in several of our furniture factories. In turn, this will also affect our raw material purchases from the numerous vendors we rely on for our production.

We will continue to monitor the situation as it develops and keep you advised.

Mr. STUMP, Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered. The SPEAKER pro tempore. The question is on the conference report. The question was taken; and the SPEAKER pro tempore announced that the ayes had appeared to have it.

Mr. STUMP. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 40, not voting 11, as follows:

[Roll No. 496]

POSES—382

Abercrombie—Brady (TX)
Aderholt—Brown (GA)
Akin—Burton
Armey—Baca
Bachus—Gallego
Baier—Calvert
Bakos—Camp
Baldwin—Cannon
Ballenger—Capito
Barcera—Cantor
Barr—Capp
Barrett—Capuano
Bartlett—Cardoza
Bartow—Carson (IN)
Bass—Carson (OK)
Baucus—Chabot
Bereuter—Chambliss
Barrett—Chapman
Berman—Clay
Berry—Clemency
Burgess—Clyburn
Bilirakis—Cole
Boehner—Collins
Bosler—Combest
Bright—Conduit
Bouchard—Cooksey
Boucher—Cross
Bonilla—Cox
Bono—Coy
Boswell—Cramer
Boozman—Crane
Boucher—Creigh
Boucher—Culberson
Brady (PA)—Cummins

Yeas—382

Abraham—Cunningham
Babler—Davis (CA)
Aderholt—Davis (FL)
Bakos—DeGette
Baldwin—DeLay
Baldwin—Delahanty
Barrett—Dent
Bartow—DeMint
Barrett—Dicks
Bartow—Dingle
Bartow—Doggett
Barth—Doyle
Barth—Doolittle
Barsky—Dreier
Bartow—Duncan
Bartow—Edwards
Barton—Ehlers
Bartow—Ehlers
Bartow—Ehlers
Bartow—Ehlers
Bartow—Ehlers

Nay—40

Culberson—Fattah
Cash—Ferguson
Cox—Flake
Cox—Fletcher
Cox—Fletcher
Cox—Fletcher
Cox—Fletcher

Yielding—11

Culberson—Fraleigh
Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on S. 1438 just adopted.

SEC. 1212. EXTENSION OF AUTHORITY FOR INTERNATIONAL COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.

(a) ELIGIBILITY OF FOREIGN COUNTRIES.—Section 2505a of title 10, United States Code, is amended to read as follows:

(b) By striking “major allies of the United States” and NATO organizations and inserting “certain countries or organizations referred to in paragraph (1)”;

(c) By adding at the end the following new paragraph:

(2) The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

(A) The North Atlantic Treaty Organization.

(B) A NATO organization.

(C) A member nation of the North Atlantic Treaty Organization.

(D) A major non-NATO ally.

(E) Any other friendly foreign country.

SEC. 1213. AUTHORIZATION ACT FOR 2002.

(a) In section 1101, subsection (a)(2), the following correction is made:

(b) By striking “the countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1)” and inserting “certain countries and organizations referred to in subsection (a)(2)”;

(c) By striking “(1)” after “(a)” and inserting “(1)” after “(a)”;

(d) By striking “major allies of the United States or NATO organizations” and inserting “certain countries or organizations referred to in paragraph (1)”;

(e) By striking “countries and organizations referred to in paragraphs (1) and (2)” and inserting “certain countries and organizations referred to in subsection (a)(2)”;

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(A) The North Atlantic Treaty Organization.

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(e) By striking “countries and organizations referred to in paragraphs (1) and (2)” and inserting “certain countries and organizations referred to in subsection (a)(2)”;

(d) By adding at the end the following new paragraph:

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(B) A NATO organization.

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(B) A NATO organization.

(C) A member nation of the North Atlantic Treaty Organization.

(D) A major non-NATO ally.

(E) Any other friendly foreign country.
Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations

(a) AUTHORITY. —The Secretary of Defense, with the advice and consent of the Senate, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization for the testing or use of a test facility on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

(b) PAYMENT OF COSTS. —A memorandum or other agreement under subsection (a) may provide for the testing or use of a test facility by the party providing the test facility in accordance with the following principles:

(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the provider party’s officers, employees, or governmental agencies.

(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

(c) DETERMINATION OF INDIRECT COSTS. —DELEGATION OF AUTHORITY. —(1) The Secretary of Defense shall determine the appropriate assignment of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

(d) REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA. —(1) The report to be submitted under this section not later than March 1, 2002, shall include a separate section describing any significant sale or transfer of military hardware, expertise, or technology to the People’s Republic of China.

(2) The report shall include analysis and forecasts of the following matters related to military cooperation between selling states and the People’s Republic of China:

(A) The extent in each selling state of government knowledge, collaboration, or condoning of sales or transfers of military hardware, expertise, or technology to the People’s Republic of China.

(B) An itemized description of significant sales and transfers of military hardware, expertise, or technology from each selling state to the People’s Republic of China that have taken place since 1995, with a particular focus on command, control, communications, and intelligence systems.

(C) Significant sales or transfers by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of unconventional weapons, and programs for development of unconventional weapons.

(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2), a major assessment of the military effects of such sales or transfers to entities in the People’s Republic of China:

(A) An assessment of the ability of the People’s Liberation Army to acquire such sales or transfers, mass produce new equipment, or develop doctrine for use; and

(B) A statement of the extent of military sales or transfers, mass produce new equipment, or develop doctrine for use; and
(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.

SEC. 1222. REPEAL OF REQUIREMENT FOR REPORTING TO CONGRESS ON MILITARY DEPLOYMENTS TO HAITI.

Section 1232(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 788; 50 U.S.C. 1541 note) is repealed.

SEC. 1223. REPORT BY COMPTROLLER GENERAL ON PROVISION OF DEFENSE ARTICLES, SERVICES, AND MILITARY EDUCATION AND TRAINING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

(a) STUDY.—The Comptroller General shall conduct a study of the following:

(1) The benefits derived by each foreign country or international organization from the receipt of defense articles, defense services, or military education and training provided pursuant to subsection (a), as a result of the provision of such articles, services, or education and training from the stocks of the Department of Defense under section 506, 516, or 532 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321, or 2348a) or any other provision of law.

(2) Any benefits derived by the United States from the provision of defense articles, defense services, and military education and training described in paragraph (1).

(3) The effect on the readiness of the Armed Forces of the United States of defense articles, defense services, and military education and training described in paragraph (1).

(4) The cost to the Department of Defense with respect to the provision of defense articles, defense services, and military education and training described in paragraph (1).

(b) REPORT.—The Comptroller General shall submit to Congress an interim report containing the results to that date of the study conducted under subsection (a).

(2) Not later than August 1, 2002, the Comptroller General shall submit to Congress a final report containing the results of the study conducted under subsection (a).

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 314 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 314

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the balance of my time, and I move the previous question on the resolution.

The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes had it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.
stand before my colleagues today to present a rule on a bipartisan piece of legislation that will transform the Federal role in education to ensure that indeed no child is left behind.

The education of our children is the top priority for our President and a major concern of most Americans. H.R. 1 represents the most sweeping, comprehensive education legislation to be brought before the House during our tenure.

I would like to take a moment to congratulate the gentleman from Ohio (Mr. BOEHNER), my colleague and very good friend, for his hard work and commitment to improving the educational system for our children. I would also like to commend the ranking member of the committee, the gentleman from California (Mr. GEORGE MILLER), for all his work and support for this bipartisan legislation.

Despite widespread economic growth and Federal spending of more than $130 billion since 1965, the achievement gap dividing our Nation's disadvantaged students and their peers has continued to widen.

Mr. Speaker, the message is loud and clear. Money alone is not the answer. It is time for accountability. It is time for reform. It is time for a renewed commitment to our children.

In addition, this conference report embodies President Bush's education vision and stays true to his four principles of education reform, accountability, flexibility and local control. It expands options for parents and funds what really works.

It all starts with determining which students are in need of additional help and which schools and school districts are in need of improvement. H.R. 1 accomplishes this task by implementing annual assessments in the core subjects of reading and math for students in grades three through eight. However, the bill also recognizes that communities know more about their children's needs than Washington bureaucrats.

H.R. 1 requires local control, by allowing States to design and implement these tests, and provides Federal funds to aid them in this task. It also explicitly prohibits federally-sponsored national testing or curricula.

Armed with knowledge, we will be able to determine which schools are falling to educate our children. This information will be readily available to parents in the form of annual school performance reports. Based on these facts, H.R. 1 provides a system of accountability to ensure that students do not become trapped in chronically failing schools.

H.R. 1 provides real options for parents and educators in chronically failing schools. Parents would be allowed to transfer students in failing schools to better performing public or charter schools. Supplemental services would be provided from Title I funds for tutoring, after-school services, and summer school programs.

Finally, charter schools would be expanded to provide opportunities for parents, educators and community leaders to create schools outside the bureaucratic red tape of the educational establishment.

In exchange for these new accountability measures, the plan will dramatically and significantly enhance flexibility for local school districts, granting them the freedom to transfer up to 50 percent of the Federal education dollars they receive among an assortment of ESEA programs and target the true needs of their individual students.

Mr. Speaker, since the creation of the Elementary and Secondary Education Act in 1965, numerous programs and restrictions have been piled on the Act, creating a bureaucratic maze of duplicative policies, all well-intentioned, but amazingly inefficient. H.R. 1 will give some needed organization to this patchwork of programs by consolidating the programs under ESEA and targeting resources to existing programs that serve poor students.

We know that over 60 percent of children living in poverty are reading below the very basic level. We cannot expect these children to succeed. Children denied access to academic underachievement. We cannot allow children to be denied access to the world that can be opened to them only through books. The President's Reading and Early Reading First programs will introduce a scientifically-based comprehensive approach to reading instruction that will serve to refocus education policy on this fundamental skill.

The President's education plan, No Child Left Behind, also emphasizes two other fundamental areas of education, through the establishment of math and science partnerships. The United States cannot remain a world leader in technology and scientific discovery without fundamental math and science education.

I am pleased that H.R. 1 includes an initiative which will encourage States to partner with institutions of higher learning, nonprofit math and science entities to bring enhanced math and science educational opportunities to our children.

Mr. Speaker, H.R. 1 is filled with calculated reforms that will restructure Federal education policy. It includes provisions to increase safety in our schools, promote English fluency and improve teacher quality, and provides the most important change in Federal educational policy in almost 40 years.

Every Member of this House has a vested interest in the education of our children. We cannot afford to sit idly by or be timid in fulfilling our responsibility to ensure that every child has access to quality education. We have every chance to reach their full potential and exceed their goals and their parents' dreams for their future.

I urge my colleagues to keep the children at the forefront of our focus. Support this rule, adopt this conference report and send this historic legislation to the President of the United States so that no child is left behind.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRICE) for yielding me the customary 30 minutes.

Mr. Speaker, this is a measure that many of us have been worried might not ever see the light of day. As the measure moved through the House, the thoughtful and carefully crafted compromise almost collapsed as extreme measures such as vouchers and block grants became attached.

I am pleased to report cooler heads have prevailed in conference. What has emerged are the most critical pieces of one of the most important pieces of domestic policy to emerge from the Congress this year.

This education bill has the potential to truly make a difference in the lives of our children. Congress, for the first time, has tackled the inexcusable achievement gap between rich and poor students and minority and non-minority students that has plagued our educational system for decades.

For the first time, in history we set as Federal law that teachers must be qualified in their subject area within four years. That is a very important step. Moreover, this measure provides funding enough to match our rhetoric. Over $27 billion has been authorized in fiscal year 2002 for Federal elementary and secondary education programs. This is $3.5 billion more than the amount authorized in the Appropriations Bill that passed the House and is well needed.

For the first time, Congress is giving teachers the resources for training, support and mentoring that they need to reach the goals. Many of us were concerned that the administration might request any significant increase in funding to back up the broad outline of the President's reform. It is now my understanding that labor HHS appropriations bill which will be considered shortly will provide nearly $4 billion more in funding for all elementary and secondary education programs funded by the Federal Government, nearly a 20 percent increase in appropriations.

This is a historic bill because it targets Federal dollars better than ever before to those students who need it most. Moreover, this bill finally fulfills the promise made in 1965 with the passage of the Elementary and Secondary Education Act. The promise to ensure that all children have an opportunity to learn regardless of income, background or ethnic identity.

Mr. Speaker, it is really a shame that it has taken us from 1965 to call for a quality and equity in education.

I urge these Members of this House to keep our commitment with a set of unambiguous expectations, time lines and resources and accountability will be a
Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).
make sure that all children, rich or poor, will have the opportunity for a first-class education.

The third reason I am supporting this legislation is because of red tape relief. This bill gives our local school boards the freedom to do their job without a lot of unnecessary red tape from Washington.

For example, under this legislation, local school districts will have the flexibility to spend up to 50 percent of the Federal dollars they receive on locally determined priorities, from class size reduction, to higher teacher salaries, to more computers in the classroom. And 95 percent of the funds will go directly to the classroom.

In short, this education reform legislation achieves the three R's of reading improvement, resources, and red tape relief. For these reasons, I urge my colleagues to vote "yes" on H.R. 1.

Mr. Speaker, I yield to the Wisconsin gentleman from Wisconsin (Mr. KIND).

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Speaker: I thank the gentlemand for yielding me the floor.

As a member of the Committee on Education and the Workforce, I rise in support of the rule and also in support of the reauthorization act before us today. President Lyndon Baines John son issued the first Elementary and Secondary Education Act through Congress back in 1965, and he was fond of saying that nothing matters more to the future of our country than education. I believe that, and I believe the American people believe that. That is why there is such overwhelming support throughout the country for us to do more to improve the education for all our children.

Is this a perfect bill? No. But it is a bill that is the product of a good process. As chairman of our committee, the gentleman from Ohio (Mr. BOEHNER); the ranking member, the gentleman from California (Mr. GEORGE MILLER); my colleagues on the Committee on Education and the Workforce; and those who served on the conference committee for help making the process work in away in which it is intended.

This was a product of much compromise and much negotiation. The administration and the President himself injected himself in the process when we needed some logjams to be broken. I commend Sandy Kress in the role he played; Secretary Paige and the role he played; because overall this is a very good bill that advances the cause of education. It has a lot of good features in it: more funding and better targeted assistance to the most disadvantaged students in our country, the consolidation of Federal programs, and greater flexibility to school districts to better target money in the ways that see fit to work in their own local area.

There is a heavy emphasis on professional development and the recognition that we need quality teachers in the classroom. And in an area I did particular work on, an emphasis on professional development of the leadership of our school districts, principals and superintendents.

But I also think there are some questions marks remaining in regards to the overall bill, and one is the testing element and the accountability; whether we are providing enough resources to allow the school districts to develop and implement these tests for diagnostic purposes, whether we are providing enough resources for remediation of those students who are falling behind.

Another glaring absence is the failure of this Congress to recognize our obligation to fully fund special education. We are supposed to fund it at 40 percent. We are only funding it at 15 percent. And that is the number one most pressing financial issue affecting school districts throughout our country. It is an issue we need to address next year with a reauthorization of IDEA, while also addressing the funding issue for special education.

At the beginning of this year, Congress set out to improve the quality of education in America’s public schools through the reauthorization of the 35-year-old Elementary and Secondary Education Act (ESEA). As a member of the Education and Workforce Committee, I am pleased that I had the opportunity to work on reauthorization of ESEA and I would like to praise my colleagues for the bipartisan effort that was put forth to enact true education re-form; it is a victory for America’s students.

PROFESSIONAL DEVELOPMENT

This bill will continue the federal government’s commitment to assist schools in teaching low-income and low-achieving students by offering more flexibility to schools using federal funds while requiring them to show that their student’s learning is improved by the investment. It also encompasses many reforms, one issue in which I was actively involved during committee consideration of ESEA was improving professional development for our teachers, principals, and administrators. They are key to our children’s success in school and we need to acknowledge their hard work and dedication.

That is why I offered two amendments to ESEA that focused on professional development. The first amendment establishes teacher and principal corps, which are designed to recruit, prepare, and support college graduates who have an obligation to ensure that a fundamental and fair educational opportunity exists for all our students, regardless of physical or developmental ability. The lack of adequate funding for special education misses the opportunity to truly leave no child behind.

Furthermore, I fear that this lack of funding for IDEA will ultimately result in inadequate resources for states to being implementing the mandatory annual tests. This bill imposes significant new demands on schools to annually test 3rd-8th grade students in reading and math. Although this legislation enhances that the Federal Government will pay its required share of the costs for the new tests if the government fails to pay its share, then the state
December 13, 2001

A little over 2 months ago, the House approved the education spending package for this fiscal year that provided $3.5 billion over the budget request for the programs included in the President’s elementary and secondary education initiatives authorized in H.R. 1 and H.R. 18. Total funding for elementary and secondary education funds was $29.9 billion, $4.9 billion over last year’s levels.

But just throwing money at problems we face in the education of America’s children is not the solution. President Bush has made it clear we must tie funding and resources to reform. The President outlined four pillars of education reform, and the conference report we are considering today has all of them: flexibility and local control; accountability; expanded choices for parents and a reemphasis on the role of the parent in education; and, finally, the idea that we need to fund programs that work, including the President’s newly created Reading First and Early Reading First initiative, which is a scientifically based approach to overcoming illiteracy in America.

The President has stated, since taking office, that the Federal role in education reform is to serve the children. I am glad we have someone in the White House who is willing to hammer home this truth, and I am proud to support this rule and urge my colleagues to vote both for the rule and the passage of the conference report.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER). Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman’s courtesy.

For the second day in a row, Mr. Speaker, we are seeing the House move forward with important items for America’s future. Yesterday, it was the economic initiatives, today it is education. Education is our priority. We are moving in the right direction, not necessarily allowing the perfect to be the enemy of the good. There is something in this legislation for everyone to support.

I personally am deeply appreciative for the work of the committee dealing with areas of special education and school modernization. But I would, Mr. Speaker, just like to say a word about leadership. I have been somewhat critical of some things that our President has done and said in this area. This showed what our President can do when he focuses and works with the congressional leadership, and I think the product has been worth his efforts and I commend him.

I think it is important also to acknowledge the chairmanship of the gentleman from Ohio (Mr. BOEHNER), who much has been said about already, much more will be said on the floor, and I think it is all deserved.

But I would, if I may, Mr. Speaker, say a word about the gentleman from California (Mr. GEORGE MILLER), our friend from California. He is a man of great passion about a whole range of issues, but he has dedicated years of his life to advancing the interests of America’s children. Nobody in this Chamber has worked longer or harder than the gentleman from California, no just publicly in this arena but doing private things. I know that for months he would teach children in an alternative high school before getting on a plane and flying back here to Washington, D.C. Fighting on behalf of America’s children there is something that has been worth doing. This legislation would not have happened without him.

I hope the hard work of the gentleman from California, Chairman BOEHNER, and the President will set the tone for the progress of this Congress in the last year of this session. I think America needs it.

Ms. PRYCE of Ohio. Mr. Speaker, may I inquire as to how much time remains?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentlewoman from Ohio (Ms. PRYCE) has 15 minutes remaining, and the gentlewoman from New York (Ms. SLAUGHTER) has 19 minutes remaining.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Michigan (Mr. SMITH). Mr. SMITH of Michigan. Mr. Speaker, I thank the gentlewoman for this opportunity, and I commend the entire conference committee and staff for their hard work in getting this report, and certainly thank the Committee on Rules for a fair rule.

One aspect of the bill that is especially important to me are the provisions for math and science education. In the Subcommittee on Research that I chair, we held several hearings on how to improve math and science education, where we have not been doing very well, especially considering the challenges ahead of us and the high-tech world that young people will be entering into.

Today’s information-driven economy and high-tech industry require workers, not just the specialists, but the workers to have more math and science and technology skills than ever before. Understanding basic math and science is essential for individual prosperity and our Nation’s continued economic growth. That is why we can never-class universities to play a greater role in improving the K-12 education, especially in math and science. And through research, through partnerships with local schools to develop better science, technology, and education curricula, and fellowships for elementary and secondary teachers, we can improve our math and science education in this country.

I hope this legislation helps to ensure that every child develops the knowledge and skills needed to succeed in the 21st century. I support the rule, and I encourage my colleagues to vote “yes.”
Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Ms. JACKSON-LEE). (Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas, Mr. Speaker, so many of us in this body are products of the public school system. So many of us got our start because teachers gave us an opportunity. I represent many districts in my congressional district, school districts, which do not have the necessary resources. They do not have the necessary pens, paper and computers to teach the students as they should.

I rise to support this rule and this bill and to support this concept. I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for working together. I thank the committee for working together, the conference for working together. I thank the gentleman from Michigan (Mr. KILDEE), and members of the Committee on Education and the Workforce.

I know that Secretary Paige coming from Houston had a hand in a lot of this because we have made some strides in Houston, Texas, and I thank him for putting his handprint, along with all the aggressive leadership of President Bush.

There are some good points in this legislation we should note. The commitment to close over a 12-year period the gap between poor and disadvantaged children and those in more influential and wealthier schools. It is also very important that we emphasize the importance of making sure that in testing the children, it is diagnostic testing and that we provide in the diagnostic testing the resources I hope to have more resources, but the one point that is very good is that parents, when they find out that the children are not making the grade, will be able to secure resources from the school districts to provide tutoring for the children. They will be able to secure the type of tutoring that is most helpful to their child. In addition, we have restored funding for school construction and after-school programs, teacher development, principal development and administrative development will be funded.

I believe the important challenge that we have in the future is to continue education and work with the special needs children. It is a difficult hurdle for the special needs children. We have done great things today, and I hope that we pass this legislation so we can support the education of the Nation's children.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE), a member of the Committee on Education and the Workforce.

Mr. OSBORNE. Mr. Speaker, I, too, thank the gentleman from Ohio (Mr. BOEHNER) for his leadership, not only in the committee, but in the conference. It has been a long, arduous task. I also thank the ranking member, the gentleman from California (Mr. GEORGE MILLER), who I think has shown exceptional leadership throughout the process, and to the staff of the Committee on Education and the Workforce which I understand basically has worked for 3 months.

Mr. Speaker, I am relatively new here and I have been told how contentious the Committee on Education and the Workforce is, but I saw little of that. I was impressed with the spirit of cooperation and the fact that this is truly a bipartisan effort. It is hard to be done. When we think about the fact that 40 percent of our 4th graders are functionally illiterate, we rank something like 19 out 21 countries on international math scores. I think there are 3 or 4 things that I would like to mention that are particularly noteworthy about this particular bill.

First of all, the issue of accountability. It has been my experience, unless there is accountability, there is no possibility of success. In this bill we hold the teachers, the students and the schools to a relatively high standard of accountability. I think this will pay off.

Secondly, I think the flexibility, the ability to use Federal funds at the local level in ways that the local school boards feel is important will help education and help our local agencies.

Thirdly, small schools really have suffered in terms of competing for grants. They do not have grant writers. This allows schools with 600 students to receive at least $20,000 and to pool their funds.

On the issue of mentoring, we find that many young people today are in dysfunctional situations. For children in dysfunctional situations, it is difficult to come to school with any ability. We find that pairing a student with a caring adult who is an adequate role model certainly helps.

Mr. Speaker, I urge passage of H.R. 1, and want to commend those who have been involved in authoring it.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BACA).

(Mr. BACA asked and was given permission to revise and extend his remarks.)

Mr. BACA. Mr. Speaker, I stand in support of this rule. I commend the committee on a bipartisan effort. We have real progress together and compromised. Education is our top priority, and should always be our top priority. We want to make sure that every child has an opportunity to learn and be all that he or she can be.

We believe that H.R. 1 returns those original goals to targeting the funding for students who need it most, closing the achievement gap between the rich and poor, minority and non-minority. If we state that no child is left behind, we have to address this issue. H.R. 1 begins to address that issue, and I commend President Bush in making the statement that no child be left behind. This begins to address that.

It is important that each and every one of our students receive the appropriate education, the training, and that we do have accountability. This provides opportunity for parental involvement in our schools which is very important. It is important that our students receive motivation, self-esteem, that they are able to go on. It is important that they be accountable. It provides opportunity for parental involvement in our schools which is very important. It is important that our students receive motivation, self-esteem, that they are able to go on. It is important that they be accountable.

This is a step in the right direction. We still have a lot of work ahead of us as we look at class size reduction, school modernization and special ed. We want to work to make sure that every child is prepared to go into the 21st century and to make sure that the all that they want to be, that they can obtain jobs and employment, but have the same advantages as others.

This also addresses a critical issue, the Hispanic dropout rate. When we look at the dropout rate, we have a 30 percent high school dropout rate. It addresses issues which are important to our students. And, hopefully we can reduce those numbers and provide opportunities and ensure that these students finish high school and go on. With that I say, let us support this bill. It is moving in the right direction.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, while the conference report that we are considering today includes some important and exciting education reforms, I will not be able to support this bill. However, I do encourage my colleagues to vote for the rule and vote the bill forward. This bill is an important component that the President has outlined for education reform. However, it is only part of the President's vision.

The mandates and the testing requirements in this bill are not balanced with the remainder of the President's bill, the parts that empower parents and free schools from the Federal bureaucracy. New mandates should not be the first step in education reform. I am encouraged that this bill has shown some progress since the original bill that left the House. High stakes testing, testing with rewards and sanctions tied to test performance, that has been removed. There are provisions that will hold schools accountable for student performance, and give children in failing schools opportunities for a better education.

Also, States will only have to implement new testing requirements if the Federal Government steps up and fully funds this new mandate.

As I said, I am also most encouraged that this bill is only a part of the
President's vision. I look forward to working with the President and the administration in implementing the remainder of the vision that he outlined to the American people. These important steps, including empowering parents, giving States and schools more flexibility and fully funding our commitment to special education, with these opportunities, the accountability that is outlined in H.R. 1 becomes a reality because information is only useful if parents and schools can act on the information that they receive. As the President's No Child Left Behind plan originally stated, systems are often resistant to change, no matter how good the intentions of those who lead them. Information and parental empowerment can be the stimulus a bureaucracy needs in order to change. Once these additional steps that the President has outlined are taken, I believe we will have completed the goal of education reform that will give all students the chance they need and deserve. We will have completed the remainder of the plan and vision of the President that was left behind. Through accountability, through parental empowerment and through flexibility at the State and local level, we will have a plan that will have no child behind.

Mr. Speaker, I encourage my colleagues to vote for the rule. Let us move this process forward and let us move on to the other parts of the President's agenda.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS), a valued member of the Committee on Education and the Workforce.

(Mr. OWENS and was given permission to revise and extend his remarks.)

Mr. Speaker, I join my colleagues in praising this bill, and I would like to point out a few things. The conference report includes $250 million for school libraries which shows that we mean business about reading. Mr. Speaker, this is a good new beginning in that it provides a great step forward in this area, and this bill follows in those footsteps. We need more funding and resources for education.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. UDALL). (Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. I thank the gentlewoman for yielding me this time. Mr. Speaker, this is a good new beginning, and I think it provided a great step forward in this area, and this bill follows in those footsteps. We need more funding and resources for education.

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Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in strong support for this education bill. I want to take this opportunity to thank Chairman BOREN, Ranking Member MILLER, and the rest of the conference committee members for their hard work on behalf of all of our children.

I am really proud of this bill. This bill not only puts $26.5 billion into education, but it provides accountability measures for these Federal dollars. In addition, it gives flexibility to schools on how they spend their Federal dollars. Today's bill includes my amendment that gives our school Federal funds to pay for their own school nurse. New York has not only 190,000 eligible students to use Federal dollars to pay for school nurses. No longer will school districts have to share a nurse.

This bill also provides essential teacher mentoring programs. Through my amendment, we are providing new teachers with one-on-one mentoring by veteran teachers. Now our new teachers will find the support they need to stay in the profession. With the dropout especially in teaching after 5 years, we have to do more to retain our teachers. As a member of the committee, I am thrilled to mention that today's bill invests an additional $154 million in after-school programs, for a total of $1 billion. After-school programs are the cornerstones to keeping our children safe and giving them extra time to learn.

Finally, this bill, through my academic intervention amendment, schools can develop programs to help troubled students stay focused, and achieve their goals. I certainly urge all of my colleagues to support this education bill. I am looking forward to next year when we will be tackling the problems that we are having with IDEA. Certainly I know with our commitment we will be sacrificing to increase the funding to help those children with disability.

I thank the staff. I know how long and hard it has been for all of them. It has been a long battle, because both sides had disagreements. But it kind of shows when we work together, we can get this done. I thank everyone who was involved.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey (Mrs. ROUKEMA), a member of the Committee on Education and the Workforce.
Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of this conference report. I commend Chairman BOEHNER and Ranking Member MILLER for their leadership and their diligence in bringing this bipartisan bill to us. It is certainly an example of excellence and saucy compromise. Although it has not been an easy process, it shows that we have all agreed that children are the future of our great democracy and the foundation of our global economic leadership. I truly believe that this bill will prove to be landmark legislation. Also, I should commend President Bush for his leadership on this.

But in any case, I do want to point out a couple of particular areas where it is especially advanced in giving leadership. One is the accountability demands here. We are not saying again that we just give money to State and local school systems, unless they demonstrate clearly accountability standards are being met in terms of math, English reading abilities, and the science abilities. These tests are specifically evaluated not only by State standards but also verify the State standards by sampling through the national assessment test. That is good, that is right, and it really demands that students and staff and school boards are being held accountable for national standards.

I do want to make a point about the mental health provisions here. I was a leader, and I was more than a little disappointed that we did not receive a separate authorization in one area in the final conference report, but we do have in the final bill, nevertheless, important school-based mental health provisions in the safe and drug-free school programs, and certainly that is an advancement certainly with the kinds of violence that we have seen in our schools today. It is not as much as I wanted, but it is an excellent giant step forward.

I do want to also point out, and this is something that was rather controversial in the bill and in the final, but it has to do with the IDEA, special education. Here I want to make the commitment. This was inappropriate to put in this particular bill, but the commitment for next year, and I plan to take leadership on this, is that our education committee deals with IDEA reauthorization and deals with those contracts that have to do about discipline and specialization and integration, et cetera. So we are going to reform IDEA based on legitimacy of the questions that are involved and bring all the proper authorities in to discuss this. That is something that has been postponed until next year. It was appropriate to do. I just ask our colleagues to strongly support this landmark legislation. Leave no child behind.

I rise in strong support of the conference report. First and foremost, I would like to commend the Education and Workforce Committee Chairman BOEHNER and Ranking Member GEORGE MILLER for their leadership, hard work, and diligence to complete our work on education reform.

This bill is truly an example of bipartisanship and compromise. But make no mistake—this has not been an easy process. There were many hurdles along the way and many times setbacks have been reached. But no one on either side ever lost sight of the goal: to ensure that every child, in every public school in America receive a quality education. This process has not been about politics. This process has been about the children who are the future of our global democracy and the foundation of our global economic leadership.

BUS PLAN

On his second day in office, President Bush made it his first priority to ensure that every child in America learns. I am pleased that this conference report reflects President Bush's vision for education reform—to have the best education system possible to ensure that no child is left behind. The H.R. 1 conference report ensures accountability through testing and provides flexibility and local control.

H.R. 1 provides unprecedented flexibility and accountability for students given the flexibility to shape federal education programs in ways that work best for our teachers and students. Cutting federal education regulations and providing more flexibility to states and local school districts is vitally important. Flexibility in the bill gives the states the ability to target federal resources where they are needed the most. This will ensure that state and local officials can meet the unique needs of their students.

H.R. 1 dramatically enhances flexibility for local schools. H.R. 1 allows school districts to transfer a portion of their funds among an assortment of ESEA programs as long as they demonstrate results. Every local school district in America will immediately receive the freedom to transfer up to 50 percent of the federal dollars they receive among an assortment of programs. In addition, the bill provides for the establishment of up to 150 local flexibility demonstration projects across the nation.

Local school districts choosing to participate would receive a virtual waiver from federal education rules in exchange for signing an "accountability contract" with the Education Secretary, in which the school district would agree to improve student achievement. The conference report provides more state flexibility than the House passed bill. All 50 states would immediately receive the freedom to transfer up to 50 percent of the non-TTIE I state activity funds they receive from the federal government among an assortment of ESEA programs. In addition seven states would be allowed flexibility in the use of 100 percent of non-TTIE I federal funds in a variety of categories.

H.R. 1 ENHANCES ACCOUNTABILITY AND DEMANDS RESULTS

As we provide more flexibility, we must also ensure that federal education programs produce real, accountable results. Too many federal education programs have failed. For example, even though the federal government has spent more than $120 billion on the Elementary and Secondary Act (ESEA) since its inception in 1965, it is not clear that ESEA has led to higher achievement. Federal education programs must contain mechanisms that make it possible for the American people to evaluate whether they work. This bill provides accountability and demands results through high standards and assessments. And it provides appropriate responses to address failure.

Specifically, the H.R. 1 Conference Report requires states using federal education dollars to demonstrate results through annual reading and math assessments for students in grades 3 through 8. $400 million is authorized to help states design and administer these tests. To demonstrate not just that overall student achievement is improving, but also that achievement gaps are closing between disadvantaged students and other groups of students. States would be required to disaggregate test results by race, gender, and other criteria. Further, in order to provide parents with information about the quality of their children's schools, the qualifications of the teachers teaching their children, and their children's progress in key subjects, the bill requires annual report cards on school performance and statewide results.

As a means of verifying the results of state-wide assessments, the conference report requires a small sample of students in each state to participate in the fourth and eighth grade National Assessment of Educational Progress (NAEP) in reading and math every other year. The bill includes a number of improvements to the NAEP to ensure that the test remains an independent, high-quality, accurately-tested test.

This bill does not just require assessments. It also ensures results by focusing funding on what works.

Reading: The bill is grounded in the principle that every child should be reading by the third grade. The Reading First initiative will work to accomplish this goal by using federal dollars to improve literacy and by promoting research based reading instruction in the classroom. In addition, allocating funds to ensure that children begin school with the pre-reading skills they need to be able to read by third grade.

Technology: To help school improve states will be required to have a highly-qualified teacher in every classroom by 2005. We make it easier for local schools to recruit and retain excellent teachers: current programs are consolidated into a new Teacher Quality Program that would allow greater flexibility for local school districts in achieving a certified teaching force. Teacher Opportunity Payments provide funds for teachers to choose professional development activities.

Technology: H.R. 1 streamlines duplicative technology programs into a performance based technology grant program that sends more money to schools. In doing so, it facilitates comprehensive and integrated education technology strategies that target the specific needs of individual schools. It also ensures that schools will not have to submit multiple grant applications and incur the associated administrative burdens to obtain education technology funding. States and local school districts may use this funding to increase access to technology, improve or expand teacher professional development in technology, or promote innovative state and local technology initiatives that increase access, achievement.

MENTAL HEALTH PROVISIONS

I am pleased that the final conference report retains important mental health provisions from the House bill. Currently, schools are not adequately equipped to address the mental...
health needs of students. Even before September 11, our nation was experiencing an urgent need for school-based mental health services.

The serious shortage of counseling programs in America’s schools has further undermined many students’ safety. In addressing school safety, it is critical that we ensure that children with mental health problems are identified early and provided with services they so desperately need. Many youth who may be headed toward school violence or other tragedies can be helped if we address their early symptoms.

I should say that I am disappointed that the Elementary and Secondary Counseling Program did not receive a separate authorization in the final Conference report, as was done in the House bill. The School Counseling Program has a track record of preventing school violence. This is a vital program that helps students develop the tools they need to interact with their peers, make healthy decisions, and succeed in school. Currently, this is only a federal program designed to increase students’ access to qualified school-based mental health professionals.

The School Counseling Program directs much-needed federal resources for school-based mental health programs. At the current funding level, 392 schools in 29 states receive benefits from counseling programs under this provision. It is obvious that many more schools are in need of these funds to provide counseling services to their students. I will work diligently to ensure that funding for this program will grow to meet the mental health needs of our nation’s children.

The final bill does retain the important school-based mental health provisions in the Safe and Drug Free Schools Program that I worked to include in the House bill. These provisions provide resources to ensure that mental health screening and services are made available to young people.

At the local level, school districts are allowed to use their Safe and Drug-Free Schools funds for the expansion and improvement of mental health services. In addition, governors are required to give special consideration in awarding competitive Safe and Drug-Free Schools grants to those school districts that incorporate school based mental health services programs in their drug and violence prevention activities.

IDEA MANDATORY FUNDING

One of the major hurdles in this Conference was the issue of full funding of the Individuals with Disabilities Act (IDEA). Everyone agrees that the federal government is failing to pay its fair share of the costs of special education and all sides agree on the need for more money for students with disabilities. The problem is that this bill is not the appropriate vehicle to address the IDEA funding problem because funding and reform must be linked.

I want to alert and focus the attention of my colleagues on the fact that IDEA reauthorization is the next major education priority for the Education Committee. We must focus on reforms that would ease the special education burden on states and local schools while making the system work properly for students with disabilities. The Department of Education and the President’s Commission on Excellence in Special Education is preparing to assist Congress in a comprehensive, evidence-based review of IDEA’s programs.

VOTE FOR THE CONFERENCE REPORT

I am confident that this bill will prove to be landmark legislation—it is not perfect, but provides a firm foundation for reforming our nation’s education system. I recognize that we cannot allow the perfect to be the enemy of the good. Does it reflect the President’s priorities? Absolutely. Will it improve education in America today? I have no doubt about that. The bill we are voting on today takes a meaningful step towards leaving no child behind. I urge all of my colleagues to support it.

Mr. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

(Mr. DAVIS of Florida asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Florida. Mr. Speaker, I rise in support of the rule and the conference report and want to highlight two points in particular from the conference report.

The first is that this bill authorizes for the first time a proposal that the gentleman from Indiana (Mr. ROEMER), the gentleman from Delaware (Mr. CASTLE), and myself introduced a couple of years ago called the Transition to Work scholarship program. It provides a financial incentive for people to consider making a midlife career change into teaching, subject to the same rigorous standards that anybody has to meet to be certified as a teacher in a State. This bill will authorize $150 million for this program. Universities, colleges of education, school districts can team up with the private sector to provide this way to deal with our growing crisis in this country as we face the need for over 180,000 new school teachers in my State alone, Florida, and 2.2 million nationally.

The second thing I want to highlight about this bill has to do with the standardized testing section. I want to thank the gentleman from California (Mr. GEORGE MILLER), the gentleman from Indiana (Mr. ROEMER), and Senator KENNEDY for working hard to include in the reporting language the requirement that testing provide diagnostic value. By that, I mean that when a child is subjected to a standardized test, as that child’s parent, if my son is not doing well in fourth grade math, I want to know what the problem is; and most importantly, I want to know how to fix it. The reporting language in the House bill says that a State should take that testing information, should share it with teachers, share it with principals, share it with parents, share it with students so they understand what the problem is and how to fix it, because that is the purpose of testing.

Please do not let happen to your State what has happened to my wonderful State, Florida. The politicians have hijacked standardized testing in Florida. It is a crime in my State to contemplate the content of the test or the test results with a parent, a teacher or principal. That is a crime in and of itself. Testing should be used to help teachers teach, children learn, and parents take responsibility for their children’s education. Let us do standardized testing the right way. It should have diagnostic value. That should be the principal purpose of testing. This bill provides a model for those States that are going to develop standardized testing and hopefully a first step towards getting States like mine back on the right track.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Maryland (Mr. GILCHREST).

(Mr. GILCHREST asked and was given permission to revise and extend his remarks.)

Mr. GILCHREST. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to reemphasize some of the comments. I also support the rule. I will vote for the rule. I will not vote for the conference report. There are many good things in this legislation. The President has helped the House and the Senate develop a lot of positive things that the Federal Government can do to become involved in the process of stimulating curiosity, intellectual curiosity and knowledge. But the critical area that falls in this legislation in my opinion is based on the conversation that the gentleman from Florida just mentioned, and that is, that the Federal Government is requiring, through a pretty heavy hand, that the State governments create a testing tool, whether it is diagnostic or not, that will have a fairly riveting effect, in my judgment, of sterilizing and taking away the uniqueness of each individual teacher’s expertise. When you do that, you do not create an academic environment that the teachers thrive on or the parents or the student.

Unfortunately, I rise to support the rule but oppose the conference report.

I rise in opposition to the Conference Report on HR 1. While I am thankful for the President’s commitment to improving America’s schools, particularly those failing our most vulnerable children, I feel strongly that this legislation will take us in the wrong direction, and, in the end, alienate parents from their local schools, rob teachers of their passions and gifts, and deprive children of not only the opportunity to learn through curiosity, investigation, but also the realization that a lifetime of education can be exciting and invigorating.

Although this debate over how best to address the problems of our public schools has focused our attention on an issue we all cherish—but too often neglected—and forced us to search for common ground—something we too often forget—I am more convinced now than ever that, through this legislation, we will be setting our backs against successful public education: local control of curriculum, parental and community involvement in school decisions, and the utilization of individual teachers’ unique excitement and expertise. For this reason, I will not vote for the Conference Report.

Throughout much of the 20th Century, Congress often followed a single formula when addressing domestic problems: take away the
authority of local governments and rely on federal control. In many instances this formula failed to solve—and often made worse—many of our most serious problems. And yet, despite these lessons, we continue to propose this same failed formula to public education.

The testing provisions in the Conference Report are most indicative of this continued mindset and are the elements that trouble me the most. Because many here in Washington have made testing the key to school reform and accountability, this legislation will force states to create monolithic tests and subject curriculums, which the states will force upon local schools. Once again, we revert to believing all wisdom flows from Washington and state capitals.

The unavoidable consequence of this legislation will be less freedom for school boards, principals, teachers, and parents to decide what is best for their schools. Tests, ordered by federal bureaucrats and crafted by state bureaucrats, will dim light guiding our schools. Tests will determine what gets taught, what gets left out, which schools get more funding, and which teachers get raises. All the while, parents and teachers, those most committed to the well being of our children, will be left with nothing except interpreting test results published in the newspapers.

At times, however, this Conference Report seems to realize, though vaguely, that our schools should not be simply creatures of the Federal Government. It provides for increased funding going directly to localities and greater flexibility in the use of these funds. But if we trust the towns, counties, and neighborhoods of this country to make the right decisions with all of these federal dollars, why do we fail to trust them when it comes to what should be taught on the front line, day-to-day in the classroom?

"We are putting power in the wrong place, creating an environment where vindictive behavior can thrive, sterilizing curiosity and creativity and ensuring mediocrity. Competition between schools will not be academically motivated, but rather more politicized. Whether we are fighting for peace and stability around the globe, trying to create a more productive work place, or attempting to build dynamic research institutions, Americans have learned that one rule predominates: give honorable, hardworking, dedicated humans the freedom to think and create, and they will excel every time. Constant testing is not the answer. Empowering parents, teachers, and principals is. Democracy of the intellect is preferable to an accountability of the intellect."

Ms. SOLIS. Mr. Speaker, I also want to join my colleagues in support of the rule and the conference report. I am proud to be here to support this education reform legislation. I know this measure is going to go a long way in helping all the students that I represent in my district. I want to applaud our own ranking member and all the members of the conference committee for their hard work in compromising in this whole area of education reform and making it work so that kids in my district, kids who do not have a fighting chance in many cases, will have an opportunity to learn, and those that are limited-English proficient will be able to acquire those skills, have testing and also to all the teachers that will have enough funding to be credentialed or get that credential.

Not only that, I am very, very pleased that the conference committee also encouraged more support for para-professionals, special education professionals that also work sometimes as instructors with our students, and they help provide a helping hand to many of our students. I want to also commend our side as well as the other side for providing so much support in titles I funding for low-income disadvantaged students. Now we can honestly say that we are doing the right thing; that hopefully no child will be left behind; and that in years to come when we look back at the report of today, there, we can with all assurances know that our effort was not for naught, that we really did something good to make our children of all cultures and all races a part of the American dream. That American dream means do not leave any child behind and make education available to them in what language they need to acquire English skills. I applaud the conference committee.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished Member from Illinois (Mrs. BIGGERT), a hard-working and very important member of the Committee on Education and the Workforce.

Mrs. BIGGERT. I thank the gentlewoman from California (Ms. SOLIS), a member of the committee. Ms. SOLIS, Mr. Speaker, I also want to join my colleagues in support of the rule and the conference report. I am proud to be here to support this education reform legislation. I know this measure is going to go a long way in helping all the students that I represent in my district. I want to applaud our own ranking member and all the members of the conference committee for their hard work in compromising in this whole area of education reform and making it work so that kids in my district, kids who do not have a fighting chance in many cases, will have an opportunity to learn, and those that are limited-English proficient will be able to acquire those skills, have testing and also to all the teachers that will have enough funding to be credentialed or get that credential.

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Ms. SLAUGHTER. Mr. Speaker, I am very pleased to support the rule and the report today. We have heard today the results of months of work by the Committee on Education and the Workforce of the House and the Senate Education Committee, and following that, by the conference committee, and I honor those Members who have struggled so diligently to reach this goal.

As a Member of the California Assembly, I worked to establish similar accountability measures for California schools, programs which began 2 years ago. I applaud the committees for bringing this reform to all of the States.

It will not be easy, nor will it be troublefree. However, requiring testing and accountability is a pragmatic method which tracks the progress of distinct groups of children also encompasses the need for local schools and states to identify curriculum goals and academic standards. This is a good foundation for improving the focus of the students. And, most important, as stated earlier by my colleagues, the critical aspect of our testing should be diagnostic. I am pleased that this is clearly stated in our rationale and implementation support.

Important parts of this program are those that will enable teachers to improve their teaching skills. High quality teachers are the most critical predictor of student achievement. I am particularly pleased that the bill will continue to support programs like the National Board for Professional Teaching Standards Credential Program that provide the opportunity for teachers to demonstrate high standards of their actual teaching accomplishment over a year of classroom performance.

Like many of my colleagues and a majority of the Senate conferees, I am disappointed that as we are mandating accountability to local schools and have expressed our intent to fund them adequately, while we have done that, we have failed to phase in funding to meet the commitment Congress made 20 years ago to fund special education. It is particularly ironic that as we have rightly focused H.R. 1 on the needs of the poorest children through Title I, we have failed to recognize that two-thirds of all children with disabilities are also eligible for Title I funds.

There is much hope in H.R. 1, and I am happy to support this new focus on...
the importance of teaching all of our children.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. PRIYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume to you.

Mr. Speaker, I would just like to close by saying this is a standard rule for the consideration of a conference report, and it will allow us to consider历史education that will provide parents, schools and communities with the tools needed to better educate our children. H.R. 1, the No Child Left Behind Act, is the vision of our President, and promises to bring accountability, flexibility and consolidation to Federal education policy.

Once again, Mr. Speaker, I would like to say that this Nation owes a big thank you to the gentleman from Ohio (Chairman BOEHNER), the ranking member, the gentleman from California (Mr. GREGG), and for our President for showing us that this Congress can work together in a bipartisan basis and, at the same time, do what is right and good for our kids.

Mr. Speaker, I urge all my colleagues to support this straightforward rule and the bipartisan bill which it backs up.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

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and Democrats and independents, but also of teachers, parents and, most of all, our children.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me begin by saying that I believe that today the Committee on Education and the Workforce brings a product that we can all be very proud of and that I believe everyone in this House can support. I want to begin by thanking a lot of people that made this possible. The merits of this bill and the content of this bill is pretty widely disbursed right now, so I want to take a moment to thank those individuals that made this bipartisan product possible.

I want to begin with the gentleman from Ohio (Chairman BOEHNER). It just simply can be said that without him, this conference would have never been successful, and without him, we would not be standing here today to present a dramatically new reform of a 30-year-old program that is going to provide, I think, a greater educational opportunity for America’s disadvantaged children. I keep his word about where we were going, he worked hard to see that we got there, and he worked very hard the last 24 hours to drag us across the finish line. I cannot think of a better working experience I could have had with the chairman of my committee.

I also want to thank my Democratic Members of the conference committee: The gentleman from Michigan (Mr. KILDEE), who probably knows more about reauthorizing ESCA than anybody else in the House of Representatives, the gentlewoman from Hawaii (Mrs. MINK), the gentleman from New York (Mr. OWENS), the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Indiana (Mr. ROEMER), all of whom provided support for this legislation. I just want to mention that Denise Forte cannot be here today as we pass this legislation because she is out receiving an award from the National Juvenile Justice Network for her work on juvenile justice legislation that we addressed earlier in the year.

I also want to give special thanks to Brendan O’Neill, who works for the gentlewoman from Hawaii (Mrs. MINK), who was very helpful to us, and Maggie McDow who works for the gentleman from Indiana (Mr. ROEMER), who was helpful in constructing a way out of a room that maybe I had painted our conferences into, but she constructed a way out that I think is going to provide a new day for local districts and the flexible use of their funding.

I want to thank Danica Petroshius from Senator KENNEDY’s office, who really led much of the effort on our side. To Sally, I just want to say thank you. Thank you for urging us on all of the time and thank you for your cooperation in working with our staff. And to Paula, thank you for overseeing this. Sometimes just sitting there kind of silently rolling her eyes thinking, what is it you are talking about and why do you not stop talking and move on. But we thank you for that effort.

Obviously, when we do a reform of this magnitude and this nature and this size, there are going to be a lot of people on the outside who have serious concerns about the impact on this Nation’s children. I want to thank the individuals from Education Trust, Kati Haycock and Amy Wilkins, and I want to thank Bill Taylor and Dianne Piche from the Citizen’s Commission on Civil Rights, and the people from the Center for Law and Education, Paul Weckstein from the Center for Law and Education for their help and guidance that they gave us in making sure that this bill will work well for disadvantaged children in this Nation. That was our intent. I believe that is what we accomplished.

I will have a little bit more to say about it, but I want to make sure that we have time for the members of the conference committee and members of the committee to talk in support of this legislation and give us the benefit of their thoughts.

Mr. Speaker, I reserve the balance of my time.

Mr. ROEMER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Wisconsin (Mr. PETRI), a valued member of the committee and one of our conferees who has worked diligently over the years on behalf of our children.

Mr. PETRI. Mr. Speaker, I thank my chairman for his leadership on this important issue.

I rise in support of the conference report to accompany H.R. 1. This is a significant accomplishment of this Congress and a great achievement for President Bush, who made education the top priority of his domestic agenda. The conference report largely reflects his priorities and his active support and involvement in this process, which has been crucial in bringing us to this point.

There are many features of this bill that represent significant departures in Federal education policy. In this bill, we have given States and school districts even greater flexibility to use Federal funds as they see fit. We have included, as one of the many new options for children trapped in failing schools, an opportunity to use title I money to purchase supplemental services such as tutoring, which is a reform that many in this House have advocated for years. We have also consolidated many of the current duplicative education programs to better focus money to the students who need help the most, while continuing proven programs such as the Troops to Teachers program which has put several thousand high-quality teachers in our high-need schools since 1993.

To be sure, I have some misgivings about the new accountability provisions in this conference report. Many States such as Wisconsin have spent years developing successful accountability systems that do not necessarily involve testing all students on an annual basis. For the Federal Government to now demand that annual testing in reading and math take place every year in grades 3 through 8 amounts to a new mandate placed on the States.

On the other hand, given that the national government has poured upwards of some $310 billion in the elementary and secondary education over the last 36 years with no discernible improvement in educational opportunities for our most disadvantaged students, I fully understand the urgent need to find some ways to make sure that new Federal resources are tied to results.

In any case, I am pleased that this conference report makes a credible attempt to address my concerns about saddling States with this new responsibility. This conference increases the
amount of money authorized to help States develop and administer the tests.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. Kildee), the gentleman from California (Mr. Boehner), and the gentleman from Ohio (Mr. Roemer) for their strong leadership during this very historic conference. Their bipartisan mission was to produce a bill that will truly help the most disadvantaged children. The conference report before the House accomplishes this feat, and I urge Members to support its passage.

Mr. Speaker, H.R. 1 rejects attempts to authorize private school vouchers and Straight A block grants. The conference report does, under the Roemer provision enacted in the House, authorize additional flexibility for local school districts while maintaining accountability and targeting of resources. In short, this bill returns ESEA to its original focus by primarily centering on increasing educational opportunity for disadvantaged children.

H.R. 1 also does not block grant the 21st Century and Safe and Drug-Free Schools programs. It maintains both of these authorities separately.

In addition, the conference report will make much-needed improvements to the 21st Century program to increase community involvement, extend the grant cycle, and require a match of local resources. Most importantly, the 21st Century program will have a renewed focus on quality and academics, reinforcing current administration of the program.

This bill will build upon the disaggregation requirements of the 1994 reauthorization of ESEA by ensuring that State accountability systems do not fail the burden of at-risk subgroups of children. No longer will subpar results for minority, low-income, disabled, and limited-English proficiency children be masked by the higher performance of the majority.

In addition, H.R. 1 vastly improves the targeting of resources to disadvantaged areas, while not stripping funds from localities which presently receive them. One of the main points of contention during the 1994 reauthorization of ESEA was the difference between the two bodies on title I formula. I believe the compromise that we will ratify here today was reached through hard work and compromise on all sides.

When the Congress last reauthorized ESEA in 1994, I was chairman of the subcommittee. We produced a strong, bipartisan bill in 1994 that gained the support of a large majority of the House. But under the leadership of the gentleman from Ohio (Mr. Boehner) and the gentleman from California (Mr. George Miller), we have produced a much better bill today. I urge all Members to support this conference report.

Finally, Mr. Speaker, I want to thank the chairman and the ranking member for their leadership during this conference.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Georgia (Mr. Isakson), one of our conferees and one of our real partners throughout the process, a former president of the State school board of the State of Georgia and a member of our committee.

Mr. ISAOKSON. Mr. Speaker, I come to this final week so I can look at the gentleman from Ohio (Mr. Boehner), the chairman of the committee, and the gentleman from California (Mr. George Miller), the ranking member, in the eye and say "thank you," not out of courtesy, but out of genuine respect and appreciation for the great job these two men have done. Both had the opportunity to succumb to unbelievable pressures, both partisan and political, and neither did. They kept the interest of America's children and the number one issue of our President, accountability for the children, paramount. Because of them and the gentleman from Michigan (Mr. Kildee), the gentleman from New Jersey (Mr. Andrews), the gentleman from Indiana (Mr. Roemer), the gentleman from South Carolina (Mr. Graham), the gentleman from California (Mr. McKeon), and the gentleman from Delaware (Mr. Castle), and the hard work of Ms. Lovejoy and, for me, without the help of Glee Smith, it would have been impossible to spend the time.

I am a subscriber to a great quote: "Our children are a message we send to a time we will never see." The last generation of American politicians, though unintended, sent a mixed message. Our richest and most affluent children have prospered and succeeded and grown, but our poorest and our most disadvantaged have not progressed; and in fact, the gap between them and our best and most affluent has widened.

We will send a new message to a generation that we probably will not see in our lifetime that we are a great Nation and that the generation that we are about to send into the future will be better off because of the efforts of this Congress and this President.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. Mink). Again, I want to thank her so much for really being so tenacious on the question of making sure that these resources were targeted. She wanted to be there for the disadvantaged population and also for her outspoken support of the Women's Equity program in this legislation.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman from California (Mr. George Miller), the ranking member of our committee, for his kind words and for giving me the opportunity to serve on the small task force that worked on this bill prior to its coming to the floor of the House, and again, appointing me to the conference committee so that I could have a chance to monitor the discussions and the debates on this bill.

I want to join the comments of the gentleman from California (Mr. George Miller) and commendations to the gentleman from Ohio (Mr. Boehner) and all of the Members on his side for their great efforts in bringing us to this point today. I would not want to describe it as a miracle, but a near miracle that we were able to put such a monumental piece of legislation together and to work with such a wide-ranging group of people that come to the table together with very strong ideas about education.
This bill was in the making for well over 3 years. We have debated many, many issues. In the process, we have worked together by consensus to an agreement on the importance of developing legislation that prescribes programs and allocates money and encourages our schools to perform so that our children can have a better opportunity in the end.

What is remarkably different about this bill is that it sets guidelines in a very forceful way which will challenge our schools to do better because they will have the opportunity to use the resources that the Congress will be providing in a way that will be helpful to children.

I know there has been a long hang-up about the tests. I was one of them who said that this is a very onerous burden to place upon our schools, to have testing each of the years from 3 to 8, and the inability of many school districts to pay for it was also part of the discussion.

But in the end, with the tests, which will be put together by the States, it will be under their judgment; and we will have a chance to look at all the school districts in the country and measure them against national standards. Parents across all this country will finally have an opportunity to know whether their schools are performing to the best interests of their children. So I think that is a remarkable reference.

In the end, what is going to make this bill an opportunity for our children and allow the promise of the President that no child shall be left behind to be fulfilled, that will happen only if our local administrators will read this bill and take to heart that they have a special responsibility and challenge to use the tools that this legislation will provide.

My district has a horrible problem in getting teachers, and there are 500 or 600 vacancies every September that cannot be filled. We have roamed the country to try to find teachers. But in this bill is the way and the method for our school districts to use the monies that are being provided to take care of the essential requirements of our school districts.

Mr. Speaker, I urge the House to support this legislation.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM), one of the integral members of this conference who helped push us along.

Mr. GRAHAM. Mr. Speaker, I will lend my voice to the chorus. I feel like we are preaching the eulogy for the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Ohio (Mr. BOEHNER) here; and they are still alive and well, for people listen.

But these two gentlemen deserve our praise, and they are going to add much more to the future of education to come. This is not the end of our work day; this is just the beginning. But it was a great job well done in a bipartisan manner.

Mr. Speaker, this is a great move forward; but at the end of the day, local control still dominates in education. We have increased funding dramatically under the bill; but 90 percent-plus of funds for education come from the local area, from the State area. The formula for education excellence has not changed at all. It is a parent and a child with a great teacher and a caring community, and that is still the formula for success.

But what we have tried to do is build on that formula and change the way we do business in Washington. The President gave Congress a test when he came into power. He asked us, is the current situation okay? And the right answer was, "no." So we passed the test. The answer was "reform." This bill is big on reform, and the students are at the center of everything we have done. There is more money, but that is not the answer. There is more accountability; that is not the answer. The two together are the answer: more accountability and the funds to get there.

I am proud to be part of this work product. Our children are going to benefit. We have a good mix of local control with national standards to be implemented at the local level, and we are going to actually see how our children are doing in third and fourth grade and reading from the third through the eighth grade nationwide, and let each State move forward.

If we have a school district that fails our children, we are not going to just sit on the sidelines anymore; we are going to make that school district better, and we are going to give some options they never had.

We are getting close to the holidays, and I think this is Congress' holiday gift to all school-age people and the schoolchildren of this country: a bill that focuses on the student and not on bureaucracy; more money, more accountability.

I am proud to be part of a Congress that actually delivered and passed the test.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), and I would thank him for all of his help with the prescriptive portions of this bill and also the efforts to expand and support charter schools. I thank him for his work.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I begin by offering my thanks and appreciation to the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), our ranking member, for their very gifted leadership for the diligence of my Republican and Democratic colleagues on this conference; for the professionalism of the staff on both sides that did such an outstanding and hard-working job; and especially to Matt Walker of my own staff.

Mr. Speaker, this is an achievement that presents us with both a golden opportunity and a great responsibility. To understand that golden opportunity, we need to first understand what life has been like for one of the children who have had the misfortune of attending one of the dark and often violent places called schools where not much learning has gone on in recent years in America.

When that child fails year after year, or when that child is failed by her school or in her school year after year, they just move on to third grade or fourth grade or fifth grade, and then fifth grade becomes junior high school, and then too often junior high school leads to the streets or to a drug rehab center or to a dead end job, or to a morgue.

These schools have failed these children year after year, and this bill I believe can make a great difference because this bill says that America's taxpayers will no longer sit back and permit that failure to occur.

If a school continues to fail its children year after year, something is going to happen. Instead of spending money on public relations for the board of education or a new hire who is the Mayor's brother-in-law, the money is going to go to tutors and technology and after-school programs.

And if it does not, something is going to change. The people who refused to make that change will be replaced and removed, and that child will have a new opportunity.

We have a great responsibility that accompanies that golden opportunity, because we have to make this work. We have given the Department of Education and the States and the teachers and the school districts and the students of this country tools to make this happen, but we need to make sure that it works; that the excuses are cast aside and the attempts to evade this new responsibility are not tolerated.

Mr. Speaker, this conference, of which I have been honored to be a part, has done a great job to write what I believe is a strong law; but we all have ahead of us a new responsibility to make sure it works.

And so does I believe people will look back on this day as a day that education changed for the least fortunate students in this country and became more than just a promise, but became a reality in their lives and in the lives of our Nation.

I would urge an overwhelming "yes" vote for this great piece of legislation, and again thank our leadership for this bill.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. HILLESLEY), who provided a special focus on this conference to the needs of rural school children.
Mr. HILLEARY. Mr. Speaker, I thank the chairman of the committee for everything that he has done, along with the ranking member, the gentleman from California (Mr. GEORGE MILLER), as well as all our colleagues on the committee. We worked awfully hard on this, and I think it is a great product here today.

I am also thankful to the administration, President Bush and Secretary Paige, who I think is exactly the right man for this job. We were waiting for them to get the job done for our children in this country as Secretary of Education.

Education must remain a primary responsibility of State and local school systems. I hope it will always remain so. But in many cases, even though we have many diamonds in the rough, in many cases that job is not getting done; and it is simply not fair for the children to continue to fall through the cracks. We must have access to the schools, so that especially at a time like now, recruiters have access to the schools, so that process of evening the playing field.

There is a lot of credit that goes around. I want to thank the working group, a number of Republicans and Democrats that have met for the last 10 months and with tenacity and intelligence worked through those issues.

I want to thank my staff member, Maggie McDowell, who helped us balance principle and politics. I want to thank the professional staff on both sides of the aisle, as well as the New Democrats that helped us design a bill that is 65 or 70 percent of this bill.

Also, I want to thank the President of the United States for his leadership and passion on this issue.

Mr. Speaker, this country, with the passage of this bill, will no longer tolerate meaninglessness degrees. We will no longer tolerate saying that children who come from poor backgrounds can get less of an education. We will no longer tolerate unqualified teachers in poor schools that are not working well. How do we achieve all this? Briefly, we have diagnostic tests, not high-stakes punitive tests, but tests that will help us actually find out why that child is not reading well, and remediate.

Secondly, we have the resources to help get the tutoring from private and public sources to help these children; and we will have to fight for more resources, especially for IDEA, children with disabilities.

Thirdly, we have set a standard, 4 years for all teachers to be qualified.

Fourth, we have the flexibility that the gentleman from California (Mr. GEORGE MILLER) mentioned: flexibility to move funds within different accounts, except title I, and to transfer when they meet those programmatic goals in technology, or with qualified teachers. If they have met those goals, we provide the transferability and flexibility to move some money around from account to account.

We have public school choice and charter schools, and more help for those needed charter schools; and we have the NAPE test, a test that will help us gauge the strength of our State tests.

Mr. Speaker, in my 11 years as a Member of this body, today especially I am proud to be a Member of this great institution, this law-making body that is the integrity and the leadership and the skills of the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), we are at a point of passing landmark and historic legislation to help poor children get a truly good opportunity in this country to get a great education.

There is a lot of credit that goes around. I want to thank the working group, a number of Republicans and Democrats that have met for the last 10 months and with tenacity and intelligence worked through those issues.

I want to thank my staff member, Maggie McDowell, who helped us balance principle and politics. I want to thank the professional staff on both sides of the aisle, as well as the New Democrats that helped us design a bill that is 65 or 70 percent of this bill.

Also, I want to thank the President of the United States for his leadership and passion on this issue.

Mr. Speaker, this country, with the passage of this bill, will no longer tolerate meaninglessness degrees. We will no longer tolerate saying that children who come from poor backgrounds can get less of an education. We will no longer tolerate unqualified teachers in poor schools that are not working well. How do we achieve all this? Briefly, we have diagnostic tests, not high-stakes punitive tests, but tests that will help us actually find out why that child is not reading well, and remediate.

Secondly, we have the resources to help get the tutoring from private and public sources to help these children; and we will have to fight for more resources, especially for IDEA, children with disabilities.

Thirdly, we have set a standard, 4 years for all teachers to be qualified.

Fourth, we have the flexibility that the gentleman from California (Mr. GEORGE MILLER) mentioned: flexibility to move funds within different accounts, except title I, and to transfer when they meet those programmatic goals in technology, or with qualified teachers. If they have met those goals, we provide the transferability and flexibility to move some money around from account to account.

We have public school choice and charter schools, and more help for those needed charter schools; and we have the NAPE test, a test that will help us gauge the strength of our State tests.

Mr. Speaker, in my 11 years as a Member of this body, today especially I am proud to be a Member of this great institution, this law-making body that is the integrity and the leadership and the skills of the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), we are at a point of passing landmark and historic legislation to help poor children get a truly good opportunity in this country to get a great education.
to receive waivers from various Federal education requirements. Hopefully these demonstration projects will help us in further moving more freedom of flexibility to all the other local schools.

State and local officials know best how to educate our children. This bill will allow States and local school districts to advance their own priorities such as reducing class size, hiring new teachers or buying new textbooks and computers.

Next, as chairman of the Subcommittee on the 21st Century Competitiveness, I am especially pleased to see this conference report includes strong teacher professional and education technology sections. The bill retains key provisions that the gentleman from California (Mr. GEORGE MILLER), my colleague and good friend, and I, along with many others, have been working on over the last Congress with the flexibility to decide whether to spend money on new textbooks or improving the skills of the teachers already in the classroom.

Technology can be a powerful means for improving student achievement and academic achievement. In fact, States and local school districts are already experimenting with promising technology programs, everything from online research to distance learning. Such innovation should be encouraged by the Federal Government and bolstered by Federal spending.

To help further the effort to integrate technology into teaching, we need to make sure teachers know how to use that technology in their teaching and increase access to technology for their students.

The conference report on H.R. 1 accomplishes this by consolidating a number of technology programs into a single stream of funding to our local school districts. Further, the bill fully integrates technology into the curriculum by increasing access to the highest quality teachers and courses possible, regardless of where the students live.

Mr. Speaker, I just want to again thank the gentleman from California (Mr. GEORGE MILLER), the gentleman from Ohio (Mr. Boehner), and all those who have worked so diligently to pass this bill that will help further the education of all of our children and leave none of them behind.

I urge support of this bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Owens) and thank him for all of his work. He probably said it many times in this committee, that if we gave disadvantaged children an opportunity to learn with all of the resources necessary and the well-trained teacher, he was fully prepared to accept the accountability, believing that those children could meet and exceed those marks of accountability, and I think it kept us focused on that central theme of this legislation.

Mr. OWENS, Mr. Speaker. I want to thank and congratulate the gentleman from California (Mr. GEORGE MILLER), my leader, the ranking Democrat on the committee, and thank and congratulate the gentleman from Ohio (Mr. Boehner), the chairman of the committee. They have done a superb job of fashioning this bill through a process with a lot of creative, independent minds on both sides of the aisle, and we have arrived at a bill I think we can all be proud of.

It is in the details. If my colleagues look in the details, we find a lot of hard work has been done, a lot of creative work has been done here, and we should not leave out congratulations and thanks to a job well done by a hardworking staff. I think the leadership of Sally Lovejoy in her stern, productive way, has produced some details in this bill which carry forth the real meaning of what we do in education reform.

I also want to the note the fact that this is great step forward. Lyndon Johnson took the first great step forward when he initiated the Elementary Secondary Education Assistance Act after many long years of the Federal Government insisting that it had no role in elementary secondary education, and now we are taking the next great step forward building on what Lyndon Johnson started.

The President is to be congratulated for producing the document which in the details we will find a lot of details.

I also want to thank my staff member, Larry Walker. They spend a large part of the summer here and late nights and long days, and they are to be congratulated for producing the document in which we will find a lot of details.

The only problem is the problem we face. The President is to be congratulated for taking such divisible nonproductive items as vouchers off the table as Federal policy. He needs to be congratulated for concentrating back on the poor and the disabled, as Lyndon Johnson did, and insisting that it had no role in elementary secondary education, and now we are taking the next great step forward building on what Lyndon Johnson started.

The only problem is the problem we ended up with in the committee, a ferocious plea for the funding of IDEA. If we funded special education, we would be on our way toward providing more resources for education at a level that is great enough to make a significant difference. There are increases here, make no bones about that. There are increases here, but they are not great enough.

We have a situation where the Federal Government of the United States only covers 7 percent of the overall expenditure for education, and this includes higher education. It is far too little. We should move toward a more rational figure like 25 percent. We are the only industrialized Nation that has such meager support at the national level for education. It is an extreme. We are at the extreme with 7 percent. We do not want to centralize our education policy. It is any great virtue there, but why be at the extreme? There ought to be a medium, a means somewhere that we could strive for, where more resources are given for education to relieve the local education agencies and the States of the great burdens they have.

I am proud to be a part of this effort, and we must take the next step in terms of providing more resources.

The SPEAKER pro tempore (Mr. THORNBERY). The Chair would announce the gentleman from Ohio (Mr. Boehner) has 10 minutes remaining. The gentleman from California (Mr. GEORGE MILLER) has 10 minutes remaining.

The Chair recognizes the gentleman from Ohio (Mr. Boehner).

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from Delaware (Mr. Castle), the chairman of the Subcommittee on Education Reform, a gentleman who has been at the heart of this process for a number of years, and the former governor of the State of Delaware.

Mr. CASTLE. Mr. Speaker, I thank the gentleman, not just for his kind words of introduction but for the work that he and the gentleman from California (Mr. GEORGE MILLER) did which has been stated by practically everybody which very sincerely was extraordinary in this legislation.

Thirty-five years ago, Congress made equal access to a quality public education a birthright for all Americans. Today education is the foundation for future success as an individual and a source of strength for our Nation. Yet too many Americans are unable to participate fully in the American dream. Worse, those with the greatest academic difficulties include a disproportionate share of children from low income families and racial and ethnic minority groups.

For these reasons I am pleased to express my strong support for the conference report to H.R. 1, the No Child Left Behind Act. Over the course of the year Republicans and Democrats put an end to the divisive tactics that have stymied recent reform efforts and produced a serious bipartisan agreement to improve the way we educate our children for the better.

As a primary goal, this legislation strives for excellence in education by encouraging improvements in academic achievement while also securing greater assistance for those who are having the most difficulty mastering academic content and those who have fallen behind their peers. To that I want to discuss just three reasons, and there are many, many more why we should embrace this agreement.

First, H.R. 1 fully authorizes the President’s request for $975 million to ensure that every child can read by third grade. The reading programs contained in this bill will identify students at risk for reading failure and then provide intensive instruction by trained educators to bring them up to a productive level. This will reduce the number of learning disabled students referred to special education and we will give all students the tools...
I encourage everyone to support this legislation which will help all children. Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise in support of the conference report on H.R. 1, a bill that I have before us today. 

There are many positive features to commend in the conference agreement, and I wish to mention just a few of them. This bill will give many disadvantaged students a great opportunity to excel and to reach as high as they can dream. The conference agreement protects the principle of public funds for public schools. There are many, many things, and there is not enough time to thank everyone and to mention all of these things in the provision, but I urge my colleagues to vote for this bill.

It was an honor for me to work with all the members of this committee. I also congratulate Senator KENNEDY and Senator GREGG for their valuable contribution and I thank President Bush and his administration. I also wish to recognize the extremely important support of the Congressional Hispanic Caucus led by the gentleman from Texas (Mr. REYES) in fighting for provisions very important to the Hispanic community.

I particularly regret that we are not fully funding our Federal share of special education. There is not a school district in this Nation that is not having trouble meeting those costs. I am pleased, however, that the bill keeps funding for hate crime prevention intact. It is so important because as a result of the 11th of September, we have been a target in hate crimes, particularly crimes directed at innocent people and innocent children, including school children.

Now, more than ever, because we have this in the bill, we will be able to teach our children constructive ways to express their feelings.

Nothing matters more to the future of this country than the education of our children. They are the workers, the soldiers, the diplomats, and voters of tomorrow. Congratulations, gentlemen. Mr. GEORGE MILLER of California.

Mr. Speaker, I yield 1 minute to the gentleman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I thank the gentleman for yielding me this time, and I would like to thank both the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Ohio (Mr. Boehner) for the bill we have before us today.

I rise in support of H.R. 1, a bill that truly takes a step forward in helping...
Mr. Speaker, I want to reiterate my support for the bill and thank the conferees for work very well done.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. ETHERIDGE).

(Mr. ETHERIDGE asked and was given permission to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I want to commend the conferees for a job well done.

Mr. Speaker, I rise to speak about the conference report on H.R. 1, the Leave No Child Behind Act. I want to commend Ranking Democrat GEORGE MILLER, Chairman JOHN BOEHNER and Congressmen DALE KILDEE and MIKE CASTLE for their leaders in over the past many months on this most important issue.

As the only Member of the United States Congress who has actually run a state school system, I have a unique perspective on federal education legislation. The most important provisions of this legislation are those that are not contained in this conference report. There are no vouchers to siphon public dollars to private schools. There are no irresponsible block grants like those that have been provided in this Chamber. There is no effort to close the U.S. Education Department by the Republican Leadership. And there are no massive cuts to public education like those we have defeated time and again in this body. Those are very significant accomplishments and I especially commend my Democratic colleagues for maintaining our party’s historic commitment to quality public education for all children.

As the former Superintendent of North Carolina’s public schools, I know firsthand what it takes to achieve results in academic improvement. It takes setting high standards and ensuring accountability. But most importantly, it takes a commitment to ensure that all of our children have quality educational opportunities to achieve the goal of “no child left behind.” Although this bill falls short of fulfilling our commitment to fund the federal mandate on special education, I am pleased that this conference report takes significant steps toward substantial improvement in education. The bill targets federal funding for the disadvantaged students to close the achievement gap between disadvantaged children and their more affluent peers and between minority and non-minority students. The conference report strengthens teacher training so that our school teachers are qualified to teach in their subject matter. It provides new resources for mentoring, training, salary enhancement and other improvements that give teachers the resources they need to do their very important jobs.

For the first time in federal law, this bill will require that states prove that they are making adequate progress in improving the quality of their children’s education. And it makes a significant new commitment to bilingual and immigrant education.

I am disappointed that the conferees did not include the Wamp-Etheridge amendment to provide $50 million in additional funding for character education. The conference report instead includes character education in the Secretary’s discretionary Fund for the Improvement of Education, and I call on the Secretary to fully fund character education, which we believe improves our nation’s emphasis on values-based lessons for our children.

Mr. Speaker, this country faces several critical educational challenges beyond the scope of this legislation. First, we must take action to relieve the crisis of the lack of adequate school facilities in this country. In my district, our schools are bursting at the seams, and too many children are stuffed into overcrowded classrooms or second rate trailers. We must invest in science and math to ensure America’s global economic leadership in the 21st century. We must increase aid for college so middle class families have the opportunity to “achieve the American Dream.” We have so many educational challenges ahead of us that we must treat this bill as the very beginning of our commitment to improving education and not the end of the process.

In conclusion, this legislation will only work if the House is willing to sit down and work together.

Along those lines, I would like to heap more praise on the chairman and the gentleman from New Jersey (Mr. HOLT), a member of the committee.

Mr. HOLT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of H.R. 1, a truly landmark piece of legislation especially the reappointment and professional development of teachers. And if we are going to continue to grow as a Nation, science and math education is critical.

I am also pleased that the legislation authorizes increased funding for a number of programs targeted to the neediest and poorest, programs for Title I and teacher quality, bilingual and immigrant education. But I do want to reiterate two items that I am especially pleased about. I am disappointed this legislation does not adequately address the Federal Government’s share of Individuals with Disabilities Education Act. In New Jersey, the communities I represent tell me this is one of the biggest challenges they work hard to address.

Secondly, I am disappointed this legislation does not address the issue of pesticides in our schools and does not include notification of parents and teachers when potentially dangerous chemicals are used around their children.

But despite these concerns, however, Mr. Speaker, I want to reiterate my
Mr. Speaker, I urge all of my colleagues to consider seriously increases in education funding next session so that we can truly “Leave No Child Behind.”

Mr. Speaker, I submit for the RECORD a letter from the NSBA regarding this bill:


MEMBERS, House of Representatives, Washington, D.C.

Dear Representative: On behalf of the nation’s 95,000 local school board members, we wish to express our disappointment that the conferees on the Elementary and Secondary Education Act (ESEA) failed to address the ever-expanding financial burdens that the federal government imposes on the nation’s school systems and local taxpayers.

Unfortunately, the conference committee rejected an opportunity that would have recognized both the financial realities confronting local school systems and the opportunity to make this legislation the full success it should be. Had the conferees accepted the Senate provision for the mandatory funding of the share of the Individuals with Disabilities Education Act (IDEA), some of the pressure that this special education mandate places on school districts would have been lessened and more local funds would have been released to at least partially support compliance with the new federal ESEA provisions.

The legislation does provide a promising framework for raising standards and accountability for all students—with an important emphasis on raising the achievement of educationally disadvantaged students. However, the accomplishment of that goal also involves new mandates; some are explicitly stated in the legislation while others will naturally result from the additional classroom resources that will be needed. Unfortunately, the legislation does not contain any commitment by the federal government to adequately fund these new costs or its ongoing obligation under IDEA.

Meanwhile, across the nation virtually every school is experiencing revenue shortfalls. Even small states are experiencing shortfalls in the billion-dollar range over their biennial budgets. As a result, reductions in state aid are forcing cuts in school district budgets. Now, as school systems must also look toward funding the new requirements in this bill, as well as serving expanding enrollments of Title I eligible students, as well as meeting the expanding costs of the under-funded federal special education mandate (IDEA), they will have no choice but to raise property taxes where they can or suffer severe cut backs in their general programming. This should not become the new local legacy of ESEA.

Given the unique and historic role that this important legislation can play in American education, state and local policy makers should not, as a result of inadequate funding, be forced to lower their sights on high academic standards, limit their use of the many public school choice options that are now available, or abandon the opportunity to enrich classroom instruction by having to settle for cheap test prep programs to drill lower achieving students to pass a test. Without these resources what other results can we expect? With the shortfall in state and federal funding, what other impact can we expect than increases in local taxation?

The stark financial reality of the ESEA reauthorization will become clear across the nation when school opens next fall. As attractive as the incremental increase to the pending FY 2002 education appropriations bill may appear, it does not match the needs identified in IDEA or the new ESEA requirements, which the Congress is about to adopt.

Local educators and local school board members want this legislation to work, and more importantly, want the nation’s 47 million public schoolchildren to reach higher levels of academic achievement. They are also very appreciative of the increased flexibility that the legislation provides in their use of federal funds. But they do not want to be set up to fail because of a lack of financial accountability by the federal government.

Despite our efforts, NSBA does not oppose the passage of this legislation because the bill does establish a promising framework for raising student achievement. However, we urge Congress to view the passage as the first of a series of steps during the remainder of the 107th Congress to ensure that both the new requirements of ESEA and the federal share of the cost of IDEA are fully funded.

Sincerely,

JAMES R. RUHLAND, President.
ANNE L. BRYANT, Executive Director.

Mr. GEORGE MILLER of California.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. CROWLEY).

(Mr. CROWLEY asked and was given permission to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, I too would like to express my support for H.R. 1.

It gives appropriators the authority to allocate a 20 percent increase in federal education spending, over the 3 percent the President requested. It allows for the creation of a formula to target federal aid to where the greatest needs in bi-lingual education exist. It provides new resources for mentoring, training, salary enhancement, and other improvements.

This bill provides a promising framework for raising standards and accountability for all students, and this bill will mean a great deal to New York City.

It allocates approximately $636 million for FY2002 to New York City, a 28 percent increase from last year, and $141 million in Title I funding, a 20 percent increase.

With New York City threatening massive across the board cuts, this increased federal funding is more important than ever.

And, while I am disappointed that this bill doesn’t make federal spending on disabled students an entitlement program, and that it does not include the necessary funding for the rebuilding and modernization of crumbling overcrowded schools in my district, I nevertheless applaud the hard work of the House and Senate conferees in bringing this long overdue reform bill to the floor today.

H.R. 1 gives students a chance, parents a choice, and America’s schools the mandate to be the best in the world.

Mr. GEORGE MILLER of California.

Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I want to congratulate the chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER). As an alumni of the Committee on Education and the Workforce, I can say that this is the best work that the ESEA, which provides additional funding for bilingual education, ESA, and the commitment for special education.

Mr. Speaker, I rise today in support of H.R. 1, legislation to reauthorize the Elementary and Secondary Education Act and Title I in particular, has meant so much to low-income students across this country. This legislation provides crucial funding for school districts that might not otherwise have the resources they need to provide a quality education.

I think we can all agree that we must hold school districts accountable for the federal dollars they receive. And this legislation has a number of important testing provisions to ensure that our students are receiving education they need to thrive in the 21st Century. But equally, perhaps even more important, we must provide schools with the resources they need to meet those standards. By doubling Title I funding over the next five years, I believe we will see a dramatic improvement in educational opportunities, local school systems.

I am also pleased to see increases to the Bilingual and Immigrant Education programs. As our most recent census reports, there has been incredible growth among Latino populations. Many of these first-generation Americans are not exposed to English in their homes, and have limited English proficiency. We must target resources at school districts with high populations of Limited English Proficiency students, to ensure that all children, regardless of their ethnic background, receive a high quality education.

Finally, Mr. Speaker, I would like to comment on the testing provisions. In Texas, we have annual testing for children in grades three through eight. Because our state standardized test are equivalent, Texas will not have to implement new tests. I hope that all other states which adopt these tests will have the same successes that we’ve seen in Texas.

Mr. Speaker, this is a good, bipartisan, consensus bill. It is probably the most bipartisan bill we’ve seen this Congress. Support H.R. 1, and let our parents, teachers and administrators prepare our next greatest generation.

Mr. GEORGE MILLER of California.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. DAVIS).

(Mr. DAVIS of Florida asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today in support of the conference report on the reauthorization of the Elementary and Secondary Education Act (ESEA). I commend Chairman BOEHNER and Ranking Member GEORGE MILLER for their commitment to our students in working to ensure the development of a strong law to govern our schools.

The bill before us today will ensure that all children have an opportunity to learn and that we will not tolerate the failure of our poorest students. For the first time, we have established clear goals and a timeline for narrowing
in reading and math. The Florida Comprehensive Assessment Test (FCAT) also tests writing in grades four, eight, and ten. Unfortunately, as I stated above, the purpose of the FCAT is to grade our schools and implement high stakes penalties or rewards based on their scores. These scores need our students need help to boost their performance.

That's right. Under the FCAT, teachers, principals, parents and students get no information from the test identifying the needs of individual students and how to help them improve. The federal law provide some direction on this matter.

The original House bill was silent on this issue. However, I am very pleased that the Conference Report before us today is no longer silent on the need for diagnostic testing of our students. This bill contains a reporting requirement that requires our schools to produce individual student interpretive, descriptive, and diagnostic reports. This new requirement will ensure that our parents, teachers, and principals will know and be able to address the specific needs of students. More importantly, this new requirement will ensure that as soon as is practically possible after the test is given, this diagnostic information will be provided in an understandable and uniform format, and to the extent practicable, in a language that parents can understand.

With the diagnostic provisions included in this Conference Report, we will give our teachers the tools they need to teach and to make sure that our students are learning. I commend the House conferees for fighting for this very important student centered testing. I look forward to our states, including Florida, making the necessary changes under this new law.

In closing, Mr. Speaker, I urge my colleagues to adopt the Conference Report to H.R. 1, which is truly a bipartisan effort. This is a significant step in the right direction to make sure that our public schools continue on the right track.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL). Mr. ENGEL. Mr. Speaker, I thank the gentleman from California (Mr. GEORGE MILLER). This is a great premise of the bill. We thought we had a compromise, but we did not quite reach it.

Overall I support this bill. It ensures that all teachers are qualified to teach in their subject matter, supports teachers by giving them the resources they need to do their jobs, targets federal aid for bilingual and immigrant education to those students who need it the most, and expands after-school programs.

A compromise that was reached by the conferees from New York would have held Staten Island harmless, keeping it at $1718 for the life of this authorization while allowing the per pupil allocations in the other boroughs to creep up, was rejected.

I am extremely upset that while the title of this bill is "No Child Left Behind" the poor children in the Bronx will continue to be left behind.

I would like to thank the Chairman, the gentleman from New York, Mr. OWENS, and Senator CLINTON for all of the work they have done to right this wrong. I look forward to working with them in the future to put an end to the County Provision.

I would say to the chairman that this county provision needs to be revisited, and I would like his comments on it because I know he has publicly said they were going to make this more equitable.

Mr. BOEHNER. Mr. Speaker, I yield myself 1 minute.

I understand the discrepancy in the funding in New York City. This was part of the 1994 act, under agreement with the Members from New York City, and I do think it had unintended consequences. We sat out early this year to try to bring some resolution, and the conference committee believed that the Members from New York should work this out amongst themselves and, frankly, they were unable to.

As I have learned more about this issue, I do understand the gentleman's concerns, and I have expressed to other Members of the New York City delegation and to Senator CLINTON that as we proceed in the coming years, that we would continue to look at this and to work with this to see if we cannot bring about some better resolution.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FATTAH). Mr. FATTAH. Mr. Speaker, I add to the compliments for my colleague, the chairman, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER). This is a great product that the conference committee has delivered, and it goes a long way to addressing some very important issues.

I particularly want to mention a provision that would require States, over a number of years, to do a much better job in terms of providing an effective quality teacher in every classroom and all the targeting provisions of title I.

There is more work to be done, but I think this is a conference committee that we can all embrace. It is a giant
step forward, but we are still a long way from making sure that poor chil-
dren do not end up with a poor quality instructor and poor quality textbooks and
educational materials. This is, as a Federal Government, I think, an appro-
priate role for us to play.

But I want to commend the gentle-
men for their work and the work of all of
those on the conference committee from both Chambers, and I look for-
ward to additional work in the future.

Mr. Speaker, I rise today in very strong sup-
port of the conference report for H.R. 1, the
reauthorization of the Elementary and Sec-
ondary Education Act.

Nearly a year ago, Congress embarked on a
mission to improve the education of Amer-
cia’s public school students. Today, I am
proud to say that we have produced a con-
sensus and that common foundation supported by the Ad-
ministration as intended by Congress, will dra-
matically expand the opportunity for all chil-
dren in our country to learn.

A COOPERATIVE AND BIPARTISAN PROCESS

This bill is the result of many people’s labor
and ideas. I want to acknowledge Chairman John
BOEHNER for the leadership, candor and hon-
esty that he displayed throughout his process. He has been a man of his word.

President Bush told us a year ago in Texas
that he wanted to make education reform the
hallmark of his administration, and that his
central goal was to target federal resources to-
wards the neediest students. We have worked
with him throughout this long process, and the
bill we have written meets those objections.

Senator Daschle has been deeply en-
gaged throughout this effort, and, while we
often disagreed, we were able to work suc-
cessfully to resolve our differences.

And I am particularly pleased to have been
able again to work closely with my long-time
friend and colleague Senator TED KENNEDY,
with whom I have participated in so many ef-
forts on behalf of those who need our help the
most but who are most often ignored. His
commitment to a strong reform bill on behalf of
all America’s children was critical to form-
ing this final product.

Great credit, of course, goes to all of the
members of the Conference Committee that
produced this bill, and I also want to thank all
of the members of the House Committee on
Education and the Workforce who crafted this
bill earlier in the year.

In particular, I want to express my apprecia-
tion for Congressman ROEMER of Indiana,
whose creative contribution to the issue of
flexibility forms the basis for our successful
resolution of the long-over state block grants,
one of the issues that delayed completion of
work on this legislation earlier this year.

Last, I wish to express my appreciation to
the staff of the House and the Senate edu-
cation committees, who worked day and night,
through many nights, weekends and vaca-
tions, to see this bill through to the end. I feel
particularly privileged to have as my lead edu-
cation adviser Charles Barone, an enormously
dedicated and capable public servant whose
expertise and insight were invaluable to the
successful completion of this bill.

AN URGENTLY NEEDED BILL

Despite a commitment by our government to
the contrary, our educational system has toler-
ated extremely low educational achievement
for decades. Many thousands of schools
throughout this nation, disproportionately in
neighborhoods serving low income and dis-
advantaged youth, have unacceptably high
percentages of children who cannot read,
write or perform at their grade level. The
problem is not that these children do not have
the ability to succeed or that they are not capable of
higher levels of achievement. The problem is
that states and school districts have not pro-
vided them the opportunity to do so. Those
same schools have the least qualified teach-
ers, the highest turnover, and are in the
in the greatest physical state of disrepair.

Report after report on the weakness of our
educational system was published over the
years with an inadequate response:

25 percent of teachers who are not qualified
to teach in their subject area;

73 percent of 4th graders not able to read
at a proficient level;

68 percent of 4th graders not able to con-
duct math at a proficient level;

An unmet school construction and repair bill of $127 billion.

Now, with this legislation, we are not only
once again committing ourselves to opening
the door to quality schools for every child and
closing the door on acceptable losses, but we are
backing up this commitment with re-
sources and a strong accountability system.

This year’s effort is rooted in my firm belief
that if teachers and their schools have ade-
quate resources and high standards, and not
just rhetorical support, America can have a
world-class K-12 public school system for all
its students.

I know that we can do better. Having spent
over 25 years on the House education com-
mittee, 10 years as chairman of the House
Select Committee on Children, Youth and
Families, and having worked with and taught
in schools in my congressional district over the
years, I know that we can do much more to
ensure that all children get the kind of edu-
cation each of us would want for our own sons
or daughters.

I have spent much of the past decade fight-
ing to pass the key provisions of this bill:
teacher quality, parental notification, school
accountability, and new and unprecedented
targeting of resources.

Given the broad support this legislation en-
joys, it is difficult to believe that fewer than ten
years ago, my efforts to guarantee every child
a qualified teacher were dismissed by the
Congress. Today we do that, and much more.

AN EMPHASIS ON ACCOUNTABILITY, RESOURCES, AND
QUALITY

As a result of the changes we have made in
the conference report compared to the bill intro-
duced earlier this year, this bill will help return
our school system to the original goals of the
1965 Elementary and Secondary Education Act—to ensure that all children have an oppor-
tunity to learn regardless of income, back-
ground or racial or ethnic identity. But unlike
the laws on the books over the past 35 years,
we will back up our commitment with a set of
unambiguous expectations, time-lines, and re-
sources.

In this bill, we are prepared to offer a signifi-
cant increase in resources in exchange for
meeting real goals—teachers who teach, stu-
dents who learn, and schools that succeed.

Our bill, for the first time in federal law, es-
stablishes clear goals to close the educational
achievement gap over a 12-year period.

Through a system of state-based annual tests
in grades three through eight that will act as
a diagnostic tool, we will identify schools in
need of improvement and ensure they receive
adequate resources to improve.

Our bill provides for unprecedented tar-
geting of several dollars to the neediest stu-
dents, including a change in the Title I formula
that will reward states who make strides to re-
duce school finance inequity.

Our bill sets the clearest educational stand-
ards in history.

For the first time in federal law we establish
a formula to target federal aid for bilingual
education based on the number of children in
a particular school district who need it.

For the first time in federal law we will re-
quire that parents receive report cards with
clear and precise information on the quality
of their child’s school.

We will allow for unprecedented flexibility in
administering programs at the local level.

We greatly expand the reading program ini-
tiated by Democrats in 1998 and favored by
President Bush, including a new pre-K pro-
gram.

We also ensure that all state tests would be
compared against one, credible national
benchmark test, the NAEP test, and not a
smattering of different benchmark tests as the
House bill had called for. The NAEP test is
already used in a majority of states.

To ensure that the requirements of this bill
can be met, we provide new resources to
schools:

New money for teachers to receive men-
toring, professional training, and salary en-
hancements. We are supporting teachers by
giving them the resources they need to meet
our new standards;

We significantly increase funding for Title I,
the program for disadvantaged students, and
better target the money to the neediest stu-
dents in America;

We provide assistance for struggling schools:

We significantly increase funding for tech-
ology, after-school, and other programs that
have proven to enhance educational quality.

Both on the House floor earlier this year,
and then again during the conference com-
mittee, we successfully defeated a negative,
conservative education agenda that threat-
ened to undermine the original goals of this ef-
fort.

There are no vouchers in this bill to divert
public school money to private schools.

There is no “Straight A’s” state block grant to
eviscerate the federal targeting of dollars to
the neediest students and to waste critical
education dollars on state bureaucracies.

We maintained and expanded the After-School
program despite the President’s attempt to
eliminate it as a separate program.

We provide authority and resources for
school construction, despite opposition to a
federal role in modernizing school facilities by
the President and Republicans in Congress.

We also defeated a negative, conservative
social agenda that some attempted to insert
into this bill. They wanted to eliminate the
Hate Crimes program that teaches tolerance

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in our schools, but we kept the bill. They wanted to strengthen civil rights protections in current law, but we stopped them.

A REAL INCREASE IN RESOURCES

Finally, as I mentioned above, we have made great strides in boosting funding over and above what the President and Republicans in the Senate asked for.

The President began this effort with virtually no increase at all for education:

- The President asked for only a 3% increase in ESEA. We will now see a 20% increase in ESEA in real appropriations under the FY 02 Labor-HHS appropriations bill.
- The President asked for only a 3% increase for Title I. We won a 16–20% increase in appropriations.
- The President asked for only a 3% increase for S-4000 (Teacher Quality) programs. We won an 18% increase in appropriations.

COMMITMENT TO SPECIAL EDUCATION FUNDING STILL STICKY!

Mr. Speaker, there is one final point, regrettably, that I must raise. In this bill, unfortunately, the conferees were not able to reach an agreement on providing additional funding for special education. The Senate bill would have included $1 billion in federal commitment to special education, whereas the House rejected that provision. But you cannot fund only two-fifths of our commitment to special education and still "leave no child behind."

Yet, despite strong, bipartisan and bi-partisan support for full and mandatory funding for special education, the conference committee twice refused to provide the funding we promised school districts and parents 26 years ago.

CONCLUSION

Despite our serious disagreement over the critical issue of special education, I believe that the other reforms and resources that we provide for America’s school children in this bill are unprecedented achievements that deserve to be enacted into law without delay and implemented by the Administration in the very manner in which the conference committee intended.

There now lies a tremendous obligation by the Bush Administration to write the regulations for this bill and implement those regulations in a manner consistent with the urgent need that led us to write this bill in the first place.

This is a strong bill, it is a reasonable bill, and it is a historic bill that draws bright lines for our students and provides new resources to where they are needed most. I look forward to the enactment of this bill before the end of this year.

ACKNOWLEDGEMENTS—H.R. 1

I would like to acknowledge a number of people who helped to make this bill a reality. As I said at the outset, it was a bi-partisan and cooperative process.

I would like to acknowledge and thank President George W. Bush, Committee Chairman JOHN BOEHNER, Senator TED KENNEDY, and Senator JUDD GREGG. I would like to acknowledge and thank the other House Democratic conference for their contributions. Representative Manzullo, Major OWENS, ROB ANDREWS and Tim ROEMER.

I would like to express my grateful appreciation for the hard work of my committee staff, including my top education advisor Charles Barone, as well as John Lawrence, Daniel Weiss, Alex Nock, Denise Forte, Mark Zuckerman, Ruth Friedman and James Kvall, and also the staff for Congresswoman MINK, Brendan O’Neil, for Congressman ROEMER, Maggie McDow, and for Senator KENNEDY, his top education aide.

I would like to thank Chairman BOEHNER’s committee staff, his top education aide, Sally Lovejoy, and his staff director, Paula Nowakowski.

In addition there were many experts and organizations who provided invaluable expertise to our committee as we developed this legislation. Some in particular whom I would like to thank for their help include Bill Taylor and Dianne Piché at the Citizen’s Commission on Civil Rights, Kati Haycock and Amy Wilkins at the Education Trust, and Paul Weckstein at the Center for Law and Education.

I hope that everyone who had a hand in this enormous effort feels as proud as I do today about this legislation.

Mr. Speaker, back in May, this House spoke with almost a unanimous voice, with a strong voice, regarding the kind of education bill that they wanted. I believe that we can say to the Members of this House that we have brought them back a better bill than the bill we passed.

My colleagues said they wanted accountability for closing the achievement gap, and we have provided that. They said they wanted to improve the targeting of funds on poor districts and disadvantaged children, and we have done that. They said they wanted new investments and a stronger commitment to teacher and professional development, support and mentoring, and we have done that.

They said they wanted a new formula program for bilingual students so the money would go where the students in need are, and we have done that. They wanted assistance for those schools struggling to turn themselves around, and this bill does that. They said they wanted the expansion of the reading program, as outlined by the President and other people who are critical of the current reading resources in the Federal program, and we have done that. They wanted the use of nationwide tests so we could test whether or not the assessments made at the State level were accurately reflecting the educational achievement of those children. They also said they did not want Straight A’s, and we do not have much more to say about that. But they wanted flexibility, and we provided that flexibility without the Straight A’s.

So I think we have delivered a bill that this Congress on both sides of the aisle have overwhelmingly spoken on behalf of for many years, and the results are now here.

But let me just say one thing this bill does and what it is built upon. It is built upon the belief and uncompromising belief by the chairman of this committee, by the President of the United States, by Chairman KENNEDY, by Senator GREGG and myself, and so many other Members of this Congress and this committee that all of America’s children can learn. We believe that an impoverished child does not mean a child that cannot learn. We believe that although a student is a minority student they can learn. And the evidence is overwhelming that we are right.

What we did with this legislation was redirect those resources to dramatically enhance the opportunity for success by America’s children. The opportunity for success. We cannot guarantee the success, but we can provide the opportunity.

Yesterday, the Education Trust put out a report on the eve of our consideration of this bill that identified 1,320 districts with high-poverty students, high percentage of poverty, high minority schools that are excelling in the top third of their State’s children. They cannot accept this level of failure that we have in the past, and this legislation says that we will not.

Yes, it is going to be hard to meet these achievements; yes it will be hard to meet these goals and yes it will be hard to hold ourselves accountable, but there is no option to our doing this on behalf of America’s children.

We heard back in August when many people said this is impossible. I was shocked to hear it from so many educators. Maybe they are in the wrong field. Because here are 1,300 schools that are using the basic tools that are provided in this legislation, that are strengthened in this legislation, that are enhanced with the resources in this legislation, using the very tools in this bill, these 1,320 schools are among the top performers in their States. We want to replicate that all over this Nation for all of America’s children.

Again, I want to thank the chairman for making this possible. I believe we will do all this with a "aye" vote on the passage of this legislation.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I feel today like I did on the day of the birth of my two daughters: exhausted. It has been a long process and a long year. And as tired as I and the ranking member, the gentleman from California (Mr. GEORGE MILLER), and the members of the committee are, I think all of us understand that our staffs have done much, much more than we have, and have spent much, much more time. And I think that the Members here deserve to give our staff a big round of applause.

Mr. Speaker, there are a lot of thank-yous that have gone around today, and a number of people have mentioned the President. I think a lot of us know that President Bush, during his campaign last year, took a courageous stand, as a Republican candidate for President, when he took the issue of education and our party in a new direction. It was a bold and courageous move on his part, but he did it.

But not only did he do it during the campaign, he maintained that effort
and that focus to make this his number one domestic priority. That is when the gentleman from California (Mr. GEORGE MILLER) and I, and others, were brought down to Austin, Texas, to talk about the foundations of this bill. That is why I spent a full day in office, on January 22, the gentleman from California (Mr. GEORGE MILLER), Senator KENNEDY, Mr. JEFFORDS, and I were in the Oval Office with the President telling us how important this bill was.

The President believed that we needed more accountability in our Nation's schools; that we needed more flexibility for our local schools and our teachers at the local level; that we needed a new investment in early childhood reading programs and early grade reading programs; and that we needed to consolidate the number of Federal programs; and, lastly, to refocus the Federal Government's efforts at the neediest of our students.

Mr. Speaker, we went through this process together, and I could not have enjoyed our experience, nor could I have developed a better friend than the gentleman from California. Let me say to my colleagues in the other chamber... Mr. Speaker, I rise today in strong support of H.R. 1. This bill was truly the product of bipartisanship. The best interest of our children and teachers took priority, and because of that they will continue to prosper.

The goal of this bill was to eliminate the achievement gap between rich and poor students and minority and non-minority students that has burdened our schools for years. Not only does this bill begin to address these issues but it puts forth a realistic twelve year time frame to achieve it.

I am particularly pleased with the agreement made in regards to bilingual education. The inclusion of the late Senator Boren, who passed away earlier this year, has given us the option to remove their children from bilingual education at any time. Also, no time limit will be imposed on our students regarding bilingual education at any time. This bill will empower our parents and given them the option to remove their children from bilingual education at any time. Also, no time limit will be imposed on our students regarding bilingual education at any time.
Mr. MOORE. Mr. Speaker, I rise today to express my support for the conference report for H.R. 1, the Elementary and Secondary Education Act. This bill is a giant step forward in improving schools for our children. It is a comprehensive piece of legislation that will help ensure that no child is left behind. I look forward to full and sustained support of this important bill.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. STARK. Mr. Speaker, I rise in support of H.R. 1, the Better Education for Students and Teachers Act, which provides for increased funding for our nations school system. This bill improves current law by holding our schools accountable for providing quality education, enhancing teacher training and targeting funds to underprivileged students.

H.R. 1 makes a strong bipartisan effort to narrow the gap between the academic achievement of poor children and their more advantaged peers. It encourages schools to do a better job of educating our most vulnerable citizens. By helping disadvantaged children and working toward reducing them along the path to a better future. By ensuring that low performing schools are provided additional assistance, fewer underprivileged children will be ignored or allowed to be the victims of low expectations.

This legislation reauthorizes the Elementary and Secondary Education Act for six years and authorizes $26.5 billion for its programs in fiscal year 2002. President Bush made education a priority at the beginning of this year, he failed to request any significant increase in funding to back up his broad outline of reform. But Congress has stepped in to provide a significant increase in real funding.

The appropriations bill that goes with this re-

This bill improves targeting of funds to low-performing students, improves teacher quality, preserves the After-School program and key civil rights safeguards, and expands local flexibility in the use of certain federal education funds. And this bill contains the high levels of authorizations needed to assure that adequate resources will be provided to carry out the mandates of this new law.

Mr. Speaker, I am disappointed that Congress made the wise decision to reject private school vouchers. At the moment, public schools are under funded. Keeping money from public education does not address the problem in our schools, it exacerbates it. Vouchers assist a small proportion of children at the expense of the rest of the student population.

While there is much to support about H.R. 1, I am disappointed that the bill does not do more to improve special education. We must make sure that the needs of disabled children are fully addressed before we can truly say that no child is left behind. I look forward to future bipartisan efforts to roll our sleeves to meet the needs of children with disabilities.

In this paralyzing Congress, enactment of this solid bipartisan bill is a great accomplishment and will improve our nations educational system. I urge my colleagues to join me in support of my interim Elementary and Secondary Education Act. H.R. 1 is a giant step forward in improving schools for our children.

Mr. MOORE. Mr. Speaker, I rise today to express my support for the conference report for H.R. 1.

Mr. Speaker, New York City’s public schools face a host of difficult challenges including: overcrowded and outdated facilities; more students with special needs; increasing teacher shortages; and keeping up with rapidly advancing technology, I am pleased that H.R. 1 contains a number of important provisions that will help New York City meet its goals of greater student achievement levels by supporting enhanced efforts in these areas. For instance, the estimated $15 increase in $140 million for Title I funds under pending agreements to allocate most of the new Title I money to districts serving high numbers of poor students. H.R. 1 also retains targeting for the newly consolidated teacher quality program, which will be of great value to our current teacher recruitment, retention, and training efforts.

The bill offers new flexibility to school systems through the 150-district “local A’s” provision and through the “transferability” language. The flexibility, moreover, is achieved without state block grants, portability, vouchers, or other provisions that could have diluted otherwise-targeted assistance.

As a native of Puerto Rico, I am pleased that this bill moved Puerto Rico to full participation in Title I over the next 6 years in roughly the same level of funding as the last 8 years for example, Puerto Rico’s Title I funds will increase by over $60 million, more than a 20 percent addition. But that is not all. Under this legislation and the upcoming appropriation bill, Puerto Rico will also enjoy enhanced efforts in these areas. For example, Title I funds will increase by $10 million, or 67 percent.

The County Provision states that if a local education agency (LEA) contains two or more counties in its entirety, then each county is treated as if it were a separate LEA for the purpose of calculating Title I grants.

The provision singles out New York City for different treatment in any other local education agency in the nation (other than Hawaii) in its designation and receipt of Title I funds.

The counties of Kings (Brooklyn), Manhattan, Richmond (Staten Island), Queens, and the Bronx are treated as if they are five distinct LEAs despite endless negotiations between people of good faith. I have to admit that I am disappointed that the conferes did not omit the so-called “County Provision.” The County Provision states that if a local education agency (LEA) contains two or more counties in its entirety, then each county is treated as if it were a separate LEA for the purpose of calculating Title I grants.

The provision singles out New York City for different treatment in any other local education agency in the nation (other than Hawaii) in its designation and receipt of Title I funds.

The counties of Kings (Brooklyn), Manhattan, Richmond (Staten Island), Queens, and the Bronx are treated as if they are five distinct LEAs despite the fact that under New York State law the New York City Board of Education is the only LEA in New York City. As a result, Title I funds are now distributed based on each borough’s percentage of New York City’s federal Census poverty count.

In short, poor children in different boroughs receive differing amounts of federal education funding. Retention of this provision continues to promote inequity in funding among the counties within New York City.

This funding disparity occurs even though New York City Title I schools, regardless of their location, have almost identical costs for personnel, materials, equipment, and mandated costs to educate youngsters. I hope that we will somehow find a way to strip this inequitable provision so that needy children will receive the same level of funding without regard to where they live.

Finally, Mr. Speaker, I am pleased that the Conference Committee on H.R. 1 has produced a bill that strengthens our commitment to closing the achievement gap between rich and poor, minority and non-minority students,
Mr. HONDA. Mr. Speaker, I rise to express my reluctant support of the conference report on the Elementary and Secondary Education Act. While this legislation makes a significant strides in the field of education reform, it fails to honor an important commitment to our nation’s children.

Over the last quarter century, Congress has been shortchanging the federal commitment to education by grossly underfunding the Individual with Disabilities Education Act, or IDEA, in its annual appropriations process. This failure on the part of Congress has hurt local school districts in their efforts to fulfill their education mission, as they struggle to meet the mandates of IDEA without sufficient federal support. Earlier this year, I sent a letter signed by one hundred and thirty-four Members of Congress urging support of mandatory, full funding of IDEA. Despite the support of a bipartisan group of Members and education groups across the country, this bill fails to fully fund the federal share of IDEA. Congress made a promise to our nation’s children, and I will continue to fight to make sure this commitment is met in the future.

Mr. Speaker, while I am disappointed that Congress failed to provide this critical resource, I am pleased that this legislation establishes a promising framework for raising student achievement. This legislation will provide greater opportunities for disadvantaged children and will hold schools accountable for the academic achievement of students across the country. The bill will help schools in need, rather than instantly punishing them; it will give greater flexibility to local schools in making decisions about our children’s education; and it will dramatically expand and increase support for locally-designed approaches to help students learn English and achieve academically. I am particularly pleased that the bill increases funding for teacher training, requires states to develop plans to ensure that all teachers are provided professional development to become fully qualified in four years, and does not require mandatory testing of veteran teachers.

Mr. Speaker, as a former teacher and principal, I understand that our nation is at a two-way street. Education reform will only succeed when it is adequately funded. Our nation’s schools cannot be expected to provide a top-quality education if they do not have the resources to do so. This legislation is an important first step in improving our nation’s educational system, but it is not the last. Congress must continue to commit the necessary resources to make reform a success.

Now then will we truly leave no child behind.

McCartHY from Missouri. Mr. Speaker, I rise today in strong support for legislation for arts in education in the Conference Report of H.R. 1, the Elementary and Secondary Education Authorization Act. I applaud the efforts of my colleagues in developing consensus on this measure to improve elementary and secondary education for our children—our future. According to the Conference Report, Subpart 15, Section 5551, “the purposes of this subpart are the following: (1) To support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curricula; (2) To require that all students meet challenging State academic content standards and challenging State student academic achievement standards in the
art. (3) To support the national effort to enable all students to demonstrate competence in the arts.” I have long been a champion of arts and music education in our schools. The investment in these initiatives is one I remain committed to achieving.

H.R. 1 authorizes structural changes that will improve our country’s education system. As we implement these changes, we must continue to provide opportunities in arts and music education programs for our children. Arts in our school make a difference. The students who pick up a saxophone, a paintbrush, or a pen channels their energies into positive action. Affording children access to the arts through education yields dividends to our society as they develop into productive adults. Children who are involved in arts and music programs have reduced criminal tendencies, increased academic success, concentration, and self-discipline. These characteristics need to be emphasized in our children. The provision of arts in education programs is integral to the development of these qualities in our nation’s youth.

It is also true that the documented benefits of arts and music education that these programs should receive increased funding in the appropriate process. While a start, merely authorizing these programs is not enough. We must provide federal funding so that every child in every school has the opportunity to access arts and music education programs or we fail to allow children to utilize their full potential. The structural changes authorized today will not be as successful if we neglect the creative side of education. Arts and music education allow children to flourish, not only in music, art, and drama, but also in math and science and social skills.

I commend the conferees on their continued dedication to arts in education and their commitment to enhancing the education of our children through this comprehensive measure. I strongly support increased resources in the upcoming Appropriations process and adoption of this Conference Report.

Mr. LARSON of Connecticut. Mr. Speaker, I submit this statement today in support of the Conference Elementary and Secondary Education Authorization Act. Although I could not be here today during this debate because of a death in my family, I want to say for the record that the bill before us today is the end result of a year-long process between leaders in both parties to achieve compromise on what is surely one of the most important issues on the national agenda: the education and development of our nation’s future, our children.

It is no secret that America has long recognized the need for its long-term strength and security, and its ability to recover and sustain high levels of economic growth, depends on maintaining its edge in the quality of its workforce, its scientific achievement and the technological innovation it produces. Biomedical advances have permitted us to live longer, healthier, and more productively. Advances in agricultural technology have permitted us to be able to feed more and healthier people at a cheaper cost, more efficiently. The information revolution can be seen today in the advanced instruments schools are using to instruct our children and innovative resources are opened up as a result of the linkages created by a networked global society. Our children today can grow up to know, see, and read more, be more diverse, and have more options in their lives for learning and growing. Some emerging technologies—such as nanotechnology and biotechnology—have untold potential to make our lives more exciting, secure, prosperous, and challenging.

Many colleagues recognize this and they, therefore, focus their industrial, economic, and security policies on nurturing and developing an educational system that responds to the needs of its citizens and their societies. Countries that follow this path of nurturing educational achievement focus their efforts into ensuring that a pipeline which pumps talented and imaginative minds and skills is connected to the needs of the country’s socio-economic and security enterprise. Yet here in this country, this pipeline is broken, threatening the competitive edge we enjoy in the business of personal and economic growth, and technological innovation. The only acceptable course of action for a country that wishes to maintain its edge in the global system is to have a long-term educational policy that responds to the challenge of a billion children, 21st century children, with vigorous and renewed effort and commitment. That is why this bill before us today is truly historic.

This bill strengthens education in this country by enhancing accountability of our public schools for elementary and secondary education for disadvantaged students, for science and math education, and for technology programs. I am heartened that the bill would provide nearly $1 billion for a new program aimed at having all children reading by the third grade.

It would require states to develop a plan to have a qualified teacher in every classroom within four years. It also would give local school districts greater flexibility in spending federal money. The bill increases federal funding under the Elementary and Secondary Education Act by $3.7 billion. Funding for Title I, the federal government’s main education program for the disadvantaged, would increase by $1.7 billion under the law and technology programs would be increased by about $180 million.

The bill increases federal funding under the Elementary and Secondary Education Act by $3.7 billion. Funding for Title I, the federal government’s main education program for the disadvantaged, would increase by $1.7 billion under the law and technology programs would be increased by about $180 million.

But the bill is not perfect however. Currently, the federal government does not meet the financial obligations for special education it committed to in 1975 when the Education for All Handicapped Children Act (renamed Individuals with Disabilities Act in 1990) was first passed by Congress. This shortfall places an onerous financial burden on local communities who must find alternate resources, such as higher property taxes, to fund special education. The bill before us today does not address this.

The Individuals with Disabilities Education Act (IDEA) is a civil rights statute that provides funding to states and helps states fulfill their constitutional obligation to provide a public education for all children with disabilities. IDEA serves more than six and a half million children today. Underlying IDEA is the basic principle that states and school districts must make available a free and appropriate public education (FAPE) to children with disabilities between the ages of 3 and 21, and must be educated with children who are not disabled “to the maximum extent appropriate.”

Since 1975, Congress has authorized a federal commitment to special education funding at a level of 40 percent of the average per pupil expenditure (APPE) on special education services. However, Congress has only appropriated funds to meet between 5 and 14 percent of APPE, with FY 2001 appropriations setting a record at 14.9 percent, or about $7.4 billion. But that is still only little more than third of the, so far embarrassingly unfulfilled, Federal commitment to our nation.

As a former teacher, member of a school board, State Senator, and now Congressman, I have constantly heard a clear message from local educators and administrators that more resources must be committed to provide fair and adequate educational opportunities to children with special needs, and that the federal government must meet its commitment under IDEA. In the past, “fully funding” IDEA (meeting the 40% authorization) has generally been a theme for a handful of Republicans, but with the trade-off that other educational programming must be sacrificed.

Let me be clear, this is a constitutional right. Local school districts do not have the discretion to not fulfill their obligations to children with special needs. Where does the approximate $1 billion that Federal pledges to the States come from? It has to be made up somewhere and will most likely come from other important, but not constitutionally mandated, priorities. This is the real cost of our inaction. It is either a tradeoff in spending priorities or a real obliterative tax increase. It does not have to be this way, of course. And I believe the American people deserve better from us.

Still, failure to include this important provision will not stop me from fully supporting the underlying bill. It is a very good bill and I support it for the opportunity it provides— that it represents for this country: commitment to our education system and a good start. And since I see as merely a start, I will not stop my efforts to enact legislation—such as my bill, H.R. 1829—that would fulfill our commitment to our children, to our communities, and to our public schools by fully funding IDEA—and together with the bill before us today, our promise to the nation.

Ms. HARMAN. Mr. Speaker, as a product of the Los Angeles public school system, I know the value of public education.

As a businesswoman, I also know the value of flexibility to allow our schools to develop innovative solutions to the problems our public education system faces today.

Too many of our schools today are starved for funding, frustrated by regulations that hamstring their ability to create the programs they know will help students, or held accountable for providing a substandard education to students.

The status quo for public education is unacceptable. Thoughtful reform that increases opportunities for all students is the only path that builds an exceptional education system.

By improving our public education system, we reduce inequalities between individuals of different economic and racial backgrounds. I firmly believe that a quality education for all students is the best affirmative action program for our nation.

To achieve this goal, elementary and secondary education must provide students the skills they need to excel in the new economy. This means first and foremost an emphasis on the four cornerstones of educational opportunity— the arts, math, science, and technology.

The bill before us today does not contain an arts and music education program. Although a sufferer of childhood blindness, I have constantly heard a clear message from local educators and administrators that more resources must be committed to provide fair and adequate educational opportunities to children with special needs, and that the federal government must meet its commitment under IDEA.
have the opportunity to develop their full potential in the arts, sciences, or literature. The Conference Report helps us take the first step toward reinvigorating our public education system—and provides schools the resources they need to implement reforms.

This bill requires an unprecedented testing regime to hold schools accountable for improving the achievement of all students. Schools that fail to make the grade will at first receive more federal assistance to improve their curricula, then if they continue to fail, will have to provide funds to their students for tutoring or to travel to another public school. The bill provides funds to local school districts to implement these reforms. It increases federal education funding by 20 percent—an increase of almost $4 billion—to allow schools to develop accurate tests, improve the training and recruitment of teachers, buy computers, and develop after-school programs. It targets these funds at the school districts that need it most—those with a large number of low-income students—while allowing all school districts more flexibility in how they use federal funds.

I am however, deeply disappointed that this Conference Report did not increase federal funding for special education. Special education remains the biggest constraint on the budget of school districts in my district and the federal government must live up to its commitment to pay 40 percent of the cost of educating students with special needs. I will continue to fight for increased appropriations for special education while I am in Congress. There are legitimate arguments for why this program needs reform, but these concerns cannot be an excuse for not meeting our federal obligation on special education.

I support this Conference Report as a strong and significant step toward an education system for the 21st century.

Mr. THOMAS. Mr. Speaker, I rise in support of H.R. 1, the No Child Left Behind Act of 2001. This legislation fulfills President Bush’s promise to provide every child the opportunity to learn and to hold schools accountable to parents and I commend the President and my colleagues, particularly Chairman BOEHNER, for all of their hard work on this important legislation.

First, Mr. Speaker, our local schools will immediately have additional resources at their disposal as a result of this legislation’s requirement that 95 percent of federal education dollars go directly to America’s classrooms. Currently, as a result of 40 years of Democratic control of this body, the federal education system takes more than 30 cents of every dollar to support this bloated, inefficient, and dehumanizing ministrative bureaucracy, rather than the needs of our children. This sad situation will end because of the legislation we are passing today: almost all of the funding now will go to provide our teachers with the technology, textbooks, and training they need to help our students succeed.

Having taught in the California Community College system for 10 years before being elected to the California State Assembly, I want to address what enactment of H.R. 1 will mean for America’s teachers. Our teachers face an enormous task every day to provide our young people with the tools needed to succeed in the 21st Century world. Teachers make sacrifices often at the expense of their own time, and in some cases, their own funds. Furthermore, our current educational system has for too long fostered mediocrity and stifled creativity. This legislation will give teachers the resources they need and will financially reward them for their excellence when their students make significant gains.

Of great importance, the No Child Left Behind Act will also give teachers the help they need to control their classrooms by directing schools to develop policies which will discipline disruptive students and control classroom behavior. Finally, the Act will make it easier for school districts to recruit and train qualified teachers, and encourages school districts to hire secondary teachers who have advanced education in the subject they will teach.

It is clear, Mr. Speaker, that this bill is good for America’s teachers, America’s parents, and most importantly, America’s children. Thus, I encourage my colleagues to join me in supporting the No Child Left Behind Act.

Mr. GILMAN. Mr. Speaker, I rise today in support of this bipartisan bill which reauthorizes and reforms the Elementary and Secondary Education Act H.R. 1. I am pleased that the House and Senate conferences have drafted a bipartisan bill which will bring about the most significant federal education reforms in a generation, providing local school districts with the tools they need for a variety of programs that will benefit both educators and students.

This measure provides states and local school districts the authority to participate in state and local flexibility demonstration projects to ensure that federal education funds are used most effectively to meet the unique needs of our students. Moreover, the conference report consolidates and streamlines programs and targets resources to existing programs that serve poor students and it allows federal Title I funds, approximately $500 to $1,000 per child, to be used to provide supplemental educational services—including tutoring, after school services, and summer school programs—for children in failing schools.

The conference report also helps school districts with the ever-growing teacher shortage problem by giving local schools new freedom to make spending decisions in up to 50 percent of the non-Title I federal funds they receive. With this new freedom, a local school district can decide to use additional funds for hiring new teachers, increasing teacher pay, improving teacher training and development or other uses. This measure will make it easier for local schools to recruit and retain excellent teachers. It also consolidates current programs, such as the Title I Critical School District Program, which allows greater flexibility for local school districts. In addition, the report includes Teacher Opportunity Payments, which provides funds for teachers to be able to choose their own professional development activities. I am particularly pleased that language from the Foundations for Learning Act, which I worked on with Representative and Co-Sponsor PATRICK KENNEDY and Senator TED KENNEDY is included in this conference report, allowing local school districts to use federal funds to establish or contribute to existing pre-kindergarten programs which will help our children to be better prepared for kindergarten by focusing on social and emotional growth, in addition to educational instruction.

By preparing these children for kindergarten, they can enter school at higher social and emotional levels. They will know how to work with their classmates and will be accustomed to the basic rules of a classroom setting. This will allow teachers to focus more of their attention on actually teaching the class rather than working on acceptable behavior.

Moreover, this legislation includes funding for youth violence prevention and before and after school activities, two issues in which I have spent a great deal of time working on for the past 5 years. By providing children with options during non-school hours, we are giving them the guidance and tools they need to reject violent and destructive behaviors and giving them the chance to grow up and mature into productive and happy young adults.

Although this bill does not address the issue of fully funding the Individuals with Disabilities Education Act, it does lay the groundwork for important reforms in the program, which will be the next major education reform project the president and congress will work toward in the future. This bill commits us to working on legislation that will finally fulfill the federal government’s commitment to fully fund IDEA.

I commend my colleagues who have spent the last few months working on this conference report. I commend the distinguished Chairman of our Education and Workforce Committee, Mr. BOEHNER. Accordingly I urge my colleagues to support this conference report which will improve the nation’s education system, ensuring that we “Leave No Child Behind.”

Mr. BENTSEN. Mr. Speaker, I rise in support of this legislation, which provides for reauthorization of the Elementary and Secondary Education Act. H.R. 1 provides for a reform of the basic federal laws that support America’s K-12 public schools. Passage of this legislation will help return our school system to the original goals of the 1965 Elementary and Secondary Education Act—to ensure that all children have an opportunity to learn regardless of income or background.

I applaud the work of the conference on this legislation, who have produced a bill that strengthens our commitment to closing the achievement gap between rich and poor students, improves targeting of funds for low-performing students, improves teacher quality, pressures critical after-school programs and expands local flexibility in the use of federal education funds.

With respect to overall funding levels, this conference report provides a significant increase in funding for assistance to school districts to help improve student achievement, including a 57 percent increase in Title I resources, which are targeted for economically disadvantaged students. The agreement also reauthorizes most federal elementary and secondary education programs, bilingual education, teacher training and safe-school programs for six years. Perhaps most importantly, this bill establishes uniform annualized authorization levels to assure that adequate resources are provided to carry out the mandates provided under this new law.
I am also pleased that the Conference Agreement contains language included in the original House bill that establishes annual student testing in grades three through eight in math and science. The testing provision is designed to better inform parents and school officials about public schools and assist parents with the associated transportation costs. Rightly, this agreement does not mandate or impose a federal testing provision. Instead, under H.R. 1, states will design and select their own tests, and allows states 4 years to develop and implement the tests for every child in these six grades.

Along with annual testing, this legislation includes a number of accountability provisions intended to help hold schools reach high levels of academic achievement for their students, including state, school district and school “report cards” to parents and the public on school performance and teacher qualification. These provisions are critical to ensure that while we are asking much of our students academically, we are asking schools to maintain a high degree of professional standards and excellence. For the first time in federal legislation, the 1975 authority will be made permanent.

Another shortcoming of this legislation is its failure to fully fund IDEA. Millions of students, including thousands of children in my district, attend schools that are in desperate need of extensive repair or replacement. This problem has not gone away. Our children deserve safe, comfortable, modern schools.

And while this bill dramatically raises authorization levels, it provides true funding increases only for fiscal year 2002. I recognize that compromises had to be made to gain the broad bipartisan support that this bill enjoys. But if we are serious about leaving no child behind, we have to continue our commitment to education funding next year, and every year.

This conference report represents a large step forward for education. I commend Chairwoman BOEHNER, Ranking Member MILLER, and the conferees for working hard over many months to produce this bipartisan legislation. We have lifted the hopes and brightened the futures of millions of children.

However, to close the achievement gap, to improve our schools, to give every American child the same opportunities to succeed in the 21st century workforce—our work is far from done.

Mr. BLUMENAUER. Mr. Speaker, today I will vote in favor of H.R. 1, the Leave No Child Behind Act. Since coming to Congress my goal has been to ensure that the Federal Government is a better partner in building more livable communities. Access to quality public education is a key component of a community that our children, healthy, and economically secure.

While not perfect, the final version of H.R. 1 represents a bipartisan agreement that will move us in the right direction by providing more support and investment for public education. This bill establishes clear goals and a timeline for narrowing the achievement gap and targets federal dollars toward the neediest children. It sets a four-year goal for ensuring that all teachers are qualified to teach in their...
Mr. Speaker, this Member wishes to add his support for the H.R. 1 conference report and the lack of full funding for special education and the need to grow academically. It will certainly help return our ample in offering the best possible public education. Mr. BEREUTER. Mr. Speaker, this Member wishes to add his support for the H.R. 1 conference report, and his appreciation to the distinguished gentleman from Ohio [Mr. BOEHRNER], the chairman of the House Education and Workforce Committee, and the distinguished gentleman from California [Mr. MILLER], the ranking member of the House Education and the Workforce Committee, for bringing this important legislation to the House Floor today.

This is the most important action we have taken regarding elementary and secondary education since this Member first came to Congress. The H.R. 1 conference report, makes states that use Federal dollars accountable for improving student achievement, grants unprecedented new flexibility to local school districts, empowers parents and provides an escape route for children trapped in failing schools. The No Child Left Behind Act enhances flexibility for local school districts by allowing them to transfer up to 50 percent of their Federal education dollars among an assortment of ESEA programs as long as they demonstrate results. In addition, the H.R. 1 conference report consolidates a host of duplicative programs to ensure that state and local officials can meet the unique needs of students. The legislation also gives low-performing schools the chance to improve by offering necessary financial and other technical assistance.

In addition, the No Child Left Behind Act provides a "safety valve" for children trapped in failing schools. The conference report provides that if a school fails to make adequate yearly progress for two consecutive years, then a district would have to offer to the student in that school the opportunity to transfer to another public school. The legislation also allows children in failing schools to obtain supplemental education services, such as tutoring.

Furthermore, the conference report for H.R. 1 continues and updates the authorization for the National Writing Project. The legislation supports the Center for Civic Education and its education program that encourages instruction on the principles of our constitutional democracy, the history of the U.S. Constitution and the Bill of Rights. The measure also supports annual competitions of stimulated congressional hearings for secondary school students. This Member is pleased that the conference report also includes reauthorization of the Close Up Program.

When the House initially considered H.R. 1, this Member introduced an amendment that required states to annually test students in grades 3–8 in reading and math. This Member believes that the Federal Government's role in education should be to support proven state and local reform efforts rather than to create additional requirements for schools. By mandating new testing requirements on every child, every year from grades 3–8, as is provided in the H.R. 1 conference report, this measure will take teachers and students out of class, take dollars out of state and local education budgets, and undermine successful reform efforts already underway in Nebraska. This Member is also very concerned that this provision will force teachers to "teach-for-the-test." Although the conference report continues the House decision to allow states to design and select their own test, this Member continues to have these same concerns.

Mr. Speaker, this Member is also very concerned that the H.R. 1 conference report does not include a provision that would create mandatory full funding of the Individuals with Disabilities Education Act (IDEA). Only July 19, the conference report refers to the distinguished gentleman from Ohio [Mr. BOEHRNER], along with several other Members of Congress, requesting that Mr. BOEHRNER work with the other House and Senate conference members on the reauthorization of the Elementary and Secondary Education Act (ESEA) to improve the current IDEA reauthorization bill by including a mandatory IDEA full funding measure in the conference report. It is very unfortunate that such language was not included in the agreement.

Currently, the Federal Government is funding an average of 12.6 percent of the per pupil expenditure for children with disabilities. The other 27.4 percent of this unfilled congressional promise is a burden for state and local governments as they are forced into providing services to children other than those 40% of the eligible children at public expense. The likelihood of exclusion was greater for children with disabilities living in low-income, ethnic and racial minority, or rural communities. A recent government study published by the National Council on Disability finds that 25 years after enactment of IDEA, not one single state is in compliance. States cannot afford to be in compliance. States' school boards are trying to meet the requirements of IDEA but are struggling because the Federal government has not fulfilled its commitment to provide an additional 40% of the average per pupil expenditure to assist with the costs of educating students with disabilities.

Today IDEA is funded at about 14.9% of the average per pupil expenditure—much higher than the 7 percent of 5 years ago, but this, as well as in this room today, is not good enough. We must continue to increase funding to reach the 40 percent of the average pupil expenditure funding level mandated in law. I can tell you that the schools in my district are struggling to carry out IDEA, and my concern about the 40% that was not available for that support, we will see a backlash against those students with disabilities. Congress must fulfill its commitment assist States and localities with educating children with disabilities. Congress must ensure that the Federal government lives up to the promises it made to the students, parents, and schools more than two decades ago. Congress needs to fully fund IDEA and maintain its commitment to existing federal educational programs. We should ensure that children with disabilities receive a free and appropriate public education and at the same time ensure that all children have the best education possible.

Mr. Speaker, IDEA is a landmark civil rights law that was intended to open the doors to
education and success for more than six million American children each year. This was followed by another landmark civil rights law, the Americans with Disabilities Act (ADA) which was signed by President Bush in 1990.

It is my hope that this President will follow these former Presidents and show our Nation that it is not acceptable to be left behind, as this year has been the first time ever, our education legislation to be successful students.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of H.R. 1, the reauthorization of the Elementary and Secondary Education Act. I support this bill because it reauthorizes a broad array of targeted programs that work toward improving public education. It focuses on maintaining high standards in every classroom, strengthening teacher and principal quality, supporting a safe, healthy, disciplined, and drug-free learning environment and improving student performance.

H.R. 1 will help to close the gap between disadvantaged children and their more affluent peers, and between minority and non-minority students. We must also address the unprecedented targeting of Title I funds to the neediest communities. The 50 school districts with the highest percentage of poor students will receive a 10% increase in Title I funding solely as a result of proposed Title I formula grants. I schools will receive more funds due to increases in appropriations.

Congress, and the country at-large, cannot continue to ignore the gap between rich and poor and minority and non-minority students. This bill represents a fight against the status quo.

H.R. 1 will ensure that all teachers are qualified to teach in the subject matter for which they are responsible. The bill includes an authorization of $3.2 billion for teacher training and class-size reduction, a $1 billion (or 46%) increase from the FY 2001 funding level. It provides new resources for mentoring, training, salary enhancement and other improvements. We are supporting teachers by giving them the resources they need to do their jobs. Our teachers will now be better prepared, giving them the tools and know-how to be successful students.

H.R. 1 includes a historical 57% funding increase in bilingual education programs. For the first time ever, our education legislation has recognized that this country is growing closer and closer to our creed, E Pluribus Unum, “Out of Many, One”. This bill will ensure that language barriers will not leave our many immigrant and bilingual children behind.

Additionally, H.R. 1 contains no vouchers, no state block grants, and no repeal of after-school programs and a section was added for school construction. The bill also kept hate crimes programs and civil rights protections. Efforts to hold schools accountable without providing the resources and protections needed to meet high standards were defeated.

I contacted major disability groups, such as, The Arc and the Easter Seal Society. These groups expressed their disappointment in the loss of IDEA funding. The NEA, AFT, and NSBA offered similar opinions on the bill. All three groups also express disappointment that Congress could not agree to fulfill its promise to fully fund IDEA at 40 percent. This made a commitment 26 years ago to fund federally mandated special education programs at 40 percent of average per pupil expenditures.

By simply fulfilling our promise to fully fund our share of IDEA, Congress could improve public education three-fold. First, school districts would have substantial resources freed up for other essential or innovative educational programs. Second, we would remove the unpredictability of the annual appropriations process; reducing delays for local schools when formulating their budgets. And last but not least—we would be giving special education students the tools needed to overcome the many obstacles they face on a daily basis. Despite this shortcoming, these groups support the conference report’s increased accountability, and improving teacher quality, and I agree with them.

I believe the education of the 21st century must change to suit different learning styles and include a wider variety of programming that focuses on the application of classroom lessons—math, science, social sciences—to real world situations. Too often, lessons are taught in a way that makes it difficult to connect book lessons to the real world; we must better bridge this gap. In a world that evolves at a more rapid pace than our classroom classes, we should be encouraged at early ages. We simply must ensure that our education system keeps up with our world. We are in a critical transition stage; new techniques, new ideas, and new visions must be the order of the day, in order for our students to remain competitive.

We have the opportunity to uncap a wealth of human resources that lay under-appreciated and underestimated in urban and rural school districts across the country. The next generation is the most math-science driven generation. Students should be encouraged at early ages. We simply must ensure that our education system keeps up with our world. We are in a critical transition stage; new techniques, new ideas, and new visions must be the order of the day, in order for our students to remain competitive.

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include. This bill also affords parents the tools they need to ensure that their children are receiving a quality education. However, as I do rise in support of this bill, it is not without reservation. In a year where they need to ensure that their children are re-

gress also needs to continue its commitment to excellence in education and realize the tools they need to perform successfully. Con-
tory, so that schools, teachers, and students can make funding for special education manda-

tory, that no child is left behind.

Mr. HORN. Mr. Speaker, today the House takes up historic legislation. We will consider the conference report for H.R. 1, the No Child Left Behind Act of 2001, which will provide the most significant education legislation since Congress enacted the Elementary and Sec-

ondary Education Act in 1965 and I am very proud to be a cosponsor of the original legisla-
tion and to play a small role in the landmark reforms the legislation embodies. As we all know, the cornerstone of H.R. 1 is increased flexibility for local schools in ex-

change for greater accountability for student progress. Every school and every school dis-

tict is different and has different needs. For the first time, states and local school districts can target funds where they are needed most. For example, in my home state of California, we have already begun to lower class size. Under H.R. 1, we can use these funds in other areas where we desperately need resources, such as teacher training or special education. Title I funds are protected, ensuring that the needs of disadvantage students are met. Spending decisions are made by state and local officials, who are the most familiar with the particular strengths and needs of their schools, and can best decide how to spend federal funds.

H.R. 1 also helps school help themselves. If a school fails to demonstrate adequate year-

ly progress, it is given the assistance it needs to turn itself around. At the same time, stu-
dents who are left behind at that school. They are not stuck in a school that cannot teach them what they need to know. Additionally, students in schools that chronically fail to demonstrate progress are given the supplemental edu-
cation services they need to catch up with their peers in better-performing schools.

I am particularly pleased with the “Reading First Initiative” created by H.R. 1. Today, almost 70 percent of fourth graders in our poor-
est schools cannot read. If a student cannot read by the fourth grade, he or she will con-

inue to fall further and further behind his or her peers. Furthermore, we must do something to make sure that these children develop the skills necessary for a successful academic ca-

reer and a productive life. H.R. 1 triples fed-
eral funding for scientifically based literacy programs to a total $900 million for next year. This “Reading First” initiative will ensure that every child, no matter his or her background, can read by the third grade. Addressing read-

ing problems early will also prevent children from being mistakenly classified as special needs and entering an already over-taxed and underfunded special education system.

H.R. 1 demonstrates our bipartisan commit-
tment to improving educational opportunities for every child. This is our chance to radically reform education for all students. They de-

serve nothing less. A large number of our colleagues support the conference report and make sure that no child is left behind.

The SPEAKER pro tempore (Mr. THORNBERRY). All time for debate has expired.

Without objection, the previous ques-
tion is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the ayes appeared to have it. A recorded vote was ordered.

The question was taken; and the ayes appeared to have it.
December 13, 2001

CONGRESSIONAL RECORD—HOUSE

H10113

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Shadegg
Tancredo
Tiahrt
Weldon (FL)

NOT VOTING—12

Brady (TX)
Hostetler
Olver
Brown (OH)
Larson (CT)
Ros-Lehtinen
Cubin
Lusts
Coke
Gonzalez
Loudermilk
Waters
Gonzalez
Meek (FL)
Young (AK)

Speaker pro tempore announced that
other proceedings were postponed ear-

1422

Messrs. SESSIONS, AKINS and CRANE changed their vote from “aye” to “no.”

Mrs. NORTHUP changed her vote from “no” to “aye.”

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:
Mr. LARSON of Connecticut. Mr. Speaker, I unfortunately was required to attend a funeral in my Congressional District today and missed rollcall Vote No. 497. Had I been present and voting, I would have voted “aye”.

PROVIDING FOR MOTIONS TO SUSPEND THE RULES

The SPEAKER pro tempore (Mr. TIERNEY). Mr. Speaker, I de-

There was no objection.

Mr. EHLERS. Mr. Speaker, on rollcall No. 498 I received notice that this vote was being held. Had I been present, I would have voted “aye.”

Mr. BOEHNER. Mr. Speaker, I offer a

Resolved by the House of Representatives (the

Congressional Record—House

NOT VOTING—27

Mr. BOEHNER. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 289), directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1, and ask unanimous consent for

Mr. BOEHNER. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 289), directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1, and ask unanimous consent for its immediate consideration.

DIRECTING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Mr. BOEHNER. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 289), directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 289

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, the Clerk of the House of Representatives shall, with respect to the title IX that is contained within quotation marks that follow, hereby pro-
tede title X of the bill, make the following corrections:

(1) Insert before such title IX the fol-

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report to H.R. 1, the No Child Left Behind Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GEORGE MILLER of California. Mr. Speaker, reserving the right to object, although I do not intend to object, I would yield to the gentleman for an explanation of his request.

Mr. EHRLICH. Mr. Speaker, I want to thank my colleague and friend from California for yielding.

Mr. Speaker, the concurrent resolution before us allows the Enrolling Clerk to make a technical correction in the conference report to H.R. 1.

Mr. GEORGE MILLER of California. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1109

Mr. EHRLICH. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1109.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute.)

Mr. MENENDEZ. Mr. Speaker, I take this time to inquire about next week’s schedule.

I am pleased to yield to the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week.

The House will next meet for legislative business on Tuesday, December 18, at 12:30 p.m. for morning hour debate, and 5 o’clock for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members’ offices tomorrow. On Tuesday, no recorded votes are expected before 6:30 p.m.

Mr. Speaker, I would also like to report that we are continuing to work very hard on the economic security package. It is my hope that I will be able to schedule it for consideration in the House on next Tuesday night.

On Wednesday, the balance of the week, the House will consider the following measures to complete our business for the year: The Labor, Health and Human Services, and Education Appropriations Conference Report; the Department of Defense Appropriations Conference Report; and the Foreign Operations Appropriations Conference Report.

Mr. MENENDEZ. Mr. Speaker, re-claiming my time, am I to understand from the gentleman’s statement that Members should expect the stimulus bill on the floor Tuesday after the votes at 6:30 p.m.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for that inquiry. I can see that quiet look of confident optimism on the face of the gentleman from New York (Mr. RANGEL) behind the gentleman, so it encourages me, I knock on.

Mr. Speaker, I would say this is a very important piece of legislation. It is important to the Nation.

We are working hard in this conference, and I believe we are working in good faith with one another. We are preparing ourselves for the completion of the year’s work which we would anticipate would involve our being able to do the stimulus package Tuesday night and the remaining appropriations bills. That will mean that there will be a lot of very hard work done in all of these conferences between now and then. But I believe we are nearing near that we must redouble our efforts and come to these opportunities for closure.

So I would tell our Members that we would expect that we would be able to go to work on the floor and have the debate on a rule regarding the stimulus package between 5:30 and 6:30 on Tuesday evening next; we would expect to have the suspension votes and that rule vote; and then, after that period of time, sometime in the small of the night, 7:00, 7:30, we would be expecting to be talking up debate on the stimulus package.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman.

I have two further questions. The broadband Tauzin-Dingell bill is not on the schedule. Does that mean it is not going to happen in this year?

Mr. ARMEY. Mr. Speaker, if the gentleman is saying that we hope to see that bill in this year rather than next, I simply hope that we would be able to get that thing into conference and to get it out of conference. If we are able to get it into conference and to get it out of conference, I expect that we would be able to get it onto the floor very near that we must redouble our efforts and come to these opportunities for closure.

Mr. MENENDEZ. Mr. Speaker, re-claiming my time.

Mr. Speaker, I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for his answers, and I simply hope that on the stimulus package we can certainly respond to the growing unemployment needs of working men and women who have suffered as a result of September 11. As we seek to finalize that work, hopefully we can also give them hope as we approach the holiday season.

ADJOURNMENT TO MONDAY, DECEMBER 17, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, DECEMBER 18, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the
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House adjourns on Monday, December 17, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, December 18 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR

WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

VICE-CHANCELLOR RANGEL of New York, with the consent of the Speaker, presiding.

Mr. RANGEL. The motion to adjourn is in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

VICE-CHANCELLOR RANGEL of New York, with the consent of the Speaker, presiding.

Mr. RANGEL. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that it be in order at any time to take from the Speaker's table the bill (H.R. 3864) to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with Senate amendments thereto, and to consider in the House, without intervention of any point of order, any motion, or any demand for division of the question, a single motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendments with the amendment I have placed at the desk; that the Senate amendments and the motion be considered as read; that the motion be debatable for 40 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and that after such debate, the motion be considered as adopted; and that the amendment I have placed at the desk be considered as read for the purpose of this request.

The Clerk reads the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. RANGEL. Mr. Speaker, reserving my right to object. Mr. Speaker, I would ask the gentleman from California to describe the substance of the bill before us today and how it differs from the bill that originated in the Senate.

Mr. THOMAS. Mr. Speaker, further reserving the right to object, could the chairman of the committee share with us how the legislation was developed, why it was necessary to expedite the legislation and provide a number of tax measures to relieve those individuals, authorize the issue of tax-exempt private activity bonds, create a 30 percent bonus of depreciable property in the recovery zone as defined, a 10-year life on leaseholder build-outs for those individuals who own commercial property and want to rebuild it so that the vital aspects of New York City, which we visited, the restaurants and the shops and the others, can be restored as quickly as possible, and the extension of certain replacement period provisions which those of us on the Committee on Ways and Means know are extremely important in making sure that people make a decision quickly to move back in or to establish in the recovery zone to assist in the recovery of New York City.

Mr. RANGEL. Mr. Speaker, further reserving the right to object, could the chairman of the committee share with us how the legislation was developed, why it was necessary to expedite the legislation and provide a number of tax measures to relieve those individuals, authorize the issue of tax-exempt private activity bonds, create a 30 percent bonus of depreciable property in the recovery zone as defined, a 10-year life on leaseholder build-outs for those individuals who own commercial property and want to rebuild it so that the vital aspects of New York City, which we visited, the restaurants and the shops and the others, can be restored as quickly as possible, and the extension of certain replacement period provisions which those of us on the Committee on Ways and Means know are extremely important in making sure that people make a decision quickly to move back in or to establish in the recovery zone to assist in the recovery of New York City.

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, I will tell the gentleman that I had the privilege at one time, for example, of accompanying the gentleman to Ground Zero, and the sight and the duties that we had here, and spent some time with a number of city business leaders that the gentleman and others were kind enough to bring together at the stock exchange location and, over lunch, several hours, listened to the particular concerns that those individuals had about the need and the way in which we needed to respond. I met with several New York City, New York State governmental teams, including the Mayor, and, of course, listening to on both sides of the aisle the members from the New York delegation, both as did the state and the city. In addition to that, we all know, there are several other States that are jurisdictions that also lost our colleagues from New Jersey and Pennsylvania had significant concerns as well. All of those came together culminating in this package today.

And I would be remiss if I did not thank the gentleman from New York (Mr. RANGEL) for his immediate and continuing offering and the members' willingness to accept his kind invitation to come and visit the city, albeit in the way most of us had visited New York in the past on those wonderful trips that we used to have, but a very realistic trip to understand first-hand what had happened to the Big Apple.

Mr. RANGEL. Mr. Speaker, I withdraw my reservation, because it is so important to my city that we get as much relief as possible from both Houses. But it really never ceases to amaze me of the creative legislative ability of our distinguished chairman to bring together ideas and to pull them together with the input of the members of the committee without hearings; just absolutely fascinating how the things that we have for granted that we do as a Congress or we do as a committee have been substituted by the inquiries that the Chair can make in the great City of New York and with people that have an interest in the City of New York. So this is not the time to object; this is the time to move the consideration of this bill forward.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the Senate amendments is as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SHORT TITLE.—This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001".
(b) AMENDMENT OF 1996 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, such reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLe 1—RELIeF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

Sec. 101. Income and employment taxes of victims of terrorist attacks.
Sec. 102. Estate tax reduction.
Sec. 103. Payments by charitable organizations treated as exempt payments.
Sec. 104. Exclusion of certain cancellations of indebtedness.
Sec. 105. Treatment of certain structured settlement payments and disability trusts.
Sec. 106. No impact on social security trust funds.

TITLe 2—GENERAL RELIEF FOR VICTIMS OF DISASTERS OR TERRORISTIC OR MILITARY ACTIONS

Sec. 201. Exclusion for disaster relief payments.
Sec. 202. Authority to postpone certain deadlines and required actions.
Sec. 203. Internal Revenue Service disaster response team.
Sec. 204. Application of certain provisions to victims of terrorist attacks.
Sec. 205. Clarification of due date for airline excise tax deposits.
Sec. 206. Coordination with Air Transportation Safety and System Stabilization Act.

TITLe 3—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 301. Disclosure of tax information in terrorism and national security investigations.

TITLe 1—RELIeF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

SEC. 101. INCOME AND EMPLOYMENT TAXES OF VICTIMS OF TERRORIST ATTACKS

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new sub-section:

“(d) INDIVIDUALS DYING AS A RESULT OF CERTAIN TERRORIST ATTACKS.—

“(1) IN GENERAL.—In the case of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or who dies as a result of illness incurred as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, any tax imposed by this subtitle shall not apply to any item of income, gain, or other amounts attributable to—

“(i) amounts payable in the taxable year by reason of the death of an individual described in paragraph (1) which would have been payable in such taxable year if the death had occurred by reason of an event other than an event such as described in paragraph (1), or

“(ii) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after the date of the applicable terrorist attack.

“(B) NO RELIEF FOR PERPETRATORS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any event described in paragraph (1), or a representative of such individual.

“(c) CONFORMING AMENDMENTS.—

“(1) Section 692(b)(1) is amended by inserting ‘‘victims of certain terrorist attacks’’ before ‘‘on death’’.

“(2) Section 6013(f)(2)(B) is amended by inserting ‘‘and victims of certain terrorist attacks’’ before ‘‘on death’’.

“(d) CLERICAL AMENDMENTS.—

“(1) The heading of section 692 is amended as follows:

“SEC. 692. INCOME AND EMPLOYMENT TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.

“(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

“SEC. 692. Income and employment taxes of members of Armed Forces and victims of certain terrorist attacks on death.”.

(e) EFFECTIVE DATE; WAIVER OF LIMITATIONS.

“(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

“(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of enactment of this Act by the action of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. ESTATE TAX REDUCTION

(a) IN GENERAL.—Section 2201 is amended to read as follows:

“SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

“(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying section 2001 to the estate of a qualified decedent, the rate schedule set forth in subsection (b) shall be deemed to be the rate schedule set forth in section 2001(c).

“(b) QUALIFIED DECEDENT.—For purposes of this section, the term ‘qualified decedent’ means—

“(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

“(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

“(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and in which the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, or

“(2) any individual who died as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or who died as a result of illness incurred as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

“(c) RATE SCHEDULE—

“‘The tentative tax is:—

Over $50,000,000 .................. 1 percent of the amount by which such amount exceeds $700,000.
Over $500,000 but not over $900,000........ 2 percent of the excess over $500,000.
Over $300,000 but not over $500,000.......... $1,500,000 plus 3 percent of the excess over $300,000.
Over $300,000 but not over $300,000.......... $4,500,000 plus 4 percent of the excess over $300,000.
Over $300,000 but not over $200,000........ $9,500,000 plus 5 percent of the excess over $200,000.
Over $200,000 but not over $150,000........ $15,000,000 plus 6 percent of the excess over $150,000.
Over $150,000 but not over $100,000........ $20,000,000 plus 7 percent of the excess over $100,000.
Over $100,000 but not over $50,000......... $25,000,000 plus 8 percent of the excess over $50,000.
Over $50,000 but not over $20,000......... $30,500,000 plus 9 percent of the excess over $20,000.
Over $20,000 but not over $10,000......... $35,000,000 plus 10 percent of the excess over $10,000.
Over $10,000 but not over $5,000.......... $40,000,000 plus 11 percent of the excess over $5,000.
Over $5,000 but not over $1,000........ $45,000,000 plus 12 percent of the excess over $1,000.
Over $1,000 but not over $300........ $50,000,000 plus 13 percent of the excess over $300.
Over $300 but not over $100........ $55,000,000 plus 14 percent of the excess over $100.
Over $100 but not over $50........ $60,000,000 plus 15 percent of the excess over $50.
Over $50 but not over $10........ $65,000,000 plus 16 percent of the excess over $10.
Over $10 but not over $5........ $70,000,000 plus 17 percent of the excess over $5.
Over $5 but not over $1........ $75,000,000 plus 18 percent of the excess over $1.
Over $1 but not over $0.50....... $80,000,000 plus 19 percent of the excess over $0.50.

“(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2635(d)(3)(B) is amended by striking ‘‘section 2635’’ and inserting ‘‘section 2634’’.

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

“SEC. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.”.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—
(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of deceases—
(a) dying on or after September 11, 2001, and (b) individuals dying as a result of the terrorist attack occurring on or after September 11, 1995.
(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001 or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 104. EXCLUSION OF CERTAIN CANCELLATION OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—
(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001 or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, and
(2) for purposes under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

SEC. 105. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS AND DISPOSITIVE OR PROTECTIVE ORDERS.

(a) IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE CERTAIN STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.—
(1) IN GENERAL.—In general, a excise tax is imposed by adding at the end the following new chapter:

**CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS**

Sec. 5891. Structured settlement factoring transactions for certain victims of terrorism.

**SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS FOR CERTAIN VICTIMS OF TERRORISM.**

(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such transaction.

(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—

(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved as described in paragraph (2).

(2) QUALIFIED ORDER.—For purposes of this section, the term ‘qualified order’ means a final order, judgment, or decree which—
(A) finds that the transfer described in paragraph (1) is—
(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority which is inconsistent with the laws of the State in which the structured settlement is domiciled, or
(ii) is in the best interest of the payee, taking into account the welfare and support of the payee, and any dependent support obligations, and
(B) is issued—
(i) under the authority of an applicable State statute by an applicable State court, or
(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

(3) APPLICABLE STATE.—For purposes of this section—
(A) IN GENERAL.—The term ‘applicable State’ means, with respect to any applicable State statute, the State which enacted such statute.

(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

(4) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of this section.

(5) DEFINITIONS.—For purposes of this section—
(A) STRUCTURED SETTLEMENT.—The term ‘structured settlement’ means—
(i) an arrangement (which is not a trust) by which—
(I) all amounts payable to the payee are acquired by a person (other than the payee) for a price,
(II) the payee receives from the person—
(aa) the amounts payable to the payee, and
(bb) payment for such transfers,
and
(III) the payee is not required to make any payment to the person
(A) in return for the payment made to the payee under this subparagraph, or
(B) for any period following the date of the enactment of this Act and ending on July 1, 2002,
(ii) a transfer of payment rights was entered into, the subsequent sale of which is effectively transferred at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), or
(iii) the term ‘structured settlement’ includes—
(I) any continuation of the payee’s interest in structured settlement payments, excluding the portion of structured settlement payments made by an entity paying for the sale of payment rights, and
(II) any part of any payment not in excess of the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction,

(B) FACTORING DISCOUNT.—The term ‘factoring discount’ means an amount equal to the excess of—
(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over
(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

(C) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term ‘responsible administrative authority’ means the administrative authority which has jurisdiction over the underlying action or proceeding which was resolved by means of a structured settlement.

(D) STATE.—The term ‘State’ includes the Commonwealth of Puerto Rico and any possession of the United States.

(6) Coordination With Other Provisions.—
(A) IN GENERAL.—If the applicable requirement of section 72(a)(11), 194(a)(2), 130, or 461(f) was satisfied at the time that structured settlement involving structured settlement payment rights was entered into, the subsequent sale of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

(B) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the payments in the event of a structured settlement factoring transaction.

(C) NO INERENCE.—No inference shall be drawn from the application of such provision to only those payment rights described in subsection (c)(2).”.

(B) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

‘‘Chapter 55. Structured settlement factoring transactions.’’.

(3) EFFECTIVE DATE.—(A) IN GENERAL.—The amendments made by this subsection (other than the provisions of section 5891(a) of the Internal Revenue Code of 1986, as added by this subsection) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(B) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after such 30th day.

(C) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act, the provisions of section 5891(a) of such Code (as so added) shall apply to the structured settlement factoring transaction by adding at the end the following new item:

‘‘(A) IN GENERAL.—The term ‘structured settlement factoring transaction’ means a transfer of payment rights which satisfies the following conditions—
(i) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that structured settlement factoring transactions is ineffective unless the transaction has been
approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction: 

(1) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and 

(II) is in the best interest of the structured settlement, which is appropriate in light of the hardship faced by the payee, and 

(ii) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments, and the present value as determined in the manner described in section 7520 of such Code, and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction. 

(b) PERSONAL EXEMPTION DEDUCTION FOR CERTAIN INDIVIDUALS. 

(1) IN GENERAL.—Section 64(b) (relating to deduction for personal exemption) is amended—

(A) by striking "An estate," and 

(B) by adding at the end the following new paragraph:

"(2) by adding at the end the following new paragraph:

""(A) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after September 11, 2001.

""(B) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this subsection is prevented at any time before the close of the 1-year period beginning on the date of enactment of this Act by the operation of any law or rule of law (including judicial interpretation) such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 106. NO IMPACT ON SOCIAL SECURITY TRUST FUND. 

(a) IN GENERAL.—Nothing in this title (or an amendment made by this title) shall be construed to affect section 21 of the Social Security Act (42 U.S.C. 1302) or any regulation promulgated under that Act.

(b) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401). 

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the balances of such trust funds are not reduced as a result of the enactment of this title.

TITLE II—GENERAL RELIEF FOR VICTIMS OF DISASTERS AND TERRORISTIC OR MILITARY ACTIONS 

SEC. 201. EXCLUSION FOR DISASTER RELIEF PAYMENTS. 

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 139A and inserting after section 138 the following new section: 

""SEC. 139. DISASTER RELIEF PAYMENTS. 

(a) GENERAL RULE.—Gross income shall not include—

""(1) any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act, or

""(2) any amount received by an individual as a qualified disaster relief payment. 

""(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term ‘qualified disaster relief payment’ means any amount paid to or for the benefit of an individual—

""(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster;

""(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair or replacement is attributable to a qualified disaster;

""(3) by a person engaged in the furnishing of services (other than services of an employer to an employee) by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

""(4) if such amount is paid by a Federal, State, or local government agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

""but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise. 

""(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term ‘qualified disaster’ means—

""(1) a disaster which results from a terrorist or military action (as defined in section 692(c)(2));

""(2) a Presidentially declared disaster (as defined in section 1023(h)(3));

""(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature;

""(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority to be a catastrophe due to relevant assistance from the Federal, State, or local government or agency or instrumentality thereof; 

""(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of paragraphs 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax. 

""(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsection (a) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terrorist action (as so defined), or a representative of such individual."". 

(b) CONFORMING AMENDMENTS.—The table of sections for part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052) is amended by striking ""section 139"" and inserting ""sections 139, 139A, and 139B"".

""SEC. 140. Cross references to other Acts."" 

(a) EFFECTIVE DATE.—The amendments made by this section shall apply to the taxable years ending on or after September 11, 2001. 

(b) AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS. 

(1) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS. 

(2) FORMATION OF PANEL TO ADVISE THE SECRETARY ON MATTERS RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.
section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely by reason of disregarding any period by reason of the preceding sentence.’’.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) by striking subsection (h),

(b) by redesignating subsection (i) as subsection (h), and

(c) by adding at the end the following new subsection:

‘‘(I) CROSS REFERENCE.—

For authority of the Secretary to abate certain amounts due of Presidentially declared disaster or terroristic or military action, see section 7508A.’’.

(2) Section 6081(c) is amended to read as follows:

‘‘(c) CROSS REFERENCES.—

For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.’’.

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

‘‘(C) by adding at the end the following new subparagraph:

‘‘(I) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.

(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information to officers of the Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information (other than taxpayer return information) to officers of any State or local law enforcement agency and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

(iii) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be used solely for the purposes of the Federal law enforcement agency and employees to whom such information is disclosed in such response or investigation.

(iv) DISCLOSURE TO INTELLIGENCE AGENCIES.—

(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterterrorist intelligence information concerning any terrorist incident, threat, or activity.

(ii) DISCLOSURE WITHOUT A REQUEST OF INFORMATION.—

The Secretary may disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, the Treasury, and other Federal law enforcement agency and employees to whom such information is disclosed in such response or investigation.

(iii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—

Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer’s identity shall not be treated as taxpayer return information.

(v) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2005.

(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

Subsection (i) of section 6103 (relating to disclosure of Federal officer or employees for purposes of Federal laws not relating to tax administration) is amended by redesigning paragraph (7) as paragraph (4) and by inserting after paragraph (6) the following new paragraph:

(i) Cross Reference.—Section 6221A(c)(1) is made applicable by repealing the following Act (as amended).

‘‘(A) Telegraph Act—

(1) IN GENERAL.—Section 52 of the Army Telegraph Act (as amended) is amended by striking ‘‘(a)’’ and substituting ‘‘(a) in paragraph (1) by inserting at the end the following new subparagraph:

‘‘(I) DEFINITION.—

‘‘(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—

(i) IN GENERAL.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

(ii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer’s identity shall not be treated as taxpayer return information.

(iii) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2005.

(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

(A) CROSS REFERENCES.—

(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, the Treasury, and other Federal law enforcement agencies who are personally and directly engaged in the collection or analysis of intelligence and counterterrorist intelligence information concerning any terrorist incident, threat, or activity.

(ii) LIMITATION ON USE OF INFORMATION.—

Information disclosed under this subparagraph shall be used solely for the purposes of the Federal law enforcement agency and employees to whom such information is disclosed in such response or investigation.

(iii) DISCLOSURE TO INTELLIGENCE AGENCIES.—

(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterterrorist intelligence information concerning any terrorist incident, threat, or activity.

(ii) DISCLOSURE WITHOUT A REQUEST OF INFORMATION.—

The Secretary may disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, the Treasury, and other Federal law enforcement agency and employees to whom such information is disclosed in such response or investigation.
“(ii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

(1) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service.

(2) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer’s identity shall not be protected if it relates to return information.

(iv) DISCLOSURE UNDER EX PARTE ORDERS.—

(I) IN GENERAL.—Except as provided in paragraph (2), if an ex parte order or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

(II) APPLICATION FOR ORDERS.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

(III) SPECIFIC RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

(I) IN GENERAL.—Except as provided in paragraph (2) or (3), if an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i) is made, upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

(IV) DEFUNCT RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

(I) IN GENERAL.—Except as provided in paragraph (2) or (3), if an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i) is made, upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(E) EFFECTIVE DATE.—No disclosure may be made under this paragraph after December 31, 2003.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting “any local law enforcement agency receiving in-

formation under subsection (i)(7)(A),” after “State,”.

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

“(12) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term ‘terrorist incident, threat, or activity’ means an incident, threat, or activity involving acts of terrorism (as defined in section 2333 of title 18, United States Code) or international terrorism (as defined in section 2331 of this title).”

(3) The third sentence of section 6103(c) is amended by inserting “or TERRORIST” after “CRIMINAL”.

(4) Paragraph (4) of section 6103(d) is amended—

(A) in subparagraph (A) by inserting “or (7)(C)” after “after paragraph (1),” and

(B) by inserting “or (7)(D)” after “or (C),”.

(5) Paragraph (6) of section 6103(d) is amended—

(A) by striking “(3)(A)” and inserting “(3)(A) or (C),” and

(B) by striking “(7),” and inserting “(7),”.

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking “(7)(A)(i)” and inserting “(7)(A)(ii),” and

(B) in subparagraph (C) by striking “(3)(A)” and inserting “(3)(B)”.

(7) Section 6103(p)(4) is amended—

(A) by striking “(5),” and inserting “(5),”.

(B) by striking paragraphs (1) or (2) in paragraph (3) and inserting “paragraph (1), (2), or (3),”.

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the fol-

lowing new paragraph:

“(2) to the disclosure of tax convention infor-

mation on the basis of which a tax return or return information may be disclosed under paragraph (3)(C) or (7) of section 6103(c), except that in the case of tax convention information provided by a foreign government, such information shall be exempt from this paragraph without the written consent of the foreign government,”.

(8) Section 7213(c)(2) is amended by inserting “(1)(3)(B)(i) or (7)(A)(ii),” and

(9) Section 6105(b) is amended—

(A) by striking “or” at the end of paragraph (2),

(B) by striking “paragraphs (1) or (2)” in paragraph (3) and inserting “paragraph (1), (2), or (3),”.

(C) by redesigning paragraph (3) as par-

agraph (4), and

(D) by inserting after paragraph (2) the fol-

lowing new paragraph:

“(1) to the disclosure of tax convention infor-

mation on the basis of which a tax return or return information may be disclosed under paragraph (3)(C) or (7) of section 6103(c), except that in the case of tax convention information provided by a foreign government, such information shall be exempt from this paragraph without the written consent of the foreign government, or”,

(10) Section 7213(c)(2) is amended by striking “(1)(3)(B)(i) or” and inserting “(1)(3)(B)(i) or (7)(A)(ii),”.

(11) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

MOTION OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, pursuant to the order of the House, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows: Mr. Thomas moves that—

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE. This Act may be cited as the “Victims of Terrorism Tax Relief Act of 2001”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, another Act or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of con-

The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

Sec. 101. Income taxes of victims of terrorist attacks.

Sec. 102. Exclusion of certain death benefits.

Sec. 103. Estate tax reduction.

Sec. 104. Payments by charitable organizations treated as exempt pay-

Sec. 105. Other relief provisions.

TITLE II—OTHER RELIEF PROVISIONS

Sec. 201. Exclusion for disaster relief pay-

Sec. 202. Authority to postpone certain deadlines and required actions.

Sec. 203. Application of certain provisions to terrorist or military actions.

Sec. 204. Clarification and extension for airline excise tax deposits.

Sec. 205. Treatment of certain structured settlement payments.

Sec. 206. Personal exemption deduction for certain disability trusts.

TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Sec. 301. Tax benefits for area of New York City damaged in terrorist attacks on September 11, 2001.

TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 401. Disclosure of tax information in terrorism and national security investigations.

TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

Sec. 501. No impact on social security trust funds.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

SECTION 101. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 6012A (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

“(3)(A) who dies as a result of illness incurred, or death) is amended by adding at the end the following new subsection:

“(3)(A) who dies as a result of illness incurred, or

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, another Act or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of con-
on account of the close of such period. The tentative tax is:

- Over $150,000 but not over $2,100,000: over $1,000,000 plus 20 percent of the excess over $150,000.
- Over $2,100,000 but not over $5,100,000: over $1,400,000 plus 22 percent of the excess over $2,100,000.
- Over $5,100,000 but not over $6,100,000: over $1,500,000 plus 23 percent of the excess over $5,100,000.
- Over $6,100,000 but not over $7,100,000: over $1,550,000 plus 24 percent of the excess over $6,100,000.
- Over $7,100,000 but not over $8,100,000: over $1,580,000 plus 25 percent of the excess over $7,100,000.
- Over $8,100,000 but not over $9,100,000: over $1,595,000 plus 25 percent of the excess over $8,100,000.
- Over $9,100,000 but not over $10,100,000: over $1,609,000 plus 26 percent of the excess over $9,100,000.
- Over $10,100,000 but not over $20,000,000: over $1,676,000 plus 28 percent of the excess over $10,100,000.
- Over $20,000,000: over $2,163,500 plus 30 percent of the excess over $20,000,000.

8. For purposes of the Internal Revenue Code of 1986: (1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, winding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization’s exemption under section 501 of such Code if such payments are:

(A) in good faith using a reasonable and objective formula which is consistently applied, and

(B) in furtherance of public rather than private purposes, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

9. Effective Date.—This section shall apply to payments made on or after September 11, 2001.
“(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

“(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare, but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

“(c) QUALIFIED DISASTER Defined.—For purposes of this section, the term ‘qualified disaster’ means—

“(1) a disaster which results from a terrorist or military action (as defined in section 1033(h)(3)),

“(2) a Presidentially declared disaster (as defined in section 1033(b)(3)),

“(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

“(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local agency (or the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

“(d) Conformity With Employment Taxes.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

“(e) No Relief for Certain Individuals.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terrorist action (as so defined), or a representative of such individual.

“(f) Exclusion of Certain Additional Payments.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act.’’

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new item:

“Sec. 139. Disaster relief payments.

“Sec. 140. Cross references to other Acts.’’

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received in calendar years ending on or after September 11, 2001.

SEC. 202. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

“SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

“(a) In General.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terrorist or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

“(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary of such disaster or action),

“(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after the date (determined by the Secretary of such disaster or action),

“(3) the amount of any credit or refund,

“(b) SPECIAL RULES REGARDING DISASTERS, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terrorist or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title, No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

“(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.

“(d) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by adding at the end the following new paragraph:

“(7) Presidentially declared disaster or terrorist or military action (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terrorist or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.’’

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters and terrorist or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 203. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) DISABILITY INCOME.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking ‘‘victims of terrorist attacks’’ and all that follows through the period ‘‘as otherwise determined by the Secretary.’’

(b) E XEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYERS.—Section 132(f)(2) is amended—

“(1) by striking ‘‘outside the United States’’ in paragraph (1), and

“(2) by striking ‘‘suspended overseas’’ in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 204. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX.

(a) IN GENERAL.—Paragraph (3) of section 393(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

“(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter C of chapter 31 of such Code (relating to transportation by air).’’

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if inserted in section 393 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).
SEC. 205. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.

(a) In General.—Subtitle E is amended by adding at the end the following new chapter:

CHAPTER 55.—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Sec. 5891. Structured settlement factoring transactions.

Sec. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

(a) Imposition of Tax.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights that were structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

(b) Exception for Certain Approved Transactions.—

(1) In General.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

(2) Qualified Order.—For purposes of this section, the term ‘qualified order’ means a final order, judgment, or decree which—

(A) finds that the transfer described in paragraph (1)—

(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

(ii) is in the best interest of the payee, taking into account the welfare and support of the payee’s dependents, and

(B) is issued—

(i) under the authority of an applicable State statute by an applicable State court, or

(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding, which was resolved by means of the structured settlement.

(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term ‘applicable State statute’ means a statute providing for structured settlement factoring transactions.

(4) FACTORING DISCOUNT.—The term ‘factoring discount’ means an amount equal to the excess of—

(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term ‘responsible administrative authority’ means the administrative authority responsible for any underlying action or proceeding which was resolved by means of the structured settlement.

(6) STATE.—The term ‘State’ includes the Commonwealth of Puerto Rico and any possession of the United States.

(c) Coordination with Other Provisions.—

(1) In General.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement factoring transaction was entered into with an insured depository institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

(2) WITHHOLDING OF TAX.—The provisions of section 3406 regarding withholding of tax shall not apply to payments in the event of a structured settlement factoring transaction.

(b) Clerical Amendment.—The table of chapters for subtitle E is amended by adding at the end the following new item:

‘‘Chapter 55. Structured settlement factoring transactions.’’

(c) Effective Dates.—

(1) In General.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act and ending on July 1, 2002.

(2) Clarification of Existing Law.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after December 31, 1997.

(3) Transition Rule.—In the case of a structured settlement factoring transaction entered into during the period beginning on the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee and paid from the proceeds of such transaction.

SEC. 206. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) In General.—Section 62 (relating to deduction for personal exemption) is amended to read as follows:

‘‘Deduction for Personal Exemption.—

(1) Estates.—An estate shall be allowed a deduction of $600.

(2) Trusts.—

(A) In General.—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

(B) Gross Income Current.—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

(c) Disability Trusts.—

(1) In General.—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

(i) by treating such trust as an individual described in section 151(d)(3)(C)(i), and

(ii) by applying section 662(c)(1) (without the reference to section 662(b)) for purposes of determining the adjusted gross income of the trust.

(d) Qualified Disability Trust.—For purposes of clause (i), the term ‘qualified disability trust’ means any trust if—
(I) any such trust is a disability trust described in subsection (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and (II) the taxability of the trust as of the close of the taxable year are determined to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act. (42 U.S.C. 1396r(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled."

"(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be reduced by the amount of the deduction allowed under section 151 (relating to personal exemption)."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

SEC. 301. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) In General.—Chapter I is amended by adding at the end the following new subchapter:

"(1) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (i) of subparagraph (A) shall not apply to any property which such property is used under the lease.

(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(iii), if property—

(a) Tax benefits for New York Liberty Zone property; and
(b) Tax benefits for New York Liberty Zone property.
“(B) such bond is issued by the State of New York or any political subdivision thereof.

“(C) the Governor of New York designates such bond as met with respect to amounts received

“(D) such bond is issued during calendar year 2002, 2003, or 2004.

“(5) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under this subsection shall not exceed $15,000,000,000.

“(6) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified project costs’ means the cost of acquisition, construction, reconstruction, and renovation of—

(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone,

(ii) public utility property located in the New York Liberty Zone.

“(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition of such property, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other space located in a single building or multiple adjacent buildings.

“(C) LIMITATIONS.—Such term shall not include—

(i) costs for property located outside the New York Liberty Zone to the extent such costs exceed $7,000,000,000,

(ii) costs with respect to residential rental property to the extent such costs exceed $3,000,000,000, and

(iii) costs with respect to property used for retail sales of tangible property to the extent such costs exceed $15,000,000,000.

“(7) MOVABLE FIXTURES AND EQUIPMENT.—Such term shall not include costs with respect to movable fixtures and equipment.

“(8) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply—

“(A) Section 146(c) (relating to volume cap) shall not apply.

“(B) Section 147(c) (relating to limitation on use of proceeds) shall be determined by reference to the aggregate authorized face amount of all qualified New York Liberty Bonds rather than the net proceeds of each bond.

“(C) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting ‘30 percent’ for ‘15 percent’ each place it appears.

“(D) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall be applied by substituting ‘45 percent’ for ‘15 percent’ each place it appears.

“(E) Financing provided by such a bond shall not be taken into account under section 108(p)(5)(A) with respect to property substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone.

“(F) Repayments of principal on financing provided by the issue—

(i) may not be used to provide financing, and

(ii) are used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

“(G) Section 57(a)(5) shall not apply.

“(H) SEPARATE ISSUE TREATMENT OF PROPERTY.—This subsection shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond issued as a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

“(I) EXTENSION OF REPLACEMENT PERIOD FOR EXISTING BONDS.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting ‘5 years for ‘2 years’ with respect to a property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

“(J) NEW YORK LIBERTY ZONE.—For purposes of this section, the term ‘New York Liberty Zone’ means the area located on or south of Canal Street, East Broadway (east of its intersection with Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

“(K) CONSTRUCTION.—For purposes of this section—

(i) each place it appears.

(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—For purposes of this subsection—

(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified New York Liberty Bond’ means—

(i) the bond, the proceeds of which are part of such issue,

(ii) the bond, the proceeds of which are part of such issue, and

(iii) the bond, the proceeds of which are part of such issue.

(B) DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 401. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information other than taxpayer return information to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency that the head of such agency has personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(b) DISCLOSURE TO INTELLIGENCE AGENCIES.—(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information other than taxpayer return information to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of those officers and employees for purposes of clause (ii).

(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer’s identity shall not be treated as taxpayer return information.

(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—(i) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information other than taxpayer return information to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information other than taxpayer return information to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(C) DISCLOSURE TO INTELLIGENCE AGENCIES.—(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information other than taxpayer return information to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(D) DISCLOSURE TO INTELLIGENCE AGENCIES.—(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information other than taxpayer return information to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.
sor member, the gentleman from New York (Mr. HOUGHTON), someone with him.

It is my pleasure to yield to the ranking member, the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, let me say this, that as long as the gentleman and I have served in this House of Representatives, I am confident that we will preserve this jurisdiction of the Committee on Ways and Means and try to protect it the best we can, no matter which party is in charge of this House. If I could hope for the member of this House serving on any committee that has any interest in legislation in his or her jurisdiction would never have to appeal to the other body to be heard. I thank the gentleman for yielding.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) will each control 20 minutes.

Mr. Speaker, I want to thank the gentleman from New York for his kind observation. The Tuesday event precipitated a need for rapid response. On Thursday, the House moved. Three months later this bill now presents itself to us. I find it ironic that if the gentleman says he has been closed out of participation in this particular piece of legislation, the last time I checked, his party controlled the Senate and I would expect that at some time over the 3 months that the Senate was mulling over what it was going to do with this bill, he would have an opportunity to examine various provisions.

It is my pleasure to yield to the ranking member, the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, let me say this, that as long as the gentleman and I have served in this House of Representatives, I am confident that we will preserve this jurisdiction of the Committee on Ways and Means and try to protect it the best we can, no matter which party is in charge of this House. If I could hope for the member of this House serving on any committee that has any interest in legislation in his or her jurisdiction would never have to appeal to the other body to be heard. I thank the gentleman for yielding.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), someone who has had a major impact on this legislation.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman for giving me the opportunity to speak today. I have a great deal of respect for my colleagues on this bill, and I am confident that the Senate will pass it. I thank the gentleman for yielding.

Mr. Speaker, I am honored to stand here with several of my New York colleagues in introducing a bill which
really is going to provide much needed tax incentives for businesses to rebuild in lower Manhattan after all the massive destruction caused by the terrorist attacks of September 11.

None of us will ever forget the terrible events of that fateful day, the end of life, and the most tragic being the hearse of so many families. The World Trade Center was destroyed, other buildings were damaged or collapsed, and of course the price tag is horrendous, here.

The bill includes really five provisions. I know it may be a little tedious, but I want to get through them, because I think it is important.

First of all, it is to authorize New York State to issue up to $15 billion in tax-exempt private activity bonds over the next 3 years to help renovate and rebuild commercial property, residential property, and also private utility infrastructure.

Second, it allows taxpayers to claim an additional 30 percent first-year depreciation deduction for property located in the liberty zone, including buildings and building improvements.

Third, it provides a 5-year life for depreciating certain leasehold improvement.

Fourth, next to the last, is to increase by $35,000 to $55,000 the amount that can be expensed by small businesses under section 179.

Lastly, it increases the replacement period for 2 to 5 years for property that was involuntarily converted in lower Manhattan so taxpayers would not have to recognize the gain.

Mr. Speaker, I know these are detailed and sometimes technical issues, but it is very important, and this bill can be the new lifeblood, the new hope, the expectation of a rebuilt New York.

Therefore, I want to thank the gentleman from California (Chairman Thomas), the gentleman from New York (Mr. Rangel), and my colleagues for being able to work on this bill. Obviously, I urge everyone to support the bill.

Mr. Rangel. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. Holt).

Mr. Holt. Mr. Speaker, I thank the distinguished ranking member from the Committee on Ways and Means for yielding time to me.

Mr. Speaker, I am in support of seeing that we provide full recognition in debt and tax relief for the surviving families from this terrible tragedy, this terrible event.

Mr. Speaker, the workers in the World Trade Center and the passengers on board these planes were targeted because they were Americans working in a symbolic building or on board American planes. They were victimized as much as if they were soldiers, and the surviving families have had the bottom yanked out from under their feet, under their lives.

I know that Americans, big-hearted in their generous support for these surviving families, want them to have tax relief: income, payroll, no taxability of debt, and credit card forgiveness. I know Americans, in their big-hearted generosity, want that for these people that they have reached out to.

Mr. Speaker, I hope that will be the result of this.

Mr. Thomas. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. Fossella), someone who has been on top of this from day one and I appreciate his advice and counsel.

(Mr. Fossella asked and was given permission to revise and extend his remarks.)

Mr. Fossella. Mr. Speaker, I thank the chairman for yielding time to me, and for his leadership on this matter. I thank my colleagues on both sides of the aisle for once again coming forward to assist New York in its time of need.

Mr. Speaker, we understand after September 11 that not only was New York and America attacked, but we have to come together as a country to help New York rebuild. Anybody who has been to downtown Manhattan, Ground Zero, as it has come to be known, with its ruined devastation.

We have seen the utter destruction, day in and day out. We have brave men and women who are still recovering the remains of those who were there and perished; but we also have just a scene out of a bad movie.

Simultaneously, what has happened is that a lot of businesses are hurting. A lot of businesses who employ thousands of people in downtown Manhattan are either going out of business or are on the brink of bankruptcy, with employees who perhaps have no health insurance.

A lot of different problems have resounded since September 11 above and beyond, if you will, the utter destruction that has taken place. What the gentleman from California (Chairman Thomas) and the gentleman from New York (Mr. Houghton) who have stood up before will do in this proposal is provide incentives for businesses to come back to downtown Manhattan specifically in this newly-created zone, and to build, whether it is through accelerated small business expensing benefits or a 5-year recovery period for leasehold improvements; again, an incentive to come and to rebuild.

There is nothing we can do to ever turn back the clock to September 10, but what the Congress can do, in addition to the ongoing appropriations, which I believe is going to be a multiyear process, and I credit the President for fulfilling his commitments, is to help New York rebuild and to provide incentives.

Over and above this proposal, I think it is important to understand that the surest way to help New York and perhaps the best way to help New York is to implement significant tax relief for folks who are working in Manhattan and the other boroughs. That is the surest and, as I see it, is the long-term positive effect on rebuilding.

I want to thank the gentleman from California (Mr. Thomas) for being so diligent, and the gentleman from New York (Mr. Rangel) for bringing this forward. This is going to help New York and help New York City, and it is going to help the people that I represent in Staten Island and Brooklyn, many of whom worked in downtown Manhattan.

Again, it is just another boost. I think, from the Congress and from Washington that we are going to stand shoulder-to-shoulder with the people from New York.

Mr. Thomas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include for the RECORD, since there is no committee report, the Joint Committee on Taxation's technical explanation of the bill.

The material referred to is as follows: Technical Explanation of H.R. 2884, the “Victims of Terrorism Tax Relief Act of 2001,” as Considered by the House on December 13, 2001.

(Prepared by the staff of the Joint Committee on Taxation)

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, contains a technical explanation of H.R. 2884, the “Victims of Terrorism Tax Relief Act of 2001,” as Considered by the House on December 13, 2002.

I. BACKGROUND

Historically, the Congress has provided Federal tax relief for members of the U.S. Armed Forces who serve in combat zones. In addition, the Congress has taken action on several occasions to provide Federal tax relief for service members and other individuals whose lives have been affected by particular instances of harm involving the United States. In 1970, the Congress enacted legislation that provided tax relief to individuals who had been removed from a U.S. vessel and died while being detained by the Democratic People’s Republic of Korea during 1968. Specifically, the legislation treated these individuals as having served in a combat zone for purposes of tax provisions that apply only to individuals serving in designated combat zones. Thus, service personnel who were crewmembers of the U.S.S. Pueblo (which was illegally detained in 1968 by North Korea), and who died during the detention, were eligible for the income tax exclusion (and other special tax benefits) available for service personnel who die in combat zones.

In 1980, the Congress enacted legislation concerning the American hostages who were held captive in Iran between November 4, 1979, and December 31, 1981, and who died as a result of injury or disease or mental disability that was incurred or aggravated while in captive status. The legislation provided that no Federal income tax would be imposed with respect to the year in which the individual died or any prior year ending or beginning after the first day the individual was in captive status. This legislation applied to military and civilian personnel of the United States, as well as to certain other U.S. taxpayers, and was in effect for the tax years the individual was in captive status. This legislation applied to military and civilian personnel of the United States, as well as to certain other U.S. taxpayers.
such an individual from years prior to captiv-
ity, the liability was forgiven. This total in-
come tax exemption for American hostages 
who died as a result of captive status 
was available for the periods from the year 
in which the wounds or injuries were incurred 
(see sec. 692(c)). The legislation only applies to 
juries or wounds that are incurred in a ter-
rorist or military action. Thus, for example, 
the legislation would not have applied 
with respect to all taxable years of individ-
uals dying as a result of wounds or injuries 
incurred after December 31, 1979.

The 1984 legislation applies to the year 
preceding the year of death with the wounds or injuries 
were incurred because the Congress de-
termined that forgiveness of income tax only 
for the period from the year of the injuries or 
wounds to the year of death would have 
inequitable results in certain circumstances.

Under such a limitation, a soldier who is 
killed in a terrorist attack on a U.S. base in 
a foreign country on January 31 would be ex-
empt from income tax only on one month's 
income, while a soldier who is killed in an 
attack on December 31 would be exempt from 
income tax for the year. Accordingly, the Congress 
concluded that it is more equitable to extend the tax 
forgiveness under the provision to income for the year 
preceding the year of death.

In 1990, the Congress enacted legislation 
providing limited income tax benefits to vic-
tims of terrorist attacks that preceded the downing of Pan American 
Airways Flight 103 over Lockerie, Scotland on De-
cember 21, 1988. The legislation provided that, 
where the death of any individual whose 
death was a direct result of the terrorist att-
ack involving Flight 103, the income tax 
provisions of subtitle A of the Internal Re-
venue Code apply with respect to the 
taxable year that included December 21, 
1988; and (2) the prior taxable year. However, 
the income tax benefit in each taxable year 
was limited to an amount equal to 28 percent 
of the annual rate of basic pay at Level V 
of the U.S. Executive Schedule as of December 21, 
1988. This limitation was intended to 
limit the amount of tax relief to that amount which 
was provided to personnel of the United States 
who were on Flight 103, thus pro-
viding equal relief to all of the victims who 
were killed in the attack. In addition, the legis-
lation required the President to submit rec-
ommendations to Congress concerning 
whether future legislation should be enacted 
to authorize payment of such benefits. The 
monetary and tax relief as compensation to 
U.S. citizens who are victims of terrorism.

The legislation also authorized the President 
to establish a board to develop criteria for 
compensation and to recommend changes 
to existing laws to establish a single com-
prehensive approach to victim compensation for 
terrorist acts.

In 1991, the Congress enacted legislation 
extending the benefits of the suspension of 
tax provisions for certain individuals who 
performed military or government services 
in Operation Joint Endeavor or Operation 
Desert Shield. This provision was extended 
to cover those killed in the Persian Gulf 
War and was not limited to those who 
died as a result of wounds or injuries 
incurred while serving as a result of 
terrorism.

In 1997, the Congress enacted legislation 
authorizing procedural tax benefits with re-
gard to all taxable years of individ-
uals who performed certain services that 
preceded the designation of a combat zone. The legislation 
also authorized the President to simplify refunds of these amounts, includ-
ing extending the directions in Revenue Pro-
cedure 85-35 to include specific instructions for Form 1041.
In general, gross income includes income from whatever source derived (sec. 61), including payments made as a result of the death of an individual. Certain exceptions to this general rule of inclusion may apply to such payments in certain cases.

For example, gross income generally does not include the amount of any damages (other than punitive damages) (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injury (or sickness (sec. 104(a)(2))). Further, gross income does not include amounts received (whether in a single sum or otherwise) under a life insurance contract if such amounts are paid by reason of the death of the insured (sec. 101(a)).

In addition, gifts are not includible in gross income for amounts received by an employer to, or for the benefit of, an employee who are not excluded from gross income as gifts (sec. 102(c)). In business contexts in which the payments are excludable as gifts only if objectives inquiry demonstrates that the payments were made for a detached and independent reason (e.g., to promote the generally deductible purposes and no part of the net earnings of any private shareholder or individual. An organization generally is considered to be organizations described in section 501(c)(3) generally are tax deductible (sec. 170).


death occurred for another reason. Thus, it is intended that payments excludable from income under the provision. To the extent that the amounts would have been payable if the death had occurred for another reason, they are not included in gross income. For purposes of the exclusion, self-employed individuals are treated as employees. Thus, for example, payments by a partner to his partner who died as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, may be excludable from gross income by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995. Thus, it is intended that such a death payment would fall within the present-law exclusion (under sec. 101(a)) for payments made under the contract if it otherwise meets the requirements of the present-law exclusion.

Effective Date

The provision is effective for taxable years ending before, on, or after September 11, 2001. A special rule extends the period of limitations to permit the filing of a claim for refund resulting from the Act during the year after the date of enactment, if that period would otherwise have expired before that date.

3. Estate tax reduction (sec. 103 of the bill and sec. 2201 of the Code)

Present Law

Present law provides a reduction in Federal estate tax for taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (sec. 2201). This provision also applies to active service members who die as a result of wound, disease, or injury suffered while serving in a combat zone by reason of a hazard to which the service member was subjected as an incident of such service.

In general, section 2201 is to replace the Federal estate tax that would otherwise be imposed by a Federal estate tax equal to 125 percent of the maximum State death tax credit determined under section 2201(b). Credits against the tax, including the unified credit of section 2010 and the State death tax credit of section 2011, then apply to reduce (or eliminate) the amount of the estate tax payable.

The reduction in Federal estate taxes under section 2201 is equal to the ‘additional estate tax’ with respect to the estates of decedents dying before January 1, 2005. The additional estate tax is the difference between the estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2201(b). With respect to the estates of decedents dying after December 31, 2004, section 2001 provides that the additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2011(b) as in effect prior to its repeal by the Economic Growth and Tax Relief Reconciliation Act of 2001.

Explanation of Provision

The bill generally treats individuals who die from wounds or injury incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual had died for a reason other than the attack. For example, the provision generally does not apply to amounts paid to an employer under a nonqualified deferred compensation plan to the extent that the amounts would have been payable if the death had occurred for another reason.

For purposes of the exclusion, the bill generally provides an exclusion from gross income for amounts received if such amounts are paid by an employer to, or for the benefit of, an employee who are not excluded from gross income as gifts (sec. 102(c)). In business contexts in which the payments are excludable as gifts only if objectives inquiry demonstrates that the payments were made for a detached and independent reason (e.g., to promote the generally deductible purposes and no part of the net earnings of any private shareholder or individual. An organization generally is considered to be organizations described in section 501(c)(3) generally are tax deductible (sec. 170).

In addition, while the bill provides an alternative reduced rate table for purposes of determining the tax under section 2201(b), the amount of the unified credit is determined as if section 2201 did not apply, based upon the unified credit as in effect on the date of death. For example, in the case of a victim of the September 11, 2001 terrorist attack, the applicable unified credit amount under section 2201(c) would be determined by reference to the actual section 2001(c) rate table.

As a conforming amendment, the bill repeals section 2011(d) because it no longer will have any application to taxpayers.

Present Law

The provision applies to estates of dece- dents dying on or after September 11, 2001, or, in the case of victims of the Oklahoma City terrorist attack, estates of decedents dying on or after April 19, 1995.

A special rule extends the period of limitations to permit the filing of a claim for refund resulting from this provision until one year after the date of enactment, if that period would otherwise have expired before that date.

4. Payments by charitable organizations treated as exempt payments (sec. 104 of the bill and secs. 301 and 4941 of the Code)

Present Law

In general, organizations described in section 501(c)(3) of the Code are exempt from taxation. Contributions to such organiza- tions generally are tax deductible (sec. 170). Section 501(c)(3) organizations must be or- ganized and operated exclusively for exempt purposes. The organization must be operated for the benefit of any private shareholder or individual. An organization is not organized or operated exclusively for one or more exempt purposes if a significant part of the activities of the organization is carried on for the benefit of a private shareholder or individual. No part of the net earnings of such organization may in any reasonable manner be distributed to any private shareholder or individual. Tax-exempt private foundations are a type of organization described in section 501(c)(3)
and are subject to special rules. Private foundations are subject to excise taxes on acts of self-dealing between the private foundation and a disqualified person with respect to the foundation (sec. 4941). For example, it is self-dealing if the income or assets of a private foundation are transferred to, or used by or for the benefit of a disqualified person. In general, charitable organizations described in section 501(c)(3) that make payments by reason of the death, injury, wounding, or illness of an individual incurred as a result of the September 11, 2001, attacks, or as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, are not required to make a specific assessment of need for the payments to be related to the purpose of function constituting the basis for the organization’s exemption. This rule applies provided that the organization makes payments in good faith using a reasonable and objective formula which is consistently applied and the payments further a public rather than a private interest. Therefore, as under present law, payments must serve a charitable class. For example, under this standard, a charitable organization that assists families of firefighters killed in the line of duty could make a pro-rata distribution to the families of firefighters killed in the attacks, even though the specific financial needs of each family are not considered. Similarly, if the amount of a distribution is based on the number of dependents of a charitable class of persons killed in the attacks and this standard is applied consistently among distributions, the specific needs of each recipient do not have to be taken into account. However, it would not be appropriate for a charity to make pro-rata payments based on the recipients’ living expenses before September 11 if the result generally is to provide significantly greater assistance to person in a better position to provide for themselves than to persons with fewer financial resources. Although such a distribution might be considered a charitable act, it would be inconsistent with the standard under the statutory standard, be a reasonable formula for distributing assistance in an equitable manner. Similarly, although specific financial need is not a factor, payments that do not further public purposes are not permitted. The bill does not change the substantive standards for exemption under section 501(c)(3), including the prohibition on private inurement. It is impossible to list or anticipate the kinds of payments that meet the statutory test, but, in general, payments that make distributions in good faith using a reasonable and objective formula will be treated as acting consistently with exempt purposes. A charity that wishes to provide assistance in making distributions. The bill also provides that if a private foundation makes payments under the conditions described above, it is not treated as made to a disqualified person for purposes of section 4941.

For charities making payments in connection with the September 11, 2001, attacks involving anthrax, but not in reliance on this provision, present law applies. It is expected that, because of the severity of distress arising out of the September 11 and anthrax attacks and the extensive variety of needs that the thousands of victims and their families will have, a wide array of expenses will be consistent with operation for exclusively charitable purposes. For instance, payments to permit a survivor to remain at home with the children rather than being forced to enter the workplace seem to be appropriate to maintain the psychological well-being of the family, similarly, assistance with elementary and secondary school tuition to permit a child to remain in the same educational environment seems to be the appropriate compensation for higher education. Assistance with rent or mortgage payments for the family’s principal residence or car loans also seems to be held to exclude from income payments made to individuals for home transportation that would cause additional trauma to families already suffering. Other types of assistance that the scope of the generally applies to payments (1) made from a governmental general welfare fund, (2) are for the promotion of the general welfare (on the basis of need and not to all recipients), and (3) are not in respect of services rendered by the recipient. The exclusion generally applies to payments for food, medical, burial, personal property, transportation, and funeral expenses. The general welfare exception generally does not apply to payments in the nature of income replacement (e.g., payments to individuals for lost wages or unemployment compensation or payments in the nature of income replacement to businesses. Income replacement payments are includable in gross income, unless another exception applies. Disaster relief payments may be excludable under special circumstances. For example, payments made by charitable relief organizations may be excluded from the gross income of the recipients as gifts. Payments made in a business context generally are not treated as gifts. Financial issues may arise as to whether a payment in the context of a business relationship is a gift or taxable compensation for services. In general, payments made by an employer to, or for the benefit of, an employee are not excluded from gross income as gifts (sec. 102(c)). Under present law, an employee generally does not include payments received as damages (other than punitive damages) on account of personal physical injury (including illness) treated as personal injury. Such payments are excluded from gross income regardless of whether received by suit or agree-
under section 501(c)(3) if the class of beneficiaries is sufficiently large or indefinite and the charity can demonstrate that it is applying consistent, objective criteria. Rules applicable to charitable organizations making disaster relief payments. Recognizing that employers and employees may also contribute to section 501(c)(3) organizations that make disaster relief payments, clarification of the type of disaster relief grants such organizations may make consistent with exempt purposes to assist individuals in distress as a result of the September 11 attacks, and more generally, may be helpful. Because the bill provides a special rule for certain payments in connection with death or wounding, or illness of an individual as a result of the September 11 attacks, and certain attacks involving anthrax, the following discussion of qualified disaster payments includes a discussion of the special rules relating to these payments. Generally speaking a charitable organization must serve a public rather than a private interest. Providing assistance to relieve distress for individuals suffering the effects of a disaster generally serves a public rather than a private interest, if the assistance beneficiates employers to, or for the benefit of, an employee who controls the foundation) relieves distress caused by a qualified disaster under section 501(c)(3). It is further intended that section 102(c) of the Code, which provides that a transfer from an employer to, or for the benefit of, an employee generally is not excludable from income as a gift, does not apply to such payments. It is further expected that the Service will reconsider the ruling position it has taken to ensure that private foundations established and controlled by employers will have appropriate guidance, consistent with the principles outlined above, on the circumstances under which they may provide disaster assistance in connection with a qualified disaster specifically to the employers' employees.

It is intended that the making by a private foundation of disaster relief payments that qualify for the purposes described above (1) will not be treated as an act of self-dealing under section 503(c), because the recipient is an employee (or family member of an employee) of a disqualified person with respect to the foundation, (2) will be treated as in furtherance of section 170(c)(2)(B) purposes, and (3) will be considered to meet the requirements of section 4945(g) to the extent that they apply. Moreover, contributions to a private foundation that is administering relief in a manner outlined above (including those made by employers and any of their employees) are deductible under the generally applicable rules of section 170. Similarly, it is confirmed that need-based payments made by an employer-controlled foundation to an individual for exclusive charitable purposes generally are excludable from the recipients' income as gifts. Thus, such payments made by a foundation to relieve distress caused by a qualified disaster are excludable from the recipients' income regardless of whether they fall within the scope of section 139, or any other such provision of the Code. The provision is directed to issue prompt guidance to taxpayers relating to the requirements applicable to private foundations making disaster assistance payments. The principles discussed above should apply to corporations and public charities providing relief in response to both the September 11, 2001, disaster and future qualified disasters.

The provision applies to taxable years ending on or after September 11, 2001.


Present Law

In general, the Secretary of the Treasury may prescribe regulations under section 139 that are necessary or appropriate to carry out this section. pub.

It is intended that an employer-controlled private foundation is not providing an appropriate benefit and is not disqualified from exemption under section 501(c)(3) if it makes a payment to an employee whose member of an employer (who is employed by an employer who controls the foundation) relieves distress caused by a qualified disaster under section 501(c)(3). Other procedures and standards may be adequate substitutes to ensure that payments from an employer are excludable from income as a gift, does not apply to such payments. It is further intended that section 102(c) of the Code, which provides that a transfer from an employer to, or for the benefit of, an employee generally is not excludable from income as a gift, does not apply to such payments. It is further expected that the Service will reconsider the ruling position it has taken to ensure that private foundations established and controlled by employers will have appropriate guidance, consistent with the principles outlined above, on the circumstances under which they may provide disaster assistance in connection with a qualified disaster specifically to the employers' employees.

It is intended that the making by a private foundation of disaster relief payments that qualify for the purposes described above (1) will not be treated as an act of self-dealing under section 503(c), because the recipient is an employee (or family member of an employee) of a disqualified person with respect to the foundation, (2) will be treated as in furtherance of section 170(c)(2)(B) purposes, and (3) will be considered to meet the requirements of section 4945(g) to the extent that they apply. Moreover, contributions to a private foundation that is administering relief in a manner outlined above (including those made by employers and any of their employees) are deductible under the generally applicable rules of section 170. Similarly, it is confirmed that need-based payments made by an employer-controlled foundation to an individual for exclusive charitable purposes generally are excludable from the recipients' income as gifts. Thus, such payments made by a foundation to relieve distress caused by a qualified disaster are excludable from the recipients' income regardless of whether they fall within the scope of section 139, or any other such provision of the Code. The provision is directed to issue prompt guidance to taxpayers relating to the requirements applicable to private foundations making disaster assistance payments. The principles discussed above should apply to corporations and public charities providing relief in response to both the September 11, 2001, disaster and future qualified disasters.

The provision applies to taxable years ending on or after September 11, 2001.


Present Law

In general, the Secretary of the Treasury may prescribe regulations under section 139 that are necessary or appropriate to carry out this section. pub.
and withholding taxes; (2) payment of any income, estate, or gift tax (except employment and withholding taxes); (3) filing a petition with the Tax Court for redetermination of any deficiency; (4) filing a claim for refund for any tax; (5) filing a claim for refund of any tax; (6) bringing suit to recover any tax; (7) assessment of any tax; (8) giving or making any notice or demand for the payment of any tax; or with respect to any liability, filing a claim for refund; (9) collection of the amount of any liability in respect of any tax; (10) bringing suit by the United States in respect of any liability in respect of any tax; and (11) any other action required or permitted under the internal revenue laws specified in regulations prescribed by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension.

On September 13, 2001, the IRS issued Notice 2001-61 providing relief to taxpayers affected by the September 11, 2001, terrorist attack. Prior to issuance of this notice, the President had declared certain affected areas to be disaster areas. In addition, on September 14, 2001, the IRS issued Notice 2001-63 providing additional tax relief to taxpayers who filed late their tax returns and payment obligations.

Employee benefit plans. Questions have arisen about the scope of section 7508A in relation to benefit plans. Some acts related to employee benefit plans are not clearly covered by the suspension. For example, a plan sponsor or plan administrator may be required to provide a notice to plan participants or to make a plan contribution, or a plan participant may be required to make a benefit election or take a distribution before the extended period. In addition, some acts related to employee benefit plans may be required or provided for under the Employee Retirement Income Security Act (“ERISA”) or under the terms of the plan, rather than under the Internal Revenue Code. For example, on September 14, 2001, the Department of Labor issued News Release No. 01-36, announcing that the Pension and Welfare Benefits Administration, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation were extending the deadline for filing Forms 5500 and 5500-EZ.

Explanation of Provision

In general. The bill redacts section 7508A to expand its scope and to clarify its application. Specifically, the bill permits the Secretary of the Treasury, in his discretion, to postpone actions under this provision for up to one year (increased from up to 120 days). The bill also clarifies that interest on underpayments may be waived or abated pursuant to section 7508A with respect to either a declared disaster or a terroristic or military action. The bill clarifies that the Secretary of the Treasury has the authority to postpone actions pursuant to section 7508A in response to a terroristic or military action, regardless of whether a disaster area has been declared by the President.

The bill facilitates the prompt issuance of guidance by the Secretary of the Treasury with respect to section 7508A by removing the requirement that such guidance be published in the Federal Register. The bill provides that the Secretary of the Treasury may revise published guidance via a notice or other mechanism of the Secretary’s choice that may be issued more rapidly. It is intended that the Secretary construe this authority to be necessary to ensure that the Secretary is capable of responding to specific disasters or terroristic or military actions. The authority to postpone “any ... act” is sufficiently broad to encompass, for example, specific deadlines enumerated in the Code, such as those in section 1031 (relating to the exchange of real estate), section 351 (related to the tax on gain from the exchange of property), and section 1221 (related to the treatment of tax deferred gain).

Example of Provision

Taxation of disability income related to terroristic activity. The bill expands the provisions of section 104(a)(5) to exclude from gross income for purposes of disability income of U.S. civilian employees attributable to a terroristic or military attack outside the United States to apply to disability income received by any individual attributable to a terroristic or military action. Accordingly, if such an individual is injured and dies in the same taxable year, this exemption from income tax is available for the taxable year of death as well as the prior taxable year.

Explanation of Provision

Taxation of disability income related to terroristic activity. The bill expands the provisions of section 104(a)(5) to exclude from gross income for purposes of disability income of U.S. civilian employees attributable to a terroristic or military attack outside the United States to apply to disability income received by any individual attributable to a terroristic or military action. Accordingly, if such an individual is injured and dies in the same taxable year, this exemption from income tax is available for the taxable year of death as well as the prior taxable year.

Explanation of Provision

Income tax relief for individuals who die as a result of terroristic activity. The bill extends the income tax relief provided under present law to U.S. military and civilian personnel who die as a result of terroristic activity occurring on or after September 11, 2001. The Secretary of the Treasury is given the authority to extend this deadline further, but no later than January 15, 2002. For eligible air carriers, the special deposit rules are applicable to the excise taxes imposed on air travel. The special deposit rules were also applied inadvertently to the deposit of the following employment taxes: both the employer and employee portions of FICA, railroad retirement taxes, and income taxes withheld by employers from employees.

Explanation of Provision

The applicability of these special deposit rules to employment taxes is repealed. The applicability of these special deposit rules to excise taxes is unaffected. It is intended that no penalties be imposed with respect to taxes that were not deposited in reliance on the provisions of the Air Transportation Safety and System Stabilization Act prior to the enactment of this provision.

Effective Date

The provision is effective as if included in section 301 of the Air Transportation Safety and System Stabilization Act.

Section 301 of the Air Transportation Safety and System Stabilization Act provides a special rule for the deposit of certain taxes. If a deposit of these taxes was required to be made after September 10, 2001, and before November 15, 2001, they are treated as timely made if deposited by November 15, 2001. The Secretary of the Treasury is given the authority to extend this deadline further, but no later than January 15, 2002. For eligible air carriers, the special deposit rules are applicable to the excise taxes imposed on air travel. The special deposit rules were also applied inadvertently to the deposit of the following employment taxes: both the employer and employee portions of FICA, railroad retirement taxes, and income taxes withheld by employers from employees.

Explanation of Provision

The applicability of these special deposit rules to employment taxes is repealed. The applicability of these special deposit rules to excise taxes is unaffected. It is intended that no penalties be imposed with respect to taxes that were not deposited in reliance on the provisions of the Air Transportation Safety and System Stabilization Act prior to the enactment of this provision.

Effective Date

The provision is effective as if included in section 301 of the Air Transportation Safety and System Stabilization Act.

Section 301 of the Air Transportation Safety and System Stabilization Act provides a special rule for the deposit of certain taxes. If a deposit of these taxes was required to be made after September 10, 2001, and before November 15, 2001, they are treated as timely made if deposited by November 15, 2001. The Secretary of the Treasury is given the authority to extend this deadline further, but no later than January 15, 2002. For eligible air carriers, the special deposit rules are applicable to the excise taxes imposed on air travel. The special deposit rules were also applied inadvertently to the deposit of the following employment taxes: both the employer and employee portions of FICA, railroad retirement taxes, and income taxes withheld by employers from employees.

Explanation of Provision

The applicability of these special deposit rules to employment taxes is repealed. The applicability of these special deposit rules to excise taxes is unaffected. It is intended that no penalties be imposed with respect to taxes that were not deposited in reliance on the provisions of the Air Transportation Safety and System Stabilization Act prior to the enactment of this provision.
The bill provides that certain disability trusts generally claim a personal exemption in an amount that is based upon the personal exemption provided for individuals under section 151(d), rather than the $300 or $100 personal exemption provided under present law. The provision applies to transactions described in certain subsections of 42 U.S.C. section 1396p (relating to liens, adjustments, transfers of assets, and the treatment of trust amounts for purposes of determining eligibility for benefits under Medicaid State plans).

The provision only applies to disability trusts the beneficiaries of which are disabled (other than holders of a remainder or reversionary interest in the trust), within the meaning of 42 U.S.C. section 1396p(a)(3) (relating to the definition of ‘individual’ for purposes of determining eligibility for Supplemental Security Income), and only if such beneficiaries are receiving government disability benefits based upon a determination of disability under 42 U.S.C. section 1382(a).

The provision applies if at all of the beneficiaries of the trust at the end of the taxable year are determined under 42 U.S.C. section 1396p(a)(3) to be disabled for some portion of such year. Thus, a disability trust may claim the personal exemption under the provision even if one or more of its beneficiaries become no longer disabled during the taxable year. However, the trust may claim the personal exemption for the following taxable year only if such individual or individuals are no longer beneficiaries of the trust at the end of the following taxable year (i.e., all remaining beneficiaries of the trust at the end of the following taxable year are determined under 42 U.S.C. section 1396p(a)(3) to be disabled for some portion of such year). In the case of a disability trust with a single beneficiary, the trust may claim the personal exemption under the provision for the following taxable year only if such an individual becomes no longer disabled, but not for subsequent taxable years.

The personal exemption provided for disability trusts under the provision is equal in amount to the personal exemption for unmarried individuals with no dependents and is subject to a phaseout, which is determined by reference to the phaseout of the personal exemption for such individuals under section 151(d)(3)(C)(ii). For purposes of computing the phaseout of the personal exemption under the provision, the adjusted gross income of the trust is determined by reference to section 67(e) (relating to the determination of adjusted gross income of estates and trusts for purposes of computing the 2-percent floor on miscellaneous itemized deductions).

The provision does not affect the determination of whether a disability trust is treated as a grantor trust under the present-law grantor trust rules, which change the inapplicability of the personal exemption under section 642(b) to grantor trusts. Thus, the provision does not apply to disability trusts that are treated as grantor trusts.

Effective Date

The provision applies to taxable years of disability trusts ending on or after September 11, 2001.

Explanation of Provision

The bill generally imposes an excise tax on any person who acquires certain payment rights under a structured settlement arrangement from a trust. The excise tax is based on the present value of the discounted payment rights.

The provision does not affect the determinability of whether a disability trust is a grantor trust under the present-law grantor trust rules, which change the inapplicability of the personal exemption under section 642(b) to grantor trusts. Thus, the provision does not apply to disability trusts that are treated as grantor trusts.
1. Special depreciation allowance for certain property (sec. 301(a) of the bill and new sec. 1400L of the Code)

**Present Law**

**Depreciation deductions.** A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system (“MACRS”). Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 25 years. The recovery periods applicable to real property (residential rental property and nonresidential real property) range from 30 to 50 years. The methods for computing depreciation methods generally applicable to tangible personal property are the 200-per cent and 150-per cent declining balance methods, a straight-line method for the taxable year in which the depreciation deduction would be maximized. In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year. For taxable years beginning in 2003 and thereafter, the amount deductible under section 179 is increased to $25,000.

**Explanation of Provision**

The provision allows an additional first-year depreciation deduction equal to 30 per cent of the adjusted basis of qualified New York Liberty Zone (“Liberty Zone”) property. The deduction is allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service. This provision affects the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. For taxable years beginning in 2001 and thereafter, the amount of the additional first-year depreciation deduction is to be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

**Example 1.—** Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs $1 million. Under the provision, the taxpayer is allowed an additional first-year depreciation deduction of $300,000. The additional first-year basis is recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

**Example 2.—** Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs $100,000. In addition, assume that the taxpayer is entitled to a $59,000 deduction under section 179. Under the provision, the taxpayer is first allowed a $59,000 deduction under section 179. The taxpayer then is allowed an additional first-year depreciation deduction of $12,300 based on $11,000 ($100,000 original cost less the section 179 deduction of $59,000) of adjusted basis. Finally, the remaining $91,000 ($29,700 [[$11,000 adjusted basis less $12,300 additional first-year depreciation] is to be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

2. Treatment of qualified leasehold improvement property (sec. 301(b) of the bill and new sec. 1400L of the Code)

**Present Law**

**Depreciation of leasehold improvements.** Depreciation allowances for property used in a trade or business generally are determined under the modified Accelerated Cost Recovery System (“MACRS”). For property that is not a building or used in the trade or business as a leasehold improvement, the recovery period assigned to the property is longer than the term of the lease (sec. 168(b)(8)). This rule applies regardless whether the lessor or lessee places the leasehold improvement in service. If a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement is depreciated using the straight-line method over a 39-year recovery period, beginning in the month the addition or improvement was placed in service (sec. 168(b)(3), (c)(1), (d)(2), and (i)(6)).

The treatment of dispositions of leasehold improvements. A lessor of leased property that disposes of a leasehold improvement which was made by the lessor for the lease term is to be treated as if that portion of the improvement was disposed of at the end of the lease term (sec. 168(b)(5)). In general, if it is expected that a lessor must be able to separately account for the adjusted basis of the leasehold improvement that is irrevocably disposed of or abandoned. This rule does not apply to the extent section 263A applies to the demolition of a structure, a portion of which may include leasehold improvement property.

**Explanation of Provision**

The provision provides that 5-year property for purposes of the depreciation rules of section 168 includes qualified leasehold improvement property placed in service after September 10, 2001, and before January 1, 2007. The straight-line method is required to be used with respect to the qualified leasehold improvement property.

**Qualified leasehold improvement property** is defined to include property that is placed in service after September 10, 2001, and before December 31, 2006, and no binding contract for the manufacture, construction, or production of the property is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

The Liberty Zone means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), the Grand Street Extension with East Broadway) in the Borough of Manhattan in the City of New York, New York. The following examples illustrate the operation of the provision.

**Example 1.—** Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs $1 million. Under the provision, the taxpayer is allowed an additional first-year depreciation deduction of $300,000. The additional first-year basis is recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

**Example 2.—** Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs $100,000. In addition, assume that the taxpayer is entitled to a $59,000 deduction under section 179. Under the provision, the taxpayer is first allowed a $59,000 deduction under section 179. The taxpayer then is allowed an additional first-year depreciation deduction of $12,300 based on $11,000 ($100,000 original cost less the section 179 deduction of $59,000) of adjusted basis. Finally, the remaining $91,000 ($29,700 [$11,000 adjusted basis less $12,300 additional first-year depreciation] is to be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

3. Increase in expensing treatment for business property used in Liberty Zone (sec. 301(c) of the bill and new sec. 1400L of the Code)

**Present Law**

**Present Law**

Present law provides that, in lieu of depreciation, a taxpayer who has a sufficiently small amount of annual investment may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year in which the property is placed in service. If a leasehold improvement is placed in service more than three years after the date the building was first placed in service, the taxpayer may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year in which the property is placed in service.

For purposes of the provision, a commitment to place in service is treated as a lease if, and the parties to the commitment are treated as lessor and lessee. A lease between related persons is not considered a lease for this purpose.

Under the provision, an improvement made by the person who was the lessor of the improvement when it was placed in service generally is treated as qualified leasehold improvement property if the improvement is held by that person. Exceptions are provided under this rule in the case of certain changes in form of business. Under these exceptions, property that is treated as qualified leasehold improvement property under the provision by reason of (1) death, (2) a transaction to which section 361 (relating to carryovers in certain corporate acquisitions) applies, or (3) a mere change in the form of conducting the trade or business so long as the property is retained in the business as qualified leasehold improvement property and the taxpayer retains a substantial interest in the business.

**Increase in expensing treatment for business property used in Liberty Zone.** The provision specifies the class life of qualified leasehold improvement property for purposes of the alternative depreciation system. Therefore, the general rule that the class life for nonresidential real and residential rental property is 40 years does not apply to qualified leasehold improvement property.
and all other individuals and entities other than States or local governments.  

Private activities eligible for financing with tax-exempt private activity bonds

Present law includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities. Both capital expenditures and limited working capital expenditures for properties described in section 501(c)(3) of the Code (“qualified 501(c)(3) bonds”) may be financed with tax-exempt bonds.

States or local governments may issue tax-exempt “exempt-facility bonds” to finance property for certain private businesses. Business facilities that are financing in- clude transportation (airports, ports, local mass commuting, and high speed intercity rail facilities); privately owned and/or privately operated public waste facilities (sewer, solid waste disposal, local district heating or cooling, and hazardous waste disposal facilities); privately owned and/or operated low-income rental housing; and certain private facilities for the local furnishing of electricity or gas. A further provision allows tax-exempt financing for “environmental enhancements” of health care facilities. Tax-exempt financing also is authorized for capital expenditures for small manufacturing facilities and land and equipment purchases. These bonds may not exceed the small issue threshold.

Tax-exempt private activity bonds also may be issued to finance limited non-business purposes: certain student loans and certain mortgage bonds for first-time homebuyers. Tax-exempt mortgage bonds are permitted to be issued if the mortgage rates charged to homebuyers meet the requirements of Internal Revenue Code section 141. Mortgage rates may exceed the interest paid by tax-exempt bonds if the interest exceeding the tax-exempt rate is limited to the amount of interest charged on other mortgages (e.g., first-time homebuyers satis- faction programs and limited working capital expenditures). Mortgage rates may be increased if the bond proceeds are used for financing certain public activities, if the loan proceeding is for a taxable purpose, or if the bond proceeds are used to finance certain public activities.

In general, interest on debt incurred by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (sec. 103). Interest on bonds that ultimately are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and paid for with funds derived from any activity of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a tax-exempt bond act. These bonds are called “private activity bonds.” The term “private person” includes the Federal Government and profits may be earned only during specified periods (e.g., defined “temporary periods” before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., “qualified temporary reserve or replacement funds”). Subject to limited exceptions, profits that are earned during these periods or on such investments must be related to the Federal Government. The Federal Government is subject to less restrictive arbitrage rules than most private activity bonds.

Miscellaneous additional restrictions on tax-exempt bonds

Several additional restrictions apply to the issuance of tax-exempt bonds. First, private activity bonds (other than qualified 501(c)(3) bonds) may not be used to finance government securities (e.g., governmental bonds and qualified 501(c)(3) bonds) may be advance refunded one time. An advan-

Decrease in Limitation on Mortgage-Related Tax-Exempt Bond Financing

The provision increases the amount a tax-

Exemption of Rebuilding Property in Zone

In general

Interest on debt incurred by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (sec. 103). Interest on bonds that ultimately are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and paid for with funds derived from any activity of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a tax-exempt bond act. These bonds are called “private activity bonds.” The term “private person” includes the Federal Government and profits may be earned only during specified periods (e.g., defined “temporary periods” before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., “qualified temporary reserve or replacement funds”). Subject to limited exceptions, profits that are earned during these periods or on such investments must be related to the Federal Government. The Federal Government is subject to less restrictive arbitrage rules than most private activity bonds.

Miscellaneous additional restrictions on tax-exempt bonds

Several additional restrictions apply to the issuance of tax-exempt bonds. First, private activity bonds (other than qualified 501(c)(3) bonds) may not be used to finance governmental bonds and qualified 501(c)(3) bonds may be advance refunded one time. An advance refunding occurs when the refunded bonds are retired within 90 days of issuance of the refunding bonds.

Issuance of private activity bonds is subject to restrictions on use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities, (e.g., airplanes, skyscrapers, other luxury high-rent apartments, health care facilities and liquor stores) and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Additionally, mortgage bonds are subject to special “change-in-use” penalties if the use of the bond-financed property changes to a use that is not eligible for tax-exempt financing while the bonds are outstanding.

Explanation of Provision

The provision authorizes issuance of $15 billion of tax-exempt private activity bonds to finance the construction and acquisition of commercial and residential rental real property in a newly designated Liberty Zone (“Zone”) of New York City. Property eligible for this financing includes buildings and their structural components, fixed tenant improvements, and public utility property (e.g., gas, water, electrical and telecommunication lines), all as designated by the Governor of New York. Bonds author-
A taxpayer may elect not to recognize gain with respect to any property that is involuntarily converted if the taxpayer acquired within an applicable period the property similar or related in service or use to the converted property (secs. 1031; 1033). If the taxpayer elects to apply the rules of section 1033, gain on the converted property is recognized only to the extent that the amount realized exceeds the adjusted basis of the replacement property. In general, the replacement period begins with the date of dispositions of converted real property and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized. The replacement period is extended to three years if the converted property is real property held for the productive use in a trade or business. Special rules apply for property converted in a Presidentially declared disaster. With respect to a principal residence that is converted due to a Presidentially declared disaster, no gain is recognized by reason of the receipt of insurance proceeds for unscheduled personal property that was part of the contents of such residence. In addition, the replacement period for the replacement of such a principal residence is extended to four years after the close of the first taxable year in which any part of the gain upon conversion is realized. With respect to investment or business property that is converted in a Presidentially declared disaster, the eligible property acquired and held for productive use in a business is treated as similar or related in service or use to the converted property.

**Explanation of Provision**

The provision extends the replacement period to five years for a taxpayer to purchase property to replace property that was involuntarily converted within the New York Liberty Zone as a result of the terrorist attacks that occurred on September 11, 2001. However, the provision is available but is not applicable only if substantially all of the use of the replacement property is in New York City. In all other cases, the present-law replacement period continues to apply.

**Effective Date**

The provision is effective for property in the New York Liberty Zone involuntarily converted as a result of the terrorist attacks occurring on September 11, 2001.

**D. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS**

(SEC. 401 OF THE BILL AND SEC. 6103 OF THE CODE)

**Present Law**

In general, returns and return information are confidential (sec. 6103). A “return” is any tax return, information return, declaration of estimated tax, or claim for refund filed under the Code on behalf of or with respect to any person. The term return also includes any amendment or supplement, including supporting schedules, attachments, or lists, which may be filed in connection with a part of a filed return. Return information is defined broadly. It includes the following information: A taxpayer’s identity, the nature, source, or amount of payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overpayments, or tax payments; whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; any other data, record, return, return information, or any supporting schedules, attachments, or lists, pre pared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense; any part of any written determination which is not open to public inspection under section 6110; any advance pricing agreement entered into by a taxpayer and any background information related to the agreement or any application for an advance pricing agreement; and any agreement for any judicial or administrative proceeding pertaining to the enforcement of such a criminal statute to which the United States or such agency is a party; any information necessary to result in such a proceeding; or any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is a party.

Pursuant to the ex parte order, the information may be disclosed to officers and employees of the Federal agency who are personally and directly engaged in (1) the preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is a party; (2) any investigation necessary to result in such a proceeding; or (3) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is a party.

A Federal agency may obtain, by ex parte order, any return information (i.e., that information submitted by or on behalf of a taxpayer to the IRS) (sec. 6103(i)(1)). Only the Attorney General, Deputy Attorney General, Assistant Attorney Generals, United States Attorneys, Independent Counsels, or an attorney in charge of an organized crime strike force may authorize an application for the order. Such a judge or magistrate, upon an application for such an order, the application must demonstrate that: There is reasonable cause to believe, based upon information believed to be reliable as to a specific taxpayer, that a criminal violation has been committed; there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act; the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act; and the information sought reasonably cannot be obtained, under the circumstances, from another source.

Pursuant to the ex parte order, the information may be disclosed to officers and employees of the Federal agency who are personally and directly engaged in (1) the preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is a party; (2) any investigation necessary to result in such a proceeding; or (3) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is a party.
without a court order. For nontax criminal purposes, the head of a Federal agency and other persons specifically identified by section 6103 may make a written request for return information (including taxpayer return information) to certain officers and employees of the Department of Justice, Department of the Treasury, and any agreement with a possession of the United States providing for the avoidance of double taxation and the prevention of tax evasion, nondiscrimination with respect to taxes, the exchange of tax relevant information with the United States, or mutual assistance in tax matters. Tax convention information is any: (1) income tax or gift tax returns and return information (including taxpayer return information or return information); (2) set forth the specific reason or reasons why such disclosure may be relevant to a matter relating to such terrorist incident, threat, or activity; (3) background information relating to such terrorist incident, threat, or activity. In order to grant the order, the Federal district court judge or magistrate must determine that there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to any terrorist incident, threat, or activity; and that return or return information is sought exclu- sively for the use in a Federal investigation, analysis, or proceeding concerning any ter- rorist incident, threat, or activity. Special rule for ex parte court ordered disclosures. In general, the bill expands the availability of returns and return information for purposes of investigating terrorist incidents, threats, or activities. In general, under the bill, returns and taxpayer return information may be disclosed to officers and employees of the Federal district court judge or magistrate. The Federal district court judge or magistrate must contain the names, addresses, and other identifying facts that the discloser is to disclose to officers and employees of the Department of Justice, Department of the Treasury, and any other Federal intelligence agencies, who are personally and directly engaged in the response to or investigation of terrorist incidents, threats, or activities. The information is to be used by such officers and employees solely for the purpose of investigating terrorist incidents, threats, or activities. Further, use of the information is limited to use in a Federal investigation, analysis, or proceeding concerning a terrorist incident, threat, or activity. The Department of Justice or the IRS may make the disclosure in writing to a Federal attorney charged with enforcing the laws of the United States under which it relates. Return information (including taxpayer return information) to certain officers and employees of a Federal law enforcement agency or Federal district court judge or magistrate. The order must: (1) set forth the specific reason or reasons why such disclosure may be relevant to a matter relating to such terrorist incident, threat, or activity; (2) set forth the specific reason or reasons why such disclosure may be relevant to a matter relating to such terrorist incident, threat, or activity; and the return or return information is sought exclu- sively for the use in a Federal investigation, analysis, or proceeding concerning any ter- rorist incident, threat, or activity. The Federal district court judge or magistrate shall grant the order if based on the facts and circumstances that: There is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to any terrorist incident, threat, or activity; and the return or return information is sought exclu- sively for the use in a Federal investigation, analysis, or proceeding concerning any ter- rorist incident, threat, or activity. The Federal district court judge or magistrate shall grant the order if based on the facts and circumstances that: There is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to any terrorist incident, threat, or activity; and the return or return information is sought exclu- sively for the use in a Federal investigation, analysis, or proceeding concerning any ter- rorist incident, threat, or activity. The Federal district court judge or magistrate shall grant the order if based on the facts and circumstances that: There is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to any terrorist incident, threat, or activity; and the return or return information is sought exclu- sively for the use in a Federal investigation, analysis, or proceeding concerning any ter- rorist incident, threat, or activity. The Federal district court judge or magistrate shall grant the order if based on the facts and circumstances that: There is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to any terrorist incident, threat, or activity; and the return or return information is sought exclu- sively for the use in a Federal investigation, analysis, or proceeding concerning any ter- rorist incident, threat, or activity. Further, use of the information is limited to use in a Federal investigation, analysis, or proceeding concerning a terrorist incident, threat, or activity. Because the Department of Justice or the IRS makes the disclosure to officers and employees of the Department of Justice or the IRS, the Secretary is permitted to disclose returns and return information to the Department of Justice or the IRS for the specific purpose of obtaining the special IRS ex parte court order. Disclosure of return information other than taxpayer return information. As under present-law Code section 6103(i)(3)(A), the IRS on its own initiative and without a written request may make this disclosure. The head of the Federal law enforcement agency may disclose to officers and employees of such agency to the extent necessary to investigate or responding to or respond to such terrorist incident, threat, or activity. As under present-law Code section 6103(i)(3)(A), the IRS on its own initiative and without a written request may make this disclosure.
Department of Treasury, (2) appointed by the President with the advice and consent of the Senate, and (3) responsible for the collection, and analysis of intelligence and counterintelligence information concerning terrorist incidents, threats, or activities. The Director of the United States Secret Service also is an authorized requester under the bill.

Tax convention information. The bill permits the disclosure of tax convention information on the same terms as return information may be disclosed under the bill, except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government.

Definitions. The term “terrorist incident threat, or activity” is statutorily defined to mean any of the following: (1) an act of domestic terrorism or international terrorism, (2) an incident, threat, or activity involving an act of domestic terrorism or international terrorism, as both of those terms were defined in the recently enacted USA PATRIOT Act.

Effective Date

The provision is effective for disclosures made on or after the date of enactment.

E. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS (SEC. 501 OF THE BILL)

Present Law

Present law provides for the transfer of Social Security taxes and certain self-employment taxes to the Social Security trust fund. In addition, the income tax collected with respect to Social Security benefits included in gross income is transferred to the Social Security trust fund.

Explanation Provision

The bill provides that the Secretary is to annually estimate the impact of the bill on the income and balances of the Social Security trust fund. If the Secretary determines that the bill has a negative impact on the income and balances of the fund, then the Secretary is to transfer from the general revenues of the Federal government an amount sufficient so as to ensure that the income and balances of the Social Security trust fund are not reduced as a result of the bill. Such transfers are to be made not less frequently than quarterly.

The bill provides that the provisions of the bill are not to be construed as an amendment of title II of the Social Security Act.

Effective Date

The provision is effective on the date of enactment.

Mr. Speaker. I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

(MR. FERGUSON asked and was given permission to revise and extend his remarks.)

Mr. FERGUSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

(MR. FRELINGHUYSEN asked and was given permission to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I met with many of the families of the victims of September 11. I have attended funeral masses and funerals, and I have met personally, as other Members have from our area, with some of the widows of the victims of these attacks when they visited Capitol Hill on December 5. They need our help and they need it now. Many are from home towns in my district and throughout the State of New Jersey and New York and Connecticut and Virginia and Florida.

As one of the widows recently recounted to me, the charities have helped with the immediate aftermath, but this tax relief bill will help some of their present concerns, and the victims’ compensation fund will help them as they move forward into the future.

While we can never replace their loss, we can help alleviate the burdens of the pain for those victims as they think about their immediate and future financial needs, and about how they will provide for their families in the coming years. We do so with this bill.

In this bill, we provide income tax liability for 2 years for the victims. We provide relief from the State tax, and make sure that charitable relief and other forms of financial assistance remain tax-free.

On behalf of the victims from New Jersey and the other States, Mr. Speaker, I want to thank the Speaker, the gentleman from Illinois (Mr. HASTERT), the majority leader, and particularly, the chairman of the Committee on Ways and Means, for bringing up this important legislation.

Our hearts go out to these families, and I want to thank my congressional colleagues for moving on this bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from New York (Mr. REYNOLDS), a member of the New York delegation.

Mr. REYNOLDS. Mr. Speaker, I thank the gentleman for his leadership, and that of his colleagues on the Ways and Means Committee, for working on this important legislation.

Mr. REYNOLDS. Mr. Speaker, I thank the gentleman for yielding time to me, and I want to thank him for his leadership in moving this legislation before we end this week’s work, with the hope of continuing and getting a resolve before we end the session.

I thank him for his leadership, along with that of our ranking member, the gentleman from New York (Mr. RANGEL), and particularly the gentleman from New York (Mr. FOSSELLA), who has worked diligently, as well as the New York City representative helping our conference understand clearly some of the agenda needed.

Then also we must turn to the gentleman from New York (Mr. HOUGHTON), who has the very, very important ingredient of his expertise so he was able to work with the gentleman from California (Mr. THOMAS) in helping him in this legislation. That comes from listening to our Governor and mayor on the agendas of what it is going to take to rebuild tens of millions of lost square footage of space in those 15 blocks of lower Manhattan, let alone the countless loss of jobs that have occurred in that tragedy.

Mr. Speaker, this is part of a working, fundamental solution to bring that to fruition. I salute all for bringing it to the floor today.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

(MR. FERGUSON asked and was given permission to revise and extend his remarks.)

Mr. FERGUSON. Mr. Speaker, I thank you for your leadership.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

(MR. FRELINGHUYSEN asked and was given permission to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of the gentleman from New Jersey (Mr. FERGUSON).

Mr. Speaker, I want to thank the chairman of the Committee on Ways and Means, the ranking member, and members on both sides of the aisle for working on this important legislation.

On September 11, our Nation and the world were struck with tragedy. But for 81 families in the State of New Jersey, it also meant the loss of a loved one in their own family. They have been struggling for 3 months to put their lives back together. People, Americans across the Nation and people around the world stepped up to help them in many different ways: People have donated their time, their energy, their blood, their money. They have been assisted in many ways.

But as we know, as time goes on, the attention begins to wane and the realities of life, of mortgage payments, of credit card payments, of tuition bills and other commitments, long-term real-life commitments, begin to build up. We have to make sure that we do not forget those families.

As my colleague, the gentleman from New Jersey (Mr. FRELINGHUYSEN) mentioned a moment ago, we have had an opportunity to meet with scores of, unfortunately, mostly our fellow New Jerseyans in our districts, from New Jersey and from around our region, who are now dealing with the aftermath. They are not only dealing with the emotional and the physical excruciating pain of the loss of a loved one, but they are also struggling to rebuild their lives, to help their kids to think about the future and not simply to think about these tragedies of the past recent.

We need to do our part in this Congress, and that is why I am delighted and proud that we worked so hard and so quickly 2 days after this tragedy to pass this important legislation out of this Chamber and to send it to the other body, and am pleased now that the other body has done its work and that we have brought this back.

I am pleased that now, today, we will be able to say to these families that we have not failed them, we continue to stand by them, and we will be here with them today and tomorrow and next month and next year to help them. Whether it is tax relief or education relief or simply being a friend and neighbor, we are there to support them and support their work in rebuilding their lives. I thank this Congress for working.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), in whose district the Twin Towers once stood high.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, lower Manhattan, as we all know, is devastated by the attacks on the World Trade Center. Over 20 million square feet of office was destroyed and another 20 million rendered unusable, and 125,000 out of the 300,000 private sector jobs in lower Manhattan were destroyed. It will take a strong private-public partnership to
revive lower Manhattan economically. A package of tax incentives, diligently arranged, would stimulate private investment in the area.

The Houghton bill and the proposals by Senator SCHUMER and CLINTON, with the gentleman from New York (Mr. RANGEL), should be seen in tandem.

The Houghton bill is important and constructive for the long-term economic strength of New York, but does little, if anything, for our immediate critical needs. The Schumer-Clinton-Rangel bill contains proposals that are vital for the immediate survival of small businesses in lower Manhattan.

The Houghton package represents an important element of the package. We need to nurse lower Manhattan back to health, but before businesses will return to lower Manhattan, we must rebuild the neighborhood's infrastructure in utilities and transportation. We must rebuild power lines, phone systems, sewers and water mains. We have to restore public transportation. This will take time. Utility facilities are so badly damaged that new cables guarded by police over land are the only facilities bringing power to downtown. We are literally one snowplow away from a blackout in lower Manhattan.

Small businesses are in critical shape and need immediate boost. The Houghton boost will not help the small businesses survive the transitional period until the neighborhood is rebuilt and their sales recover. We must ease the period of transition until larger businesses return to the area.

Small businesses in lower Manhattan will lose an estimated $5 billion in sales in the last quarter of 2001 alone. Many have seen their sales decline by up to 80 percent because of disruption and damage to the area. Mr. Speaker, 10,000 or more small businesses in lower Manhattan are at risk of failure within the next several months as a direct result of the attack. If we do not give them help to enable them to survive, the longer-term proposals in the Houghton bill will come too late to revive lower Manhattan, because if 10,000 small businesses fail in lower Manhattan, the larger businesses will not want to return and residents will not want to return.

The elements of the Houghton bill are excellent and important for our long-term needs, but must be supplemented by the provisions for short-term aid, especially long-term grants, especially business grants to our small businesses and the other elements of the Rangel-Clinton-Schumer package. That package could provide immediate assistance for these businesses through expansion of the work opportunity tax credit. The work opportunity tax credit expansion and the cash grants are the two immediate ones.

So I urge the House to adopt the Houghton bill, but to be under no illusion that the Houghton bill, absent the work opportunity tax credit of the Rangel bill and absent large and immediate infusion of cash grants to small businesses, will save the situation.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. GIILMAN). (Mr. GIILMAN asked and was given permission to revise and extend his remarks.)

Mr. GIILMAN. Mr. Speaker, I rise in strong support of H.R. 3011, the New York Liberty Zone Tax Relief Act of 2000. I urge my colleagues to join in supporting this vitally needed legislation which provides a number of tax provisions that are designed to help the city and State of New York to recover economically from the devastating barbaric attack of September 11, and I commend my colleagues, the gentleman from California (Mr. THOMAS), the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. HOUGHTON) for their diligent work on this measure.

New York City, and particularly lower Manhattan, was devastated by the terrorist attacks of September 11. Over 200 buildings, much of office space has been destroyed, 15,000 jobs have been displaced in lower Manhattan, representing 2 percent of all the private sector jobs in New York City. Not only do we need to rebuild the economy in lower Manhattan, we also need to rebuild its infrastructure, power lines, water mains, public transportation and sewer lines.

Small businesses in lower Manhattan are fighting for survival. This bill includes five key provisions which create some liberty zones, encouraging investment and includes issuing tax exempt liberty bonds to finance liberty zone commercial, residential, financial and public utility property.

It also includes allowance of a first year 30 percent depreciation and a 5-year recovery period for leasehold improvements and business first year depreciation of $35,000. This victim tax relief bill also increases the replacement period for re-investing insurance proceeds.

Mr. Speaker, I am pleased to stand with my New York colleagues in supporting this legislation which will help rebuild a key portion of the economy of New York City and help our State. Accordingly, I urge my colleagues to join in passing this very urgently needed bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for yielding me the time. I thank him also for staying, true to his word. He said he would have this bill on the floor in three days. Actually, he had the bill on the floor just a few days after the horrific attacks of September 11. We must thank him, all of us from New Jersey, for bringing this very important legislation back to the floor with the Senate changes. Passage of this bill, Mr. Speaker, will provide immediate and substantial tax rebates to the spouses and children of nearly 3,500 victims who met tragic deaths in the horrific attacks on September 11.

I hope our hundred New Jersey residents, more than 50 from my own District, never came home on September 11. They were the first victims and the first heroes of America’s war on terrorism.

There are additional heroes, Mr. Speaker, namely, the wives, the widows of those who were murdered on September 11. Over the last several weeks, both my wife, Marie, and I and members of my staff have met many of the widows, and we have been moved greatly by their loss as well as by their courage. Last week, my wife and I, as well as other members of the New Jersey delegation, joined with several of those widows from our State in a meeting with Speaker HASTERT, and he, too, was moved by what they had to say.

These brave women courageously reminded Congress of the heartbreaking burdens that they have faced since the shock of 9/11. They made it very clear that this tax relief is a matter of survival to them. Much of the money has run out that they had saved personally. For many of them, the assistance they got from charitable contributions ran out on December 1. The Victims Compensation Fund has not kicked in yet. There had to be something to provide very real money a bridge for these individuals.

The Victims Tax Relief Bill will help to do that.

Among the more moving remarks, and there were many that we have heard over the last several months, were the comments of Sheila Martello, who lost her husband Jim in the World Trade Center. Last week Mrs. Martello said “we do not want to be here in Washington fighting for this benefit. We would rather be doing what we do best, raising our children.”

I want to thank the chairman for his leadership on this. I thank the Speaker for his personal commitment. Both Mr. THOMAS and Speaker HASTERT moved very quickly right after this tragedy, along with the gentleman from New York (Mr. RANGEL), actually Long Island.

This is a good, bipartisan bill and will help these people through this very, very difficult time. It could not come at a more important time for them.

Mr. RANGEL. Mr. Speaker, I would like to thank the distinguished gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means, and the gentleman from New York (Mr. RANGEL), the ranking member, for their commitment and their work on this program to help restore economic viability to New York.
and to our country as a whole. I think this bill, the Houghton bill, is an excellent tool to accomplish that.

When we look back at the tragedy that has happened, nothing can ever replace the loss of life and the ache in the hearts of Americans who experienced that loss of life. In my district alone, I went to a number of various funerals and memorial services for where there was no funeral able to be given.

And you can see, the pain in the hearts of the people, the children, the surviving spouses, the friends, the neighbors, and they will always have that pain.

There is a secondary pain that is out there, Mr. Speaker. There is a pain that is being experienced by many who worked all of their lives to try to build a business, to try to create something for their family, for their children, to allow them to have something for future generations, and that was wiped out on September 11, gone completely. Devastation has set in and the only way to help them restore that kind of dream once again, the dream to be a small business entrepreneur in this country, which is something that people come here for.

I know that my family had migrated to this country for that very purpose, to raise their children, to raise a business and to have something. Well, this bill will put $6.1 billion into our economy and it will enable people to do that. It will give them their purpose, to raise their children, to try to create something in this country, which is something that people come here for.

The SPEAKER pro tempore (Mr. Thornberry). The gentleman from California (Mr. Thomas) has 1 minute remaining. The gentleman from New York (Mr. Rangel) has 16 minutes remaining.

Mr. RANGEL. Mr. Speaker, I want to work with my colleagues in New York in supporting the concept of this bill and especially the gentleman from New York (Mr. Houghton) who has been really a great pleasure working with over the years and especially as relates to restoring life, both economic life to our great city and our great State.

We do not know whether this is going to come back from the other side, but we do know that there is other legislation that has not passed over there, and working closely with the gentleman from California (Mr. Thomas), I do hope that we can bring the best ideas that have come out of both Houses and do the best that we can this year by the city of New York.

I would like to say on behalf of delegation once again how grateful we are for the groundswell of support that we have received from this House of Representatives, that we were not a part of the Nation, all over the country and the world stood with us and we are deeply appreciative.

Mr. Speaker, I do want to thank my colleagues from New York for the kind courtesies and generosity that he has displayed and, most importantly, the House’s willingness to move as quickly as we did and recognize that these individuals were, in fact, victims in war and deserve to be focussed on, not just in terms of the symbolism because, clearly, although there were tragedies elsewhere in the United States on that same day, it is not unfair to say that New York City took it on the chin for the rest of the country. And that I too, have been pleased with the outpouring of response.

We now know that those who did die did not die in vain. Of the symbolism, the rallying of the moral fiber of this country. But at the same time, we have to address the very real physical and material needs of these people who, after all, lost loved ones and had lives devastated.

In that regard, I am very pleased to say that this is not the end of our continued focus on the need of these individuals in New York City and elsewhere.

Mrs. McCARTHY of New York. Mr. Speaker, I rise in support of H.R. 2884, the Victims of Terrorism Relief Act, which I am a proud cosponsor.

This legislation provides much needed tax relief to the victims of the September 11th terrorist attacks. The terrorist attacks on the World Trade Center, the Pentagon, and Pennsylvania directly affected 25,000 families, and left 15,000 children without a parent. Figures show that 35% of those who died were between the ages of 35 and 45, and 85% were 25-55 years old. Not only did these families lose an important part of their lives, but they lost a source of financial support they need and deserve.
I am overcome by the outpouring of support during this difficult time. However, spouses who lost a loved one in the attack are still enduring financial hardships. Even though many charitable organizations have provided some form of relief, the Federal government must do more. Enacting a federal tax liability is a step in the right direction.

In addition, this legislation addresses some of the recovery concerns within the New York City area damaged by the terrorist attacks. The creation of the New York Liberty Zone provides numerous tax benefits for qualified property. In rebuilding, we must also help those businesses that were impacted by the senseless acts of terrorism.

September 11th will forever be synonymous with other historical events that Americans have endured. It will serve as yet another reminder of how Americans come together during difficult times, as well as send a simple message to those who hide behind terrorism—America Will Never Fear You and We Will Always Take Care Of Our Own.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The Speaker pro tempore (Mr. THORNBERY). Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

TRIBUTE TO SCOTT BROSIUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WU) is recognized for 5 minutes.

Mr. WU. Mr. Speaker, I rise today to pay tribute to Scott Brosius, the starting third baseman for the New York Yankees and a resident of McMinnville, Oregon. Scott announced his retirement from major league baseball on November 27.

Born and raised in Oregon, Scott played baseball at Rex Putnam High School in Milwaukee and then at Linfield College in McMinnville. In 1987, during his junior year in college, he was drafted by the Oakland Athletics.

During his 11 seasons of major league baseball, first with the A’s and later with the New York Yankees, Scott was known as a solid hitter and outstanding defensive third baseman, for which he won the Gold Glove award in 1999.

His best season came in 1998. That year, he batted 300, with 98 RBIs and was named to the American League All Star team. But his career highlight came later that year. During the World Series, in a 4-game sweep of the San Diego Padres, Scott batted .471, hit two home runs, and had six RBIs. He was the clear choice for the World Series’ Most Valuable Player. He accomplished all of these post-season feats while his father was undergoing cancer surgery and chemotherapy.

Scott’s flare for the dramatic resurfaced during this year’s seven-game World Series between the Yankees and the Arizona Diamondbacks, which many have called the most exciting World Series ever. In game five, with the Yankees trailing 2 to 0 in the ninth inning, Scott came to the plate with two outs and a runner on second base. Scott crushed a 1-0 slider from Arizona closer Byung-Hyun Kim to tie the score and send the game into extra innings. Ultimately, the Yankees went on to win the game 3 to 2 in 12 innings.

As an All Star, a Gold Glove winner, a World Series MVP, and a member of three world championship teams, Scott has a lifetime’s worth of baseball memories. But, Mr. Speaker, I rise today not only to recognize Scott’s accomplishments for his outstanding baseball career but also because I believe he embodies the best of Oregon, and American values.

This year, Scott finished his contract with the New York Yankees and became a free agent. At 35 years of age, and as an 11-year major league veteran, he could easily fetch millions of dollars as a free agent. But Scott turned down the money and the limelight so that he could return to McMinnville to raise his three young children. He has reenrolled at Linfield College to finish his college degree and has offered to help coach the Linfield varsity baseball team.

The example set by people like Scott Brosius reminds us of what is most important in life: values, family, and community.

I wish Scott and his family well, and I thank him for being such a positive role model. I invite the admiration of all of us, and personally I envy you for all the time that you will have in Oregon with your family.

TRIBUTE TO VICTIMS OF SEPTEMBER 11, 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I want to continue reading from the list of names that my colleague, the gentlewoman from Virginia (Mrs. JO ANN Davis), has been reading into the RECORD, those who fell in the September 11 tragedy:

John P. O’Neill; Peter J. O’Neill; Sean Gordon Corbet O’Neill; Ken Clapp; Kevin G. O’Neil; Robert W. O’Shea; Patrick J. O’Shea; Timothy F. O’Sullivan; James A. Oakley; Dennis Oberg; Jefferson Ocampo; Douglas Oelschlagler; Takashi Ogawa; Albert Ogletree; Philip Paul Ognibene; John Ogonowski; Joseph J. Ogren; Samuel Ottice; Gerald M. Olcott; Christine Ann Olender; Linda Mary Oliva; Elsy Carolina Osorio Oliva; Edward K. Oliver; Leah Oliver; Eric Olsen; Jeffrey James Olsen; Steven John Olson; Barbara Olson; Marueen “Ree” L. Olson; Toshihiro Onda; Betty Ong; Michael C. Opperman; Christopher Orgiewicz; Margaret Q. Orloske; Virginia “Ginger” Ormiston-Kenworthy; Ruben Ornedo; Juan Romero Orozco; Ronald Orsini; Peter K. Orsule; Jane Ort; Pablo Ortiz; Sonia Ortiz; Ortiz; Emilio “Peter” Ortiz, Jr.; Alexander Ortiz; Pablo Ortiz; Masaru Ose; Elsi Carolina Osorio; James Robert Ostrowski; Jason Douglas Oswald; Michael Otten; Isidro Ottenwalder; Michael Ou; Todd Joseph O’Gara; Jesus Ovales; Peter J. Owens; Adianes Oyola; Angel “Chic” Pabon; Israel Pabon; Roland Pacheco; Michael Benjamin Packer; Diana B. Padro; Chin Sun Pak; Deepa K. Pakalka; Thomas Anthony Palazzo; Jeffrey Palazzo; Richard Palazzolo; Orijo Joseph Palmer; Frank Palombo; Lynn Paltraw; Alan Palumbo; Christopher Panatieri; Diomniique Lisa Pandolfo; Jonas Martin Panik; Paul Pansini; John Paolillo; Edward J. Pape; Salvatore Passo; James Pappageorge; Marie Pappalardo; Vinod K. Parakat; Vijayashanker Paramshotham; Ntitn Ramesh Parandkar; Hardai “Casey” Parbhoo; James W. Parham; Debra “Debbie” Paris; George Paris; Gye-Hyong Park; Philip L. Parker; Michael A. Parkes; Robert Emmett Parks, Jr.; Hashmukhram C. Parmar; Robert Parro; Diane Parsons; Leobardo Lopez Pascual; Michael Pascuma; Jerrold Paskins; Horace Robert Passananti; Suzanne Passaro; Victoria Patricio Mariana Pate; Dipti Patel; Manish K. Patel; Avnish Ramanbhai Patel; Steven B. Paterson; James M. Patrick; Lawrence Patrick; Manuel Patrocino; Clifford L. Patterson; Bernard E. “Bennie” Patterson; Cira Marie Patt; James Robert Paul; Patrice Sobin Paz; Sharon Cristina Millan Paz; Victor Paz-Gutierrez; Stacey Lynn Peak; Richard Pearlman; Durrell Pearssall; Thomas Pecorelli; Thomas E. Pedicini; Todd D. Pelino; Michel Adriano Pelletier; Anthony Pender; Angel Ramirez Perez; Gene D. Pena; RobertPenniger; Richard A. Penny; Salvatore Pepe; Carl Allen Peralta; Robert David Peraza; Marie
Vola Percoco; Jon Anthony Percenzi; Ivan A. Perez; Nancy E. Perez; Anthony Perez; Alejo Perez; Angela Susan Perez; Angel Perez; Berry Berenson Perkins; Joseph Perroncino; Edward Joseph Perrotta; John William Perry; Glenn C. Perry; Emelda Perry; Franklin Arthur Perry; Danny Perry; Michael J. Pescherine; Donald A. Peterson; Jean Hoadley Peterson; William Russel Peterson; Davin Peterson.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, I am pleased to announce today that over 1,700 local, State, and national organizations from throughout this country have endorsed H.R. 2394, legislation that I introduced last June, to create a National Affordable Housing Trust Fund. And I especially want to thank for their organizing efforts the National Low-Income Housing Coalition for all of their help in bringing these organizations together around this terribly important issue.

It is almost unprecedented to have such an outpouring of support from such a broad array of groups representing working people through their unions, business leaders, different religious affiliations, bankers, environmentalists, and, of course, affordable-housing advocates. This is perhaps one of the most significant grass roots campaigns to support legislation at one time and has helped us generate our already 126 bipartisan cosponsors. I am here today on the floor of the House to thank all of the groups that have endorsed this legislation and to ask my colleagues to cosponsor this important and much-needed bill. We have come a long way in a short time; but obviously, we need to go further.

A complete list of all of the groups that have endorsed this legislation can be found on the National Housing Trust Fund Campaign’s Web site at www.nhtf.org. That is www.nhtf.org, for a complete list of all of the organizations that have endorsed the National Affordable Housing Trust Fund legislation.

Mr. Speaker, experts from across the country have acknowledged that the issue of affordable housing has rapidly become a major national problem. That is true in my State of Vermont, and it is true all across this country. It is an issue to which millions of low-income seniors, the elderly, disabled, and families with children are increasingly unable to afford decent housing.

According to HUD, about 5.4 million Americans today are paying more than half of their limited incomes, more than half of their limited incomes, on housing, or are living in severely substandard housing. Since 1990, the number of families who have “worst case” housing needs has increased by 12 percent. That is 600,000 more Americans who cannot afford a decent and safe place to live.

For these families living paycheck to paycheck, one unforeseen circumstance, a sick child, a needed car repair or a large utility bill can send them into homelessness.

This crisis must be addressed. Every American must be entitled to decent, affordable housing. The question is where do we begin? According to the accounting firm of Deloitte & Touche, profits generated by the Federal Housing Administration, expected to exceed $26 billion over the next 7 years. H.R. 2394 would use the surplus to increase affordable housing by creating an affordable housing trust fund. According to housing experts, if the FHA surplus was used for affordable housing, we could more than triple affordable housing construction next year and provide accommodations to more than 200,000 families.

Mr. Speaker, not only would a national affordable housing trust fund help address the housing crisis, but in the United States, it would also generate 1.8 million decent paying new jobs and nearly $50 billion in wages according to a recent study. As today’s economy continues to suffer with layoffs up over 600 percent from last year, and as millions of Americans are paying 40 to 50 percent of their limited incomes on housing, the creation of a national affordable housing trust fund is needed more than it has ever been needed.

Mr. Speaker, the bottom line here is that we can put Americans to work building the affordable housing that millions of our fellow Americans need, and we can accomplish two important goals at the same time. Number one, combating the recession by putting people to work; and second of all, providing decent housing to the families that need it. This is a very important piece of legislation, and I am very proud that 1,700 different organizations, religious grass-roots organizations, are supporting it. I ask my colleagues to support it as well.

COVER-UP OF SALVATI STORY

The SPEAKER pro tempore (Mr. THORNBERY). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I spent 7 years just prior to coming to Congress as a criminal court judge in Tennessee trying the felony criminal cases, the murders, the armed robberies, the rapes. I tried the attempted murder of James Earl Ray, many leading cases, but I can tell Members that I do not think that in my years of law practice or in my years as a judge that I have ever seen a worse miscarriage of justice than that done to Joseph Salvati in Massachusetts.

The FBI told us to go do that, to stay in prison for over 30 years. Even the FBI knew he had not committed the crime for which he had been convicted. Sometimes we read about people who have been wrongly convicted, but almost always it is the prosecutors or the law enforcement people honestly thought the people were guilty, and only found out later that they were not.

But in the Salvati case, the FBI knew apparently for 30 years that this man was not guilty of the crime he had been convicted of, and yet they made him stay in prison for more than 30 years.

I am here to tell Members that the gentleman from Indiana (Mr. BURTON) of the Committee on Government Reform has tried to call attention to this miscarriage of justice and see that nothing like this ever happens again. He held one hearing and he attempted to hold a second hearing today about it, but today the Department of Justice refused to release or submit the documents that the gentleman from Indiana (Mr. BURTON) had requested in a continuing cover-up of the original cover-up.

I think it is shameful. In fact, I think it is fair to say that I have never seen the gentleman from Indiana (Mr. BURTON) as angry as he was today, and he said that he is going to tell hearings until the Department of Justice has the decency to come forward and do what they can to correct this horrible miscarriage of justice.

I remember reading a cover story in Forbes magazine, certainly a very conservative magazine, in 1983 in which they reported that the Department of Justice had more than quadrupled its budget since 1980, and that there were U.S. attorneys falling all over themselves trying to find cases to prosecute. The article discussed how Federal prosecutors were cherry-picking local cases, taking the best or easiest cases away from local prosecutors so they could have something to do.

This quadrupling of the budget and size of the Department of Justice was being done, even though 94 percent of all crimes were being handled and prosecuted by local and State law enforcement personnel and prosecutors. Even though their work was not going up, their budget and number of employees were.

This article in Forbes said too often in Federal law enforcement the name of the game is publicity, not a reduction in the amount of crime. The article in Forbes said that the Department of Justice was proving that Parkinson’s law of bureaucracy was true, that work expands so as to fill the time available for its completion. As the
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real or imagined work expands, the bureaucrats ask for more bureaucrats to do it.

Since then, we have expanded the Department of Justice even more. Now here we are giving them more power. Last week Joseph Califano, a former Secretary of Health and Human Services under President Carter, wrote in The Washington Post last week that in all of our concerns about terrorism, we “are missing an even greater danger, the and a former Secretary of Health and Human Services under President Carter, wrote in The Washington Post last week that in all of our concerns about terrorism, we “are missing an even greater danger, the

Mr. Speaker, for the FBI to keep a man in prison for 30 years for a crime that they knew he did not commit, that should be criminal in and of itself. I described it at this hearing as saying that the arrogance of the Federal bureaucracy seems to grow with each passing year. The gentleman from Massachusetts (Mr. DELAHUNT) said I was mild in describing things in that way. It seems we have a government of, by and for the bureaucrats instead of one that is of, by and for the people.

I salute the gentleman from Indiana (Mr. BURTON) and commend him for continuing to try to call attention to the miscarriage of justice in the Joseph Salvati case, and to say if we keep expanding the Department of Justice and the FBI, then the abuse of the American people is going to continue to grow, and we are going to have much of our freedom taken away from us, and the American people are going to have problems that they never dreamed of. We need to bring these people under some type of control because they are certainly out of control at this time.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. WILSON of Hawaii addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

ACHIEVEMENTS OF THE FIRST SESSION OF THE 107TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 60 minutes as the designee of the majority leader.

Mrs. WILSON. Mr. Speaker, during the next hour, I want to talk about some of the wonderful things that this House has achieved in this first session of the 107th Congress; but in my view, probably one of the most important things we have achieved, we finished today here on the floor of the House, and that is the President’s education bill.

Going back almost 2 years ago before the last Presidential election, and before the primary season finished, I was looking at the people who were putting themselves forward as potential candidates in the Republican Party, which is my party.

There was a governor from neighboring State, which being a New Mexican, is sometimes a disqualification in itself, who seemed to be saying something that I liked to hear. Not only just saying them, but obviously deeply believing them and passionate about them.

George W. Bush was talking about no child should be left behind. There was a commitment that he made in his State of Texas, and it was not just some kind of a campaign slogan, it was something that he passionately believed, that this education bill was a commitment to reading, not just in the first grade, but to the schools that maybe all of us do not want our children to go to.

I believe that every parent wants a great school in their neighborhood that their kids can walk to. But even more as a community and as a society, we need to have a great school system so that a kid who gets himself up for breakfast and gets his little brother and sister up and makes their lunches and gets them out the door and walks with them to school, those are the kids that this education bill will pass for. For the kids whose parents are not there and do not care, but that kid who still has a dream, that in America he is part of the American dream.

The bill that we passed today is a landmark piece of legislation, something that required work in both bodies and on both sides of the aisle. It is the most important Federal education bill that we have passed in 20 years. We would not have done it without the leadership of the President of the United States.

Why does it matter? Why should we care so much about education? I represent Albuquerque, New Mexico. A third of our kids in Albuquerque do not graduate from high school. For our parents and certainly for our grandparents, that was probably okay because there were still jobs that somebody could get and be able to support a family. That is not the case with a high school education. But in the 21st century, those jobs do not exist anymore. What was good enough for our parents and grandparents is not good enough for our children. Every child has the right to graduate from high school and being able to read and write and work together and hold a good job. That is what this bill is about.

The No Child Left Behind Act of 2001 significantly increases Federal aid to education. Last year we had about $18 billion in the budget for Federal aid to education, mostly to schools that serve poor communities and for special ed. The bill that we just passed authorizes $26.5 billion in the next year for Federal aid to education. The education bill almost a 40 percent increase. In the last 5 years, we have close to doubled Federal aid to education. But this also includes the elements of reform, which I think will help get those dollars to the classroom where they can matter in the lives of children.

This new legislation requires annual testing in reading and mathematics for every child from grades 3-8. Some States, like New Mexico, have already moved toward annual testing and accountability for results. But if we let kids fall through the cracks, if we move them on from one grade to another grade without demanding and giving them an opportunity to master the subject matter in first grade, they are not going to make it in fourth grade.

Before I was elected to Congress, I was the cabinet secretary in the State of New Mexico for children. We had the dropout children, the abused and neglected children, the children that were mentally ill, early childhood education. We had all of the children that nobody wanted.

When I looked at the kids that we had in our juvenile justice system, on average they were 16 years old. At that point in their lives when they first came to our juvenile prisons, they had, on average, nine prior felonies. It was very rare to have one of those kids who could read at grade level. It was very rare to see a father in their life. Very often there was drug and alcohol abuse in the family.

But the number one indicator that a kid is going to be in trouble as a teenager is their third grade reading score. Education is the way up and out for all kinds of kids. Poor kids, kids that come from broken homes, kids with fathers who are not there or who come home drunk. The public school system and the ability to read is the ticket to success for these kids. This Federal bill emphasizes the importance of reading, particularly kindergarten, first, second and third grade. We must make sure
that children are able to read by the third grade.

This bill requires all students to be proficient at reading and math within the next 12 years. We do not just set a lofty goal, we set a goal, we provide resources, we provide the tools to achieve that goal, and then there will be accountability for results.

It also requires that we narrow the gap between the rich kids and the poor kids, between the Anglo kids and the minority kids. The truth is since we started the title I program to help schools that are in neighborhoods that do not have as much money to put in from the outside, we started that Federal program and in some areas, the gap between rich and poor, Anglo and minority, has widened rather than narrowed. The whole purpose of Federal aid to education for poor schools is so we can close that gap, not so that it can be widened. We must narrow that gap.

There is $1 billion a year in this bill for the next 5 years to improve reading, three times as much as this year, with a goal that every child can read by the third grade.

This bill also consolidates programs. There are wonderful ideas that legislators and the administration comes up with over the years and often those are put into law or into program demonstrations, and you end up with small pots of money and 20,000 school districts across the country with grant writers and administrators chasing after a little piece of those pots of funds. As a result, we have all of these programs that take so much to administer and compete and award and that 65 cents on the dollar even gets to the school district level, let alone down to the classroom.

We needed to consolidate those programs and get the money down to the local level, to give some flexibility to local school districts and principals so that you do not say, well, we have got to give some of those pots of money and you can use it for middle school math and science instruction and another pot of money that you can use for software for elementary schools; but what we really need is to send some money back for continuing education in how to teach reading in a particular school. We do not have any money for that even though that is the need. We have got to give some flexibility to move funds around at the local level, because the challenges that we face in Estancia, New Mexico, are not the same challenges we face on Long Island, New York. Let us give some flexibility to local school districts, to parents and teachers and principals; and then let us look at results. Let us let America surprise us by their ingenuity.

It is a wonderful bill. It took a great deal of work and bipartisan work and bicameral work, so that we can have a little bit about the state of the economy and jobs. In November, consumer confidence fell, plummeted really, for the fifth consecutive month. So when we passed the first stimulus bill, we were all hoping and we thought it was quite likely that the recession that we were on the cusp of would have a soft landing, that if it turned into a recession it would only mildly shall-

The second thing we are going to need to do is to restore confidence. We are in the Christmas season. About two-thirds of the American economy is consumer spending. There are retail outlets and companies where half of their sales are in the Christmas period. We need to restore confidence in our economy so that we do not have a further collapse in retail sales. We have got to restore confidence in consumers, and we have to restore confidence in the markets. If you talk to anybody around town about their retire-

Mr. Speaker, the gentleman from Illinois (Mr. WELLER) has joined me, who is a member of the Committee on Ways and Means and is someone who has worked very, very hard on economic stimulus and particularly looking at small business and what can we do to get back to growing jobs in this economy.

Mr. WELLER. I want to thank the gentlewoman from New Mexico for yielding and also commend her for her leadership, particularly in technology and research, which is so important to the future of the economy of our coun-

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Our country has a great challenge before us. Obviously, we are working to win this war against terrorism as a result of the terrorist attack, this horrible attack on our country on September 11; but also a key part of our effort in the war on terrorism and of September 11, to address the economic impact of the terrorist act on September 11.

President Bush inherited a weakening economy. Economists point out it was in late summer and early fall of 2000 that the economy began to weaken. Unfortunately, there was a psychological impact of September 11, a terrible day when our Nation was attacked by terrorists on our own soil.

Of course, as a result of that, many things happened. One of those is there was a legislative effort to revitalize this economy. Business decision-makers and consumers who had previously made decisions to move forward on investments and purchases stepped back from those investments and decisions to spend. Of course, we have seen the result. Thousands, if not tens of thousands of residents of the State of Illinois where I live as well as New Mexico and all across our country have lost their jobs as a result of the downturn in the economy. In fact, today there are hundreds of steelworkers in the south suburbs that I represent that are here in town expressing their concern and calling on the Congress and the President to work together to find a way to get this economy moving again.

I want to point out that the House has been doing its job. Seven weeks ago, the House of Representatives passed legislation to revitalize this economy, the Economic Security and Recovery Act, legislation designed to encourage investment by business decision-makers, to create capital for investment as well as to reward investments in jobs. We also want to put more money in the pocketbooks of consumers to spend. I would note that some of the key provisions of the legislation that we passed and sent to the Senate obtained strong bipartisan support here in the House. I have been very, very disappointed in the other body and particularly in the leadership of the other body and their failure to move forward on economic security and economic stimulus.

I particularly want to point to one of the provisions in the legislation that the gentlewoman from New Mexico and I have been working together on, as have many other Members of this House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Platts). The Chair will remind Members that it is not in order in debate to characterize Senate action or inaction. This prohibition includes debate that specifically urges the Senate to take certain action.

The Chair would ask the gentleman to be conscious of that.

Mr. WELLER. I certainly will, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WELLER. That is, legislation to draw attention to the expensing provision in the Economic Security and Recovery Act of 2001. When you think about it, we are looking for ways to encourage investment and the creation of jobs. If we can encourage an employer or a business to invest in a personal computer, a pick-up truck, a car, we have to remember that there are American workers who produce those products. So if we encourage business to buy them, there is a worker who is at the other end where they are being produced who is going to keep their job. We also have to realize that when someone purchases that pickup truck or that car or that other piece of equipment, there is going to be a worker that is going to operate it as well. So really any incentive that is going to attract investment is going to help create jobs.

I would note that the 30 percent expensing provision that is in this legislation which means that a business would buy a personal computer, for example, and able to deduct 30 percent of the purchase price of that asset in the first year. Currently they have to, of course, depreciate a computer over 5 years. This is much more attractive. It will encourage business to purchase hardware.

I would also note, as my colleague from New Mexico pointed out, in the Economic Security and Recovery Act that the House of Representatives passed that we also provided for an increase in expensing for small business, which means that small business would have the opportunity to deduct 100 percent of the purchase of capital assets. Currently it is $24,000. We increase that to $35,000, a significant increase, to help small businesses be able to deduct more from their taxable income, freeing up capital that they can then turn around and invest in the creation of jobs.

When it comes to real estate, businesses are out there, they are working in real estate that employs the building trades, carpenters and plasterers and others. When they make improvements in their buildings, we call that buildout or tenant improvements, we change the depreciation schedule for that in this legislation as well. Currently it is 29 years, a ridiculous period of time. We reduce it to 15 years for inside buildout of a business.

The bottom line is we have accelerated cost recovery and we have expensing as well as depreciation reform in this legislation, 30 percent expensing. We increase the small business allowance up to $35,000, and we reform how we depreciate inside improvements in buildings, providing jobs. That is the bottom line.

I would particularly note from the technology sector's perspective that in our legislation that the House passed 6 weeks ago, we also recognize there are companies losing money this year. These companies losing money are looking for capital so they can reinvest and, of course, create jobs and preserve the jobs of their workers today. Under our legislation, we allow a company that is losing money to carry back for 5 years. What that means is they can take this year's loss and credit it against a previous profitable year sometime in the last 5 years, essentially get a tax refund, and they can use that money to increase the creation of jobs. The accelerated cost recovery, the expensing and depreciation reform, helping companies that are losing money this year, is going to create jobs.

I would also note in the Economic Security and Recovery Act that we also help the middle class. We have to remember, the vast majority of Americans are middle class.

In the legislation we passed out of the House, the middle class tax rate is the 28 percent tax rate. That affects folks who make $59,000 a year. That is an average in the middle class in the district that I represent in the south suburbs and South Side of Chicago. We lower their tax rate, which is currently 28 percent, effective immediately of January of 2002 we lower it to 25 percent. We also going to give more spending money to middle-class taxpayers.

We also want to help low income and working families too, those who probably never pay income taxes today and may not have benefited directly and received a tax rebate this year from the President's tax cut that we all worked together to pass earlier this year. I would note that 24 million Americans will receive a $300 dollar stimulus payment under the legislation we passed, extra spending money. I am one of those who believes that low-income families when they receive that stimulus payment check, they are going to tax it and they are going to spend it. That is going to help the economy, creating jobs and demand for goods and services.

Now, one thing I noted as we discussed this economy, unfortunately, hundreds of thousands of Americans have lost their jobs, tens of thousands in the Chicago area that I represent. I would note that in the Economic Security and Recovery Act, legislation we passed 6 weeks ago in the House, that we provide help for those who are unemployed, and we provide help for those who may have lost their health insurance coverage. In fact, we provide $12 billion in assistance for the unemployment benefits, as well as covering the cost of health care. So we put together a pretty good package.

I would note the Economic Security and Recovery Act that passed this House of Representatives with a bipartisan support, was passed by the House of Representatives 6
Mr. WELLER. If the gentlewoman says Iraq.

Mrs. WILSON. I thank the gentleman from Illinois, particularly for his expertise on what we need to do to the economy.

There are two other areas of the economy where the House has taken very important action and we need to get a bill to the President’s desk without any further delay. One is energy, and the other is international trade, so that we can promote international trade. I would like to maybe take those in reverse order. The one we passed most recently was the Bipartisan Trade Promotion Authority Act which we passed last week.

Now, international trade is not something that people usually get excited about, unless it is your job that depends upon being able to sell American products abroad.

There are over 130 trade agreements that exist in the world internationally. America is party to only three of them. What that really means is that when we try to sell our products to Latin America or Asia or Europe, our companies are more heavily tax than our competitors in Canada or Europe.

I have a little company in my district called SEMCO, and they make rock crushers. These are big barrels and drums that crush rock for the mining industry to get back minerals out of rock. It is not a very high-tech business. It is a family firm.

But I was talking last week to the owner, and he said, you know, they do not even bother to bid on jobs in Chile any more, because their competitors are Canadian and European countries, and Chile has a free trade agreement with them, and there is only a 2 percent duty on a crusher that is made in Europe or in Canada, a 2 percent tax if a Chilean mining company imports a piece of equipment. But for him, it is about 17 percent.

You cannot under sell somebody by 15 percent, 15 cents on the dollar, so he does not even bother bidding on those jobs any more. He employs maybe 30, 35, 40 people in his operation in Albuquerque, New Mexico. I would like to be able to see him building more rock crushers and selling them to mining companies that stand in the way of our economy back to growing jobs, and that is what this is all about.

America now is disadvantaged. On any kind of fair playing field, American companies and American workers can beat the best. We are the most productive workers in the world. We have the best technology, we have well-trained workers with the opportunity to get back to work and provide a safety net while they are out of work.

Mrs. WILSON. Our American farmers feed the world. In my State of New Mexico, most folks would not suspect this, but New Mexico is the tenth largest dairy producing State in the country. It is a very fast growing dairy industry. Of course, our cattle industry in the West has always been really strong. Our New Mexico cattleman, I was talking to a rancher, he said we really want free trade, because most people outside the United States do not eat as much beef as people inside, and we want to introduce them to the wonder of beef.

But there are things that we can do to promote trade, but we have to give trade authority to do it. As you can see by this chart here, the House has passed the economic stimulus bill. We did that on October 24. We have passed now bipartisan trade authority, which would give the President the power to promote international trade and promote international business and get business for American companies abroad.

I also passed something way back actually the second of August, before the August break, the Energy Security Act. When we talk about jobs, we have lost 700,000 jobs in this country since the 11th of September. The estimates today of this energy bill are this kind of just surprised me when I saw these two numbers, went back and looked at my notes from August, the estimate is it would create 700,000 jobs in domestic energy suppliers.

We are much more dependent on foreign oil today than we were at the height of the energy crisis. Fifty-seven percent of oil is imported from America, mostly from the Middle East, a very volatile region of the world. Most folks do not know, but the number seven supplier of oil to the United States and the fastest growing supplier is Saddam Hussein’s Iraq.

We need a balanced long-term energy policy that promotes both conservation and increases in production. We need a more diverse supply of energy that we can get complacent. We all have gotten complacent a little bit here. The price of gasoline has gone down, the price of natural gas has gone down we have had a pretty mild winter so far, and maybe there is a sense of urgency that has left us. But the reality is we need an energy policy, and we need to reduce our reliance on oil coming from the Middle East. We should not be over a barrel begging Saddam Hussein to keep the oil spigot open. We need to be more independent.

The House passed by a very broad bipartisan vote the Energy Security Act on August 2. That should have been on the President's desk months ago. We need the first energy policy that we will have had in 20 years, and the House has passed it, and I would like to see the President be able to sign it.

I yield to my colleague from Illinois. Mr. WELLER. I thank the gentlewoman for yielding. On energy, of course, the gentleman has been one of the leaders, particularly in research and development of new sources of energy and new sources of conservation,
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as well as helping our country be more independent of foreign sources of energy.

I remember one of the questions that I was asked shortly after the tragedy of the terrorist attack on America. Every day I drive to work and I drive by a high school and I would talk with students. One of the high school students at Wilmington High School, a high school junior, asked me a very good question. He says, “You know, Congressman. Americans have very short attention spans. Is there anything that we can do so that we will not eventually lose interest in what occurred to our Nation on September 11?”

I said, “You know, young man, you have a very good question, and that is, will America appreciate what complacency has cost us?”

Clearly what we were reminded on September 11 was the consequences, number one, of thinking it will never occur here, but also the consequences of our being dependent on unstable areas of the world for sources of energy.

To me, I think there is something wrong when the policy of this country over the past decade has been to allow our Nation to be dependent on a majority of the oil that we use to power or our economy comes from outside the borders of the United States. Clearly, we in the Congress, I believe, have an obligation to improve the security of our country by reducing our dependence on imported energy, particularly oil.

I was proud to say that, earlier this year, and all the way back in July, now, think about that, in July we passed the Energy Security Act, legislation designed to make our country more energy independent, to emphasize conservation, to emphasize renewable sources of energy, and also to promote domestic sources of energy.

Well, think about it. How many months have passed since July? July, August, September, October, November, December. Six months have passed since we passed legislation which would provide for an opportunity to make our Nation more energy independent. Unfortunately, while the House has acted, we are still waiting for Congress to be able to send to the President legislation that brings about energy security.

I would note, not only do we provide for an opportunity to reduce our dependence on imported oil from the Midwest, but also we provide for an opportunity for investment in new technology, which will promote energy conservation.

One of the provisions in the legislation that we passed provides incentives for homeowners to make their homes more energy efficient, where they can receive up to a $2,000 tax credit, up to 20 percent of the first $10,000 they would spend if they better insulate their home or put in better, more energy efficient windows and more energy efficient heating or cooling for the house. And also for a home builder. A home builder who builds a new building, whether a condo or a stand-alone house, would also be able to receive that tax credit.

I was talking to a home builder in the area that I represent in the South Suburbs, a gentleman who has built thousands of homes in the Mokena-Frankfort-New Lenox, the Lincoln Way area we call it, just east of Joliet. He said in the last 2 years he has built about 1,000 homes, but only about a dozen that actually went to folks who purchased new homes, brand new homes from this home builder, said they wanted an energy efficient house. People were more willing to invest a little extra money in the kitchen or bathroom, something they can see, than into making their house more energy efficient.

But he also said when there is an incentive to help recover the cost of making that investment, those consumers were more inclined to invest in energy efficient improvements to their existing house or to purchase a home which has more energy efficient technology in place.

That is one of the most basic centerpieces of the legislation passed. While the House has done its job on energy, while the House has done its job on trade opportunities, while the House has done its job on revitalizing this economy, we are still waiting for the other body.

My hope is we can work together soon, within the next few days, and put together a bipartisan agreement. We all know it is in the best interests of our Nation to get this economy moving again, because so many Americans have lost their jobs, 700,000 Americans are now unemployed, and we have yet to put on the President’s desk legislation to help revitalize this economy. Something is wrong.

President Bush has asked us to send him a stimulus package, what we call an economic security package, to help create new jobs, protect jobs, give those that are currently out of work an opportunity to go back to work. I think it is wrong that this Congress has not completed its work, but I am proud to say the House has been doing its job. In July we passed energy security. Six, 7 weeks ago, in early November, we passed economic security. This past week we provided for greater trade opportunity. We need to work together, and I hope the other body and the House can find a way to get this job done.

Mrs. WILSON. Mr. Speaker, I thank the gentleman from Illinois. When I started out, I talked about how we had worked together to finish the education reform bill and what a tremendous achievement that is and how it does not put the need for security for our communities and our families and our children over the next couple of decades. It is a landmark piece of legislation. It showed that if we focus on something, with the leadership of the President and the determination of the House, that we can get things done. But there are things on the economy and jobs that we also need to get done.

I was fortunate to work with the President and with the entire Congress to get things done with respect to the war on terrorism, and that war is going very well, although we always must expect that there will be bad days and there will be good days. But there is nothing else we need to focus on, and it cannot be put to the back burner. It has to be put front and center, and that is growing jobs.

The House has passed the economic stimulus bill. We passed it on October 21. We may actually pass another economic stimulus bill. It is almost as if we are pleading to get something done so we can get it to the President and get back to growing jobs. We have passed Bipartisan Trade Promotion Authority that allows us to negotiate and grow our businesses at home so we can sell products abroad. We passed 6 months ago the Energy Security Act, which also would create jobs, probably 700,000 jobs in the energy sector. We have done things with farm security, and things are really hurting in the agriculture industry, and the House has passed a farm bill. Even back in June, in mid-June we passed an Invest for Fee Relief Act. Many folks do not even know it, but when one trades a stock in an IRA or in a 401(k) or just in a stock account that one might have with T. Rowe Price or whomever, there is a few pennies or actually less than a penny on each transaction that goes to pay for the Securities and Exchange Commission. That rate was set when we were not doing so much stock trading and there were, instead of 100 million investors in America trading on line, there were really only a little more than a million, maybe 10 million investors and they were mostly large stockbrokers. We do not need that much money coming from all of these little trades. What this bill does, it just says, let us just have the amount of money taken off the trade that one needs to fund the SEC. That is what it was meant to do.

Six months ago we passed that legislation. It is a simple little bill. But if we watch the values of our stock portfolio, down, down, the IRA is hit, it kind of hurts that we are not acting faster and it feels as though we are throwing things over the net, and there is nobody there. I yield to the gentleman from Illinois because we wrap up this hour.

Mr. WELLER. Mr. Speaker, I want to thank the gentlewoman from New Mexico for her leadership and setting aside this hour to talk about what the House has done. We have been hard at work over the last 12 months working to bring about change, but also working to bring about security to the average American, for our communities and for
our country. We have supported the President in the war against terrorism, giving him the full war powers that he has asked for. We provided for $40 billion in emergency funds and we have helped our aviation sector and stabilized that after it was literally shut down for days, which cost the aviation sector billions of dollars.

But we have also worked to respond to other situations that have occurred since the terrorist attack on September 11. We have passed energy independence and energy security legislation to reduce our dependence on imported energy.

It was in October when the House passed and sent to the other body legislation which would stimulate this economy, reward investment and the creation of jobs, help displaced workers with unemployment benefits and help health care benefits, give extra spending money to consumers. It was in November when the House passed the Farm Security Act, legislation to help our farm economy. Again, the House has been diligent.

It was just this past week that the House moved in a bipartisan way to give the President the full negotiating power he needs to reduce trade and tariff barriers that stand in the way of American manufactured goods and farm products that we produce here on our soils. Mr. Speaker, 96 percent of the Earth’s population lives outside of our borders. There is a tremendous amount of market, a tremendous amount of opportunity to move goods from the United States out of our work places and manufacturing places and our farms on to the tables of those who are hungry overseas, not only for our food, but for our goods and services.

This is, we have worked hard in this House. We have been on schedule. Energy in the summer, passed energy security legislation, we have given the President full trade negotiating powers, we have worked to stimulate this economy. Unfortunately, it takes 2 Houses to get the job done. My hope is that in the next few days that the other body will come together with the House and that we can work together to stimulate the economy to help bring greater security to our country.

I want to thank the gentlewoman for her leadership and this Special Order.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Platts). The Chair is required under the House rules to remind Members that it is not in order to characterize action or inaction by the other Chamber, and would ask Members to comply with that rule.

Mr. TANCREDO. Mr. Speaker, I thank the gentleman from Illinois for coming down here and joining me this evening. I also wanted to commend him for his leadership in the Committee on Ways and Means, not only on issues of economic stimulus and the committee and the gentleman have done a grade job, but on trade promotion, and particularly the things that affect our high-tech economy where the good-paying jobs are and we want those good paying jobs here. So while I was about to thank the gentleman for all the hard work that he has done this year.

Today, the Congress has a tremendous success. We passed an education bill which is now on its way to the President that will implement his idea and his passion, that no child will be left behind in America. We have given the President legislation and money to fight the war on terrorism. The people who attacked America on September 11 underestimated the resolve of this Congress, this President, and this country. We will find those responsible, we will root them out, and we will destroy them. We are united in that resolve.

The House of Representatives has passed numerous measures to stimulate this economy. We have passed an energy bill that would give us 700,000 new jobs. We have passed an economic stimulus bill that would reduce the tax rates on middle-class Americans, put money in the hands of consumers and let small businesses invest and create jobs and restore confidence to our capital markets. We need to move forward and grow jobs in this country. Mr. Speaker, 700,000 Americans lost their jobs since September 11. We need to pass a stimulating bill that would reduce the tax rates on middle-class Americans, put money in the hands of consumers and let small businesses invest and create jobs and restore confidence to our capital markets.

IMMIGRATION REFORM AND CONTROL AND THE SECURITY OF OUR BORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from Colorado (Mr. Tancredo) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, although I can certainly agree with many of the comments of the previous speakers with regard to what this Congress has accomplished to date, there is an issue, of course, that I must bring to the attention of the Congress, of my colleagues, and the Speaker, that has not been dealt with. It is almost incredible to stand here and say this in light of everything that has happened since September 11. Many of you have indeed, prosecuted a war against the perpetrators of the September 11 tragedy, and we have prosecuted it successfully. I am immensely grateful to the President of the United States for his efforts to bring these people to justice. In many ways, I am pleased with what the Congress of the United States has done in efforts, as has been stated earlier, at least on the House side, in terms of enhancing the economic viability of the Nation, passing a stimulus package, and the rest.

However, while we focus on issues like those that have been described here, having just passed a massive education bill earlier this afternoon, we have abandoned, we have refused to deal with one of the most important, one of the most significant and uniquely Federal responsibilities given to us under the Constitution, and that is the issue of immigration control, immigration reform, and the security of our borders.

Amazingly, I say, we have refused to do that. Here we are approaching the end of this particular session of Congress. I would have hoped that all of our colleagues could have seen what the most Americans see. Poll after poll after poll by Americans of every stripe, of every political philosophy, of every ethnic background, every single poll tells us something we evidently do not understand in this Congress, and that is the American people want immigration reform. They want us to do everything we can to gain control of our borders, to make them more secure, so that while we are bombing the people, the coalfields and other responsibilities for the terrorist acts of September 11, while we are bombing them in Afghanistan, the people of the United States want to know that the Government of the United States is doing everything it can to protect them from more of these folks coming across these borders with the intent to do harm. Yet nothing has been done. Nothing.

We have passed stimulus packages, we have passed education reform, we have done a number of things, again, that many people can be quite proud of; but amazingly, we have refused to deal with this issue.

Mr. Speaker, I used to stand up here on the floor of the House and talk about the need for immigration reform at a point in time when there were relatively few Members of this body who were interested in doing that. I recognize that it was not a popular issue to address. Many Members on both sides have very deep-seated feelings about this issue. Some members around the political imperatives that they face in their own districts, the recognition that to talk about immigration reform always puts one into the position of being attacked for a variety of reasons, all of them unrelated to the real issues of immigration reform. But I felt it was necessary to do so. But I also understood entirely the political dynamics of this body. I am a political person; I do understand what motivates individuals in terms of their voting record.

I recognize fully well that it would be difficult to ever move this issue forward in this session, the next session, or the one after that. That was several months ago that I had that impression. I knew that I was fighting an uphill battle.

I used to talk about the importance of gaining control of our borders and the importance of security, and I would reference the fact that we have had several instances of terrorists doing
things in the United States, certainly not to the extent in terms of the damage caused by the September 11 events, but we have had similar events. We have had all kinds of warning signs that something like September 11 was coming.

In the spring of 1993, Mr. Speaker, a Middle East terrorist named Mohammad Salameh struck the first blow at the World Trade Center.

He, if Members will recall, detonated a bomb. It killed eight and it wounded many. The mastermind of the plot was a notorious Egyptian sheik named Omar Abdul Rahman. The sheik had been behind the assassination attempt or the assassination of Egyptian President Anwar Sadat, had fled his own country, and was on the State Department’s list of known terrorists.

However, recognizing his background, knowing who he was and what he was responsible for and what he wanted to do, the whole idea was to walk into an American embassy in Khartoum, claim refugee status because he had been driven out of Egypt for the murder of the President, and get it, get refugee status, and come to the United States of America. It means nothing.

They become, essentially, refugees in the United States who claim refugee status may not obtain it originally, but they simply walk away after they claim it, because at that time when you claim refugee status, you can stay while a process is under way to find out whether or not you get it. Until, even though in New York City, at JFK, only a few thousand will be granted refugee status originally, but all the rest who claim it simply walk out the door.

The same, essentially, refugees in the United States because no one ever goes after them; no one has the slightest idea who or where they are. When one goes to the INS and asks them, where are the people who have come here as refugees, but you have denied refugee status to them, they do what I call this logo, and this should be the logo of the INS. It is simply this: a person standing there shrugging his shoulders, hands out, saying essentially, “I don’t know.”

For almost everything we ask the INS about in these kinds of situations, that is the response we get: “I don’t know; cannot tell you; am not sure; I do not know; have no figure on that; do not keep records on that.”

That is the most constant refrain we get.

So in the spring of 1993, again, it should have told us something; but amazingly, it evidently did not, not enough to get this body and the administration to move in the area of border security.

Why? Because there is a fear of doing so. There is a fear of alienating a certain segment of the population in the United States who claim immi- grants, immigrant families, whatever; maybe the fear of alienating other nations, other countries, to tell them to try and please help us gain control of our borders.

Whatever it is, and there are plenty of reasons why we have refused to move forward, we did not. We did nothing.

In 1993, another asylum seeker entered the United States. His name was Mr. Al-Kasasbeh, a refugee from Kuwait. As Members might recall, later shot and killed six people as they waited in their cars outside the CIA offices in McLean, Virginia. He fled back to Pakistan, probably with the aid of the Pakistani Government, and has never been seen since.

Time and time again, we have been shown that we are vulnerable; that people coming into the United States, if we do not know what it is, if we do not know who they are and keep track of them when they are here, if we do not do that, we are putting ourselves in jeopardy.

We had all of these warning signs. There were many more, many more times when people were apprehended for totally separate events. There was a guy caught trying to come across to the United States, come into the United States through Canada with all the Al Qaeda, Bin Laden, and that kind of thing; and just by happenstance, totally serendipitously, it turned out he was prevented from coming in. But we know, actually now we know that thousands of people are here in the United States who we suspect of coming in here with devious intents.

Now, when I talk about these people, I am not just talking about the people who are here illegally; they just simply come across the borders of the United States. We have thousands of them, and we are here illegally pursuing their lifestyle, attempting to achieve a better life.

Everybody knows a story of someone who has a family member or something who has come here, even illegally, with the intent of essentially just making a better life for themselves and not with the intent of doing harm to the United States. But I am talking about a lot of people who we have for other reasons. We know they are here, and we are not sure where. We are rounding people up, we are detaining them and trying to go through now and trying to find them.

Recently, we have indicted someone we found was a co-conspirator or the allegation is that he is a co-conspirator with bin Laden and al Qaeda. Guess what? Guess what they got him on? Violation of his immigration status, violation of his visa.

Every single one of the people on the planes that were here in the United States on September 11, the 19 people who in fact perpetrated the crime, all of them were here on some sort of visa with the Pakistani Government, and has never been seen since.

But this was not the modus operandi of the INS. The focus of the INS at the time was to say that its real purpose had little if anything to do with the enforcement of our immigration laws, but it had everything to do with trying to make sure immigrants to the United States got services, benefits, as one of the individuals from INS told a radio audience in Denver when I was home not too long ago.

She said, yes, we have a responsibility to go out there and look. We do not do this rounding up of people anymore, and going to worksites and any of that stuff. We find illegal aliens, and we explain to them they are here illegally, and then how they can get benefits. This is what she considered to be the job of the INS.

We had great hopes that with the change of administration from the Clinton administration to the Bush administration there would also be a change in policy with regard to immigration; that we would be able to begin to control our own borders. A new person was put in place, Mr. Ziglar, who had been appointed to the INS. By and large, I think it was a good appointment. But again, I must say, Mr. Speaker, we have been disappointed, disappointed with the new director and with his lack of enthusiasm for the enforcement side of his job.

As it turns out, Mr. Ziglar has an extensive background in the area of immigration law because evidently, according to his own testimony in the other body, he had been a staffer for a member over there, Mr. Kennedy, and actually helped write some of the legislation that we are now trying to deal with in terms of immigration reform, legislation that created so many loopholes, ultimately, that even Mr. Ziglar
now says hampers their ability, the INS’s ability, to actually get something done. He was actually a staff member of the committee, he told the committee he was testifying in front of the other day.

So it is a lament that we have someone now running that agency who has no difference in terms of philosophy or what he believes the direction of the agency should be, no difference from any of his predecessors. He thinks of the INS as a great social service agency whose duty and responsibility is to get as many people into the country as possible and to “get them benefits as quickly as possible once they get here.”

Interestingly, one of the other pieces of legislation, major pieces of legislation that was passed by this body, by this House not too long ago, just yesterday, was the so-called voter registration that

After all of the problems we saw with regard to voting and the voting machines and the chads and all the rest of that stuff, there was a great glamour for some sort of reform in the process. So we spend millions of dollars to help communities buy new machines and that sort of thing.

Fascinatingly, fascinatingly, when I went to the author of the legislation and asked if there was anything in there to prevent people who are here illegally, people who are not citizens of the United States, if there was any of his predecessors. He thinks of what he believes the direction of the administration probably does not support it.

Mr. Speaker, we have not changed our attitudes, even though there are over one million New Yorkers even though a plane crashes into the Pentagon just a few miles from where we stand tonight, and even though the perpetrators were all themselves non-citizens of the United States; even though the September 11 about their desire to see open borders, people who still have a desire to provide amnesty for all the people who are here illegally.

All those people are simply saying that so often, we know that they are really still in control.

I go back to Mr. Ziglar’s testimony just the other day in front of the Senate committee. This is the INS commissioner, John Ziglar. When he fielded a question asking whether the ads we have in front of us, because if they can stick it in a huge package of legislation, it will be less likely for us to be able to defeat it, those of us who are opposed to it, and it will be much easier for people to vote for it because people are now focused on the defense appropriation, did I not. So they are trying to figure out ways to do that.

As we stand here tonight, they are trying to figure that out. They are not dealing with the issue of border security itself, amazing again, incredible, but true, but here is the commissioner of the INS, appointed by this administration. Remember, this is not a Clinton appointee. When he was asked about this, he responded regulariza-

tion, this is a euphemism, regularization, this is a euphemism for amnesty, regularization has taken a back seat, but he said the President has not aban-
doned it, it is just going to be on a slower track until the climate dies down. Until the climate dies down, until we no longer have our sensitivity as acutely honed as we do today to the problems with illegal immigration into the country. When it is quieter, they will sneak it back in. What is he saying? This is the new commissioner of the INS. Someone ought to be beamed up and he is one.

We have over 300,000 people, Mr. Speaker, approximately 318,000 that we can identify, 318,000 people who have been ordered to be deported from the United States over the last several years. We have about 100,000 go through this process every year, and some of those 318,000 are actually going to be deported of them walk away. They simply walked out of the courtroom and into American society.

Please understand, Mr. Speaker, there are people who did not simply overstay their visas. These people oftentimes have committed crimes against the United States. That is how they got caught. No one gets caught for simply overstaying their visa. No one gets caught for not having a visa. So no one should be surprised that no one goes after visa violators. When we ask the INS, how many people violate their visas every year, visa status? They go into their logo stance, I do not know, got me, probably a lot, we do not know, who do not keep track of that.

Well, these 318,000 that we have found to be out there and only, by the way, after we pressed the INS for quite some time, did they release this information, when we brought every time we could people make the request, after they would say, others would try to use this as an example of the problem, that 300,000 people were out there already, walked away and they had been ordered deported. No one had the slightest idea where they were, were doing.

The other day the INS finally decided they would, in fact, allow other agencies access to the names, that they would put them into the crime database. So that now if a policeman in Jefferson County, Colorado, just happens to pull somebody over for drunken driving or running a red light or whatever and enters their name into the database in the computer, it may come up and say this guy, this person is here illegally, was ordered deported.

That is a good step. I am very happy the INS did this, of course, do not get me wrong. This is what they considered to be, however, a major reform effort, putting the names into the database. I agree they should do that, do not get me wrong. The question now becomes one of what they will do once in a blue moon when somebody does, in fact, get arrested and are found to have been ordered deported, what they do?

Will they do what they have done up to this point in time when they are called by local officials who say we have got a bunch of people here we just rounded up, they are all here illegally, we just stopped a car on the road because it did not have any taillights, any headlights, broken windshield, and we found out there were six people hidden in the trunk, there were a van with 19 in there and they are all here illegally, and what will the INS do? Will they let them go. Hey, what the heck. We have not got time to come out there. They are just here illegally.
Do my colleagues know what a previous INS assistant director said when he was speaking to, just a short time ago, just last year I think it was, speaking to a group of people who were here illegally? They were probably giving them a party, for all I know, probably, probably inviting them in. I have thrown parties before in front of me. I have used it before on the floor, told the assembled group of illegals that being here illegally was not against the law. Now, I do not know if the people to whom he was speaking understood the English language well enough to understand the perversity of that statement. Yeah, he said being here illegally is not against the law.

This is what we have to deal with. Should I be surprised then that it is so difficult to get the INS to change their philosophy because we have got the same people, essentially the same ideas about who we are and what we are.

I assure you, Mr. Speaker, that they will come in and say when we have asked them, why do not you try to do something about that? They will say, well, it is the resources. It is the fact that Congress has passed laws tying our hands absolutely true. Plenty of dumb laws have been passed by the Congress. Plenty.

Again, I do not know where to start. There are so many goofyball things we have done here to try and encourage massive immigration into the country of illegals. But combine that stupid activity and the stupid actions of Congress over the past 10 years with the incompe...
English and into the language of commerce, into the international language of commerce and trade. They know that in their hearts; yet their children will be placed in bilingual programs without their permission. This only helps the disintegration of the culture I have been speaking.

As I say, we can be attacked in a lot of ways, Mr. Speaker. It does not just have to be by bombs. And I believe there is a threat to the Nation that is represented by massive immigration, especially of illegal immigrants, that has to be addressed by this Congress.

I am happy to see that one of my colleagues has joined us on the floor of the House, and I would definitely yield to the gentleman for his remarks on this subject.

Mr. ROHRABACHER. Mr. Speaker, I think it is very apropos that my colleague is talking about the danger of out-of-control immigration to our country.

My staff was recently looking at some of the statements that I made back in 1997 in the CONGRESSIONAL RECORD. On September 29, 1997, there was a debate about extending 245(i), which is a provision which suggested that if someone was in the United States illegally, instead of having them have to go back, which they traditionally have had to do, to have some status change, and then stand in line and become legal, 245(i) would have permitted them just to give $1,000 and to stay in the United States of America and to have their status adjusted here.

During that debate, I stated, and I think it comes right down to the safety of the country, and we are talking about immigration policy: "Extending 245(i) also raises serious national security questions." This is back in 1997.

"Unlike those who enter the United States illegally, 245(i) applicants are not required to go through the same criminal checks, history checks, as they do when they go through this check in their home country when they are waiting to come to this country legally. The consular offices located in the applicant’s home country, along with foreign national employees working for the State Department, are in the best position to determine if an applicant has a criminal background or is a national security risk."

Again, this is in 1997. "Consulates abroad are more knowledgeable, they speak the local language, they know the different criminal justice systems in the country, and they are the ones who should be screening the people before they come to the United States so that we do not have criminals and terrorists coming to the United States, not being screened, and ending up just paying $1,000 to be put in front of the line. Allowing these lawbreakers to apply for legal status in the United States rather than having them returned to their home countries would do so circumvent a screening process that has been carefully established to protect our country’s security."

Now, that was back in September of 1997. And let us note that any one of the September 11 hijackers who was here in this country would have been given an avenue to stay right in this country legally. This is back in 1997. And let us note that any one of the September 11 hijackers who was here in this country would have been given an avenue to stay right in this country legally. And the general idea of 245(i), that had been totally accepted, which was being pushed in 1997, had some of those guys who would have had to go home to get their status changed.

Every one of the terrorists that slammed into those buildings and was involved in this conspiracy to kill thousands of Americans would have been given an avenue to stay right in this country legally.

Now, when we have policies, when we have people advocating this type of policy that we are going to change the way we do things around here, and this is the way we do things around here, so evidently nonchalant about the national security of our country, something is wrong.

And I would like to applaud the gentleman from Colorado (Mr. TANCREDO) for bringing this to our attention. I would like to applaud the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. It is called the cauliflower and release policy.

So, we have lost almost 4,000 of our citizens to a terrorist attack because we did not have proper control of our borders. We had people here in our country that should not have been here, not to mention of course the failure of the CIA, the FBI, and the National Security Agency, and it was a failure as well, but now we are just talking about specific policies.

In my State, okay, we have not lost 4,000 people to a terrorist, but we have criminals who are let loose every day in my State because we have a policy of what? If someone is arrested and they are here illegally, that does not automatically mean that they are sent home to the country from which they come.

Mr. TANCREDO. It is called the cauliflower and release policy.

Mr. ROHRABACHER. Imagine that. We are turning loose criminals, people who have been arrested for crimes in our country and just turning them loose among our citizens. This is outrageous.

And why are we doing this? We are doing this because Americans have good hearts and we are afraid to do things that would cause great hardship and disfigure our very good people. Ninety-five percent of all illegal immigrants, much less the legal immigrants, but 95 percent of them are wonderful people, and we are afraid to do something that would cause them hardship.

Well, who are we representing, anyway? Who are we supposed to represent? We are supposed to represent the people of the United States, the people who have been here for centuries, and all ethnic backgrounds. The people of the United States are not one race. We are not representing a racist point of view or one ethnic point of view. We are representing the patriotic interests of every American, no matter what color or person or she is, or what religion he or she is.

We should have no apologies that to whomever it is we are saying, "I am sorry, because you are not here legally, you have to go home," or "you are here legally and you cannot get benefits to take away from our citizens," we should not be afraid to do this.

Mr. TANCREDO. The gentleman is so correct. And let me say, first of all, the longer before I came to the Congress of the United States, the longer before the individual, maybe more than one, but one I know of who has been such a stalwart on the issue of immigration, the safety of the American people brought about through the defense of our borders, and the gentleman who has joined me on the floor tonight, the gentleman from California (Mr. ROHRABACHER), I am proud that the gentleman is here and that he is a strong supporter of our efforts.

Talking about who are we representing, it is fascinating, because most of the immigrants into this country, legal immigrants, people who are here relatively recently and have just come into the country, most of them support our desire to try and reform immigration. So when the gentleman says, who are we representing, it is true that it is as if the majority of the body is actually representing people who are not American citizens and who are attempting to come into the country illegally. That is what it seems like we are representing here instead of our own constituency, instead of the best interests of the country.

David Letterman said on TV not too long ago in his opening monologue, he said, "The Taliban is on the run and don’t know where to go. Pakistan doesn’t want them. Iran doesn’t want them. Of course, they will have no problem getting into this country." And he is absolutely right. Unfortunately, it is true.

I do not know if the gentleman from California heard when I was talking earlier about the INS and their attitude about 245(i), but even after everything that has happened, the gentleman who is the commissioner of the INS, James Ziglar, was speaking in front of a Senate committee and said essentially that "we’ve not abandoned this idea of 245(i) extension." He says, "We’re just going to be on a slower track until the climate dies down."

Mr. ROHRABACHER. If the gentleman will yield, I take it the gentleman did remind everyone that on
the morning of September 11, 245(i), and the extension of it, was scheduled to be voted on right here in this body. How ironic that on the day that we suffered this horrendous attack, this monstrous atrocity that was committed against our people, that we had an attempt to bring the 245(i)’s wedge into the door, open up a little more.

We were going to vote on that “reform” that day, and of course, because of the attacks, we were not able to hold a session that day. Conveniently, that proposal has been revived recently and has not even been brought up since then. But just the insanity of the fact that people are still considering that type of thing, again making the wedge into the door a little bit bigger so people can squeeze through that opening. It is just insanity.

Now we are paying the price for this, and we are paying it in a big way. Number one, on these people who died. The people who are victims of criminal attack, working people who are working at less wages because illegal immigrants in particular are willing to come in and work for anything. Yes, we have a huge class of people who have benefited, and even the upper-middle-class people benefited from this great expansion in the last 10 years. But guess what, a lot of working people did not because they were competing against people who came here illegally from another country.

Now, do we really care about those people? Yes, we should care about our citizens at that income level who now have a lower standard of living. And we can be proud that, yes, the upper middle income in our country, those people benefited greatly and now they have three cars and now they have houses that are so expensive. Yes, let us feel proud that so many of our citizens, 10 percent of our citizens, can live like that.

What about the other 25 percent of our citizens that are working class people and have found their wages stagnated for a whole decade because people come in from all over the world and undercut them in their attempts to seek higher wages.

Mr. TANCREDO. Mr. Speaker, there is a program called the H-1B program, and I am sure the gentleman is well aware what it is about. You can obtain a visa to come into the United States because your skill is so great and there is such a need that we cannot find American workers. Therefore, Congress has been willing on H-1Bs to 195,000. They usually go into the area of high tech. Most of these people are working in the computer industry, computer programmers and the like. That industry has suffered the largest decline in the recession that we have seen.

Hundreds of thousands of people have been laid off, but we in Congress continue to allow H-1B workers to come into the country and take the jobs that would be there for American citizens. Get this, we found the other day another thing for the list of incredible but true. Remember I said these are high tech, skilled workers. When we talk to people in the industry, they say they cannot find these people here. They have Ph.D.s in esoteric areas. We have to get special permission to bring them in.

Mr. Speaker, get this. Five hundred visas are specially set aside for models. Supermodels. Ladies that walk around; models, this is high tech? I mean, I think we have enough beautiful people in the United States, do we really need a special visa category. There are 500 H-1Bs for super models coming into the United States. Believe me, there are a lot of people who I think could take those jobs. But it is just a tiny example of how idiotic this whole thing is.

Mr. ROHRABACHER. If the gentleman would yield, during this time when we do need some working people in these jobs, it is a fact, that is, when wages rise because employers are competing for better workers. During that time period, we might have created a situation where employers needed employees, and that they would have bid up to their services as might have happened in the past or, indeed, ended the problem of our own citizens not having health care coverage, for example, because the employers in order to get people to wash their dishes and wait on the tables, maybe they would have had to offer those workers a health care plan. Maybe they would have had to talk to the people washing the cars and handling the parking lots, maybe they would have had to offer those people a health care plan.

Instead, we let that opportunity to raise the standard of living and help our people get those benefits from the private sector get away, and it ends up being a burden on the taxpayer, not only of those other people but of the illegal immigrants as well.

Mr. TANCREDO. Mr. Speaker, as we bring this discussion to a close, I want to let individuals know there is a way to contact us about this, especially people who want to know more about the impact of illegal immigration and what they can do about it. This is the e-mail address and fax number. It is a way in which people can get connected to this subject and perhaps help convince their congressman of the need for reform. We desperately need a change. I thank the gentleman for joining me.

Mr. ROHRABACHER. Mr. Speaker, I shall relay the gentleman from Colorado (Mr. TANCREDO). This issue would not be discussed without the effort put out by the gentleman.

Mr. LARSON of Connecticut (at the request of Mr. GEHPARDT). This issue would not be discussed without the effort put out by the gentleman.

Mr. ROHRABACHER. If the gentleman would yield, during this time when we do need some working people in these jobs, it is a fact, that is, when wages rise because employers are competing for better workers. During that time period, we might have created a situation where employers needed employees, and that they would have bid up to their services as might have happened in the past or, indeed, ended the problem of our own citizens not having health care coverage, for example, because the employers in order to get people to wash their dishes and wait on the tables, maybe they would have had to offer those workers a health care plan. Maybe they would have had to talk to the people washing the cars and handling the parking lots, maybe they would have had to offer those people a health care plan.

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Mr. ROHRABACHER. Mr. Speaker, I shall relay the gentleman from Colorado (Mr. TANCREDO). This issue would not be discussed without the effort put out by the gentleman.

Mr. LARSON of Connecticut (at the request of Mr. GEHPARDT). This issue would not be discussed without the effort put out by the gentleman.
Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of family matters.

Mr. McNULTY (at the request of Mr. GEPHARDT) for today after 2:30 p.m. on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Wu) to revise and extend their remarks and include extraneous material):

Mr. DeFAZIO, for 5 minutes, today.
Mr. Wu, for 5 minutes, today.
Mr. SKELTON, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.
Mrs. MINK of Hawaii, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material):

Mr. SHIMKUS, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe.
S. 1196. An act to amend the Small Business Investment Act of 1958, and for other purposes.
S.J. Res. 26. A joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on December 13, 2001 he presented to the President of the United States, for his approval, the following bills:

H.R. 10. To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.
H.R. 2540. To amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.
H.R. 2714. To amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.
H.R. 2944. Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o’clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, December 17, 2001, at 2 p.m.
AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

(Continued)

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand now under a previous unanimous consent agreement we will proceed to a Smith of New Hampshire amendment, then a Wyden-Brownback amendment, a Wellstone amendment, and a McCain amendment that have all been agreed to in that order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I inquire if we can get time agreements so we can move this along. I ask the Senator from New Hampshire and whoever else is interested in the amendment if he would be interested in entering into a time agreement.

Mr. SMITH of New Hampshire. Mr. President, I say to my colleague, there are at least four Senators who wish to speak in favor of the amendment. I can list them if the Senator would like. That is my only concern with a time agreement. I am only going to need 3, 4 minutes maximum, but I cannot speak for other Senators as to how long they would want to speak. Maybe we will know in a few minutes.

Mr. WYDEN. Will the Senator from Iowa yield?

Mr. SMITH of New Hampshire. Forty-five minutes may be reasonable.

Mr. HARKIN. I hope we can enter into some time agreement.

Mr. WYDEN. Will the Senator yield?

Mr. HARKIN. I yield for a question without losing my right to the floor.

Mr. WYDEN. I and Senator BROWNBACK will be next with an amendment on carbon sequestration. I want the chairman to know I will be very brief and I will yield my time to Senator BROWNBACK.

Mr. DORGAN. Will the Senator yield?

Mr. HARKIN. I yield to Senator BROWNBACK for a question without losing my right to the floor.

Mr. BROWNBACK. I would be happy to enter into a time agreement on the carbon sequestration amendment. It can be a short time period. I do not think it is a particularly controversial amendment. We will be happy to enter into a time agreement.

Mr. HARKIN. Does the Senator have any idea about how long?

Mr. BROWNBACK. The comments I want to make will take about 10 minutes.

Mr. WYDEN. If the chairman will yield, I will take 5 minutes and yield my time to Senator BROWNBACK.

Mr. BROWNBACK. We can probably do it in 15 minutes.

Mr. HARKIN. If we can get agreement on 15 minutes on the amendment of the Senator from Kansas.

Mr. MCcAIN. Will the Senator from Iowa yield for a request?

Mr. HARKIN. Yes, I yield for a question or a request without losing my right to the floor.

Mr. MCcAIN. The Senator from Iowa probably knows, in the last 2 days I have been in the queue for an amendment. Unfortunately, for a variety of reasons which are not worth going through now, I am still in the queue. I am afraid it might not be completed by 4.

I know the Senator from Iowa allowed under unanimous consent other amendments whether they were germane or not. I am not sure if my amendment is germane or not. I believe it is, but I still ask he include that amendment in case it is not able to be considered until after 4 o’clock.

Mr. HARKIN. If my friend from Arizona will give us a copy of the amendment, I will be glad to take a look at it and see if it is in the genre of things agreed. I will be glad to take a look.

Mr. MCcAIN. I thank the Senator from Iowa.

Mr. HARKIN. I yield to the Senator from North Dakota for a question.

Mr. DORGAN. I think it makes sense to reach a time agreement on the Smith amendment. I intend to speak against the Smith amendment and want to do so for a minute or so. It seems to me we have debated this over the years as a general subject. If we can reach a time agreement and then let the Senate vote makes sense to me.

Mr. SMITH of New Hampshire. I am amenable to that. I know Senator ALLEN, Senator TORRICELLI, Senator DORGAN— I do not know of anyone else here right now who wishes to speak on either side of the amendment.
Mr. HARKIN. May I ask the Senator from New Hampshire, how about 40 minutes?

Mr. TORRICELLI. Is there a unanimous consent request now before the Senate?

Mr. HARKIN. I have the floor and ask if we can get a time agreement on this amendment. The Senator from New Hampshire has been willing to work this out. I am trying to see if we can get a time agreement. I asked if we can have a 40-minute time agreement. I do not know if that is acceptable or not.

Mr. TORRICELLI. In my estimation, there are too many Senators to be commenting in 45 minutes. There are four on our side and three or four on the other side. We may be able to accommodate that in an hour, but 40 minutes is unlikely. I say to the Senator from Iowa, if he does offer a unanimous consent request, I have to ask him to include a secondary amendment that Senator SMITH wants to offer, as long as that is in order in the time period as well.

Mr. HARKIN. If we can reach a time agreement. How about 50 minutes?

Mr. SMITH of New Hampshire. That is acceptable to this Senator.

Mr. HARKIN. Is that acceptable to this side?

Mr. TORRICELLI. It is acceptable to me, but that Senator SMITH before the close be recognized to offer a second-degree amendment.

Mr. REID. Will Senator Smith yield?

Mr. HARKIN. I yield.

Mr. REID. The Senator from New Hampshire said he wants to speak for 5 minutes. That will give us a time to call some Senators. We may have one Senator who may want to speak 20 minutes himself. Give us time to work on that. We cannot agree to a time right now until we talk to some Senators.

Mr. HARKIN. I do not know why we cannot agree to a time limit. We have people in the Chamber who are interested in the amendment. We can reach a time agreement, and everybody will have their time. The Senator from New Hampshire said he wants to take 5 minutes himself. Give us time to work on that. We cannot agree to a time right now until we talk to some Senators.

Mr. TORRICELLI. The problem is, we have a number of Senators who all want to be heard.

Mr. DORGAN. If the Senator will yield, I do not think the question is whether people want to be heard. The question is how long they want to be heard on the amendment. I will oppose it, but I am perfectly willing to accept 45 minutes. Are there people who want to comment 20, 30 minutes in opposition? If so, we will have difficulty getting a time agreement. My hope is, given the hour and difficulty of moving this bill along, that we can get a time agreement on this amendment on both sides.

Mr. HARKIN. I hope we can get a time agreement now. I do not want to cut off anybody speaking on this, but the proponent of the amendment himself told me he only wanted to take 5 minutes. I assume the others in 5, 7 minutes can have their say.

Mr. TORRICELLI. My suggestion is, if there are four or five Democrats and four or five Republicans who are for it, there are people in opposition, at 5 minutes, you have to have an hour at a minimum to accommodate them.

Mr. HARKIN. How about 1 hour on the Smith amendment?

Mr. TORRICELLI. One hour, at which point there will be secondary amendments.

Mr. REID. Reserving the right to object, we are not going to agree to a time limitation. There are Senators I have to contact. People may not like it, but that is the way it is.

Mr. TORRICELLI. I suggest we begin the debate and, during the course, see if we can work it out.

Mr. HARKIN. There is no time agreement.

The PRESIDING OFFICER. Under a previous order, the Senator from New Hampshire is recognized.

AMENDMENT NO. 2596 TO AMENDMENT NO. 2471

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself, Mr. TORRICELLI, Mr. GRAHAM, Mr. ALLEN, Mr. ENSIGN, and Mr. HELMS, proposes an amendment numbered 2596 to amendment No. 2471.

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

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

The amendment is as follows:

(Purpose: To provide for Presidential certification that the government of Cuba is not involved in the support for acts of international terrorism as a condition precedent to agricultural trade with Cuba)

At the end of section 335, insert the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that Cuba is not a state sponsor of international terrorism."

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that Senators TORRICELLI, GRAHAM, ALLEN, ENSIGN, and HELMS be added as original cosponsors of my amendment.

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

Mr. SMITH of New Hampshire. Mr. President, I don't believe I will use the 5 minutes for myself.

As some have said, this issue has been debated in the past. Everyone is familiar with it. It is not necessary to take a lot of the Senate's time. Given the fact we are trying to finish the Senate's business, I will considerate of that.

I simply say in a few words what the gist of this amendment is. The underlying farm bill contains language that strikes the current statutory restriction against private financing of food and medicine sales to Cuba. The administration opposes that language. I think with good reason.

My amendment conditions—it does not substitute the language—the financing of food and medicine sales to Cuba on the President certifying to Congress that Cuba is not a state sponsor of international terrorism. That is all. It conditions it; it does not substitute it. I would have liked to have substituted it. However, I came in with a milder version to try to gain support in it. I think we have a tougher thing to do. We would condition the financing of food and medicine sales to Cuba on the President certifying to Congress that Cuba is not a state sponsor of international terrorism.

I don't know if my colleagues have been following very closely what is happening in Central America, but there is a lot of terrorist activity in Central and South America with Cuba and other nations. Our President has declared war on terrorism. I remind my colleagues of the exact language that President Bush used.

Every nation in every region now has a decision to make. Either you are with or you are with the terrorists. And from this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.

Now, surely if Cuba—and I emphasize the word "if"—if Cuba is in any way harboring terrorists, supporting terrorism, participating in any way, helping the international terrorist community, why should we be providing anything to them to help do that? If Cuba is a state sponsor of terrorism, the question should be: Should we allow for private financing of agricultural sales to Cuba? I don't think we should be making a profit while we are supporting international terrorism. I don't think that is what my colleagues would want to see happen.

We shouldn't even be trading with Cuba, in my view, if they harbor terrorists. That hardly goes back and supports what the President said when he said: Either you are with us or you are with the terrorists, and any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.

If a country is harboring terrorists, the President said we will go after them one way or the other. It is hardly going after them if we trade with them and make a profit while doing so.

I think the answer is no, we should not allow private financing of agricultural sales to Cuba. And no, if Cuba is a state sponsor of terrorism, we should not be trading with them. It is that simple. That is the amendment before the Senate. I don't consider this as a milder version of our U.S. policy toward Cuba. I don't even consider this to be an amendment on a referendum on trade policy. I simply say
this amendment is a referendum on nations that support and sponsor international terrorism.

I remind my colleagues that the State Department lists the following seven States, as of 1999, as state sponsors of terrorism: Iran, Iraq, Syria, Libya, North Korea, Cuba, and the Sudan. Cuba is with pretty heavy company. Let me repeat the countries in their company out of all the nations in the world: Iran, Iraq, Syria, Libya, North Korea, Cuba, and the Sudan. Cuba is with pretty heavy company.

My amendment does not say they cannot trade; it doesn’t say you can. It says let the President certify it, and we will be fine.

I rest my case and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, the most extraordinary thing about this debate is we are having it at all. The President of the United States has declared war on terrorism. American soldiers are fighting terrorist organizations. The Senate is about to approve legislation, but for this amendment, which would allow the financing of American products in some instances from American institutions—insured by the American taxpayer—to governments that we have established are harboring terrorists. If I didn’t hear it myself, I would not believe it. And the American people are not going to believe it.

Cuba is a terrorist state. It is designated by the State Department as a state sponsor of terrorism. It is from the Bush administration with the following language from the State Department:

A number of Basque terrorists gained sanctuary in Cuba some years ago. They continue to live on the island, as do several American terrorist fugitives.

In 1999, Cuba allowed the murderer of a New Jersey State trooper, Werner Foerster, to live in Cuba. She was convicted of committing felonies against the United States, but in my State it would be impossible.

In 1973, Joanne Chesimard was riding on the New Jersey turnpike, the “thruway” to most, along with some accomplices. She was stopped and convicted of having a weapon involved. A New Jersey State trooper, Werner Foerster, was murdered. She was convicted. She was sent to jail for having taken his own weapon and shooting him twice in the head, killing him instantly.

In spite of the fact she was given life in jail, she escaped, in 1979, from the Reformatory for Women in Clinton, NJ. She fled to Cuba where, since 1984, she has been granted asylum and has lived for 17 years.

Castro gives asylum to the murderer of a State trooper, a woman who committed terrorist acts against the United States. This is the Government whose exports we would now finance from institutions supported by the American taxpayer. Fidel Castro knows how to end the prohibition on the financing of exports.

Members of the Senate will hear we are using food and medicine as a weapon of war. Cuba has the greatest bioterrorist capability in the Western Hemisphere. Cuba prohibits international inspection of its biological facilities. In 1998, Secretary of Defense Cohen, a former member of this institution, testified before the Armed Services Committee:

I remain concerned about Cuba’s potential to develop and produce biological agents, given its biotechnology infrastructure.

The Defense Department, in 1998, in a report to the Senate, “Cuba’s Threat to American National Securities,” said:

Cuba’s current scientific facilities and expertise could support an offensive biological weapons program. In at least the research and development stage, Cuba’s biotechnology industry is among the most advanced in all developing countries.

There needs to be one message from this Government. We are fighting terrorism, but now we are going to finance exports to countries that harbor terrorists. We are attempting to undermine the capability of nations that develop bioterrorism, but now we are going to give our institutions to those very countries. It doesn’t make sense. No one could defend this vote to their constituents. I don’t care if every person who lives in your State is a farmer. I don’t believe there is a farmer in America who wants to make a buck by having this country finance exports to Governments such as that.

President Bush has stated it very clearly. In this wasteland of terrorism, you are for us or you are against us. Where is this Government now that we want to subsidize by financing exports to them? In May 2001 in Tehran, Fidel Castro proclaimed:

Mr. Castro has decided whether he is with us or he is against us.

The Canadian security intelligence service, which investigates terrorist threats, said in a 1996 report:

Cuba has been a supply source [to terrorist groups] for toxin and chemical weapons.

In a 1999 book “Biohazard,” a former KGB colonel, Ken Alibek, second in command of the Soviet offensive biological warfare program until 1992, wrote that he was convinced the Castro government was deeply involved in biological warfare research programs.

In each of these ways, if you do not want to follow President Bush’s command about which governments chose sides, recognize that the conclusions I bring to the Senate are not American alone. On Castro’s involvement in terrorism, his involvement in bioterrorism, we have the testimony not simply of Americans but of our Canadian allies, and even our former Soviet adversaries.

I do not rest my case on the support of terrorism by Castro alone or his bio-chemical warfare. There is another aspect to the amendment that Senator SMITH and I offer with Senator NEAL, Senator ALLEN, and Senator LEAGUE of our colleagues, and that is the question of harboring fugitives from justice in the United States. Under our amendment, if Fidel Castro wants to get the advantage of the financing of American agricultural exports, he can get that financing. He has to get himself off the terrorism list by stopping harboring terrorists. He has to allow the inspection of his bio-chemical warfare facilities. If he does those things, he can get our exports financed by institutions supported by this Government.

But he has to do one more thing under the secondary amendment we are going to offer: Stop harboring fugitives from American justice. Cuba currently is giving safe haven to 77 American citizens who have been indicted or convicted of committing felonies against the United States. These include fugitives who have been convicted of murder, kidnapping, and possession of explosives. They have escaped American justice because Fidel Castro allows them to live safely and freely, in most instances, in Cuba.

Most on this list—60 of the 77—were convicted of what is a terrorist act now in the minds of most Americans: Hijacking an airplane.

Is there a Member of this Senate who will explain to citizens of their State that we are about to change a bipartisan American foreign policy restricting the financing of exports to Cuba and will not accept a condition that first the people who have engaged in the terrorist act of hijacking an airplane—that those fugitives not be returned to the United States? We have had an explanation difficult to give to the American people, particularly since the events of September 11, this would rank as the most difficult. This may be hard for people in most States, but in my State it would be impossible.

In 1965, 1973, Cuba was listed as one of the world’s two largest terrorist sponsors of terrorism and Latin American insurgents. Colombia’s two largest terrorist organizations, the FARC and the ELN, maintain a permanent presence on the island.

In addition to our national policy against terrorism, we have a national policy against states that are involved in bioweapons. Cuba has the greatest bioterrorist capability in the Western Hemisphere. Cuba prohibits international inspection of its biological facilities. In 1998, Secretary of Defense Cohen, a former member of this institution, testified before the Armed Services Committee:

I remain concerned about Cuba’s potential to develop and produce biological agents, given its biotechnology infrastructure.
country, open up for biological weapons inspection, and send these 77 fugitives from justice back to the United States.

Yet I know because I have been through this debate before, we will be told that this is food as a weapon. No, we are using the leverage of finance as a weapon—for justice. Yet in moments you will hear, in a false argument to the American farmer, that if only we could end this embargo, if only we could help our farmers, the problems of American agriculture would be ended.

Let’s address that part of the argument. Let’s assume we did not care about using this leverage to stop terrorism. Let’s assume we did not want to use it for biological warfare leverage. Let’s assume we didn’t care about the 77 fugitives. Let’s just take the argument on its merits with all that aside. Is it a fair argument to make to the American farmer that somehow, 90 miles off our shores, there is a market? We should compromise our principles because there is a market that will ease the financial burden of the American farmer? That is why Cas- tro has not bought American agricultural products in spite of the fact we are helping the Cuban people. We have kept them alive with massive aid efforts.

Then they will argue maybe the consumer doesn’t have any money in Cuba but we will sell to the Cuban Government. Oh, if it were so. Fidel Castro currently owes $1.7 billion—to international institutions, the highest per capita debt ever recorded by any nation in history. He owes another $20 billion to the former Soviet Union and other socialist countries. They all stand in line before any American financial institution would ever receive the first dollar.

He owes more money for recent purchases. South Africa extended him $13 million in credit for diesel engines in 1997. That has never been paid. There was $20 million loaned for fish imports from Chile. It has never been paid.

This gives you an indication of Cuba’s outstanding foreign debt: $6 billion to governments; $2.7 billion to banks; and $1.1 billion to private companies—all in arrears.

I ask the authors of the farm bill exactly which American financial institutions would like to ask their depositors—and the regulatory institutions of the U.S. Government that insure—would you like a piece of this debt? Who would like to get in this line behind all of these other people?

The simple truth is Fidel Castro cannot borrow from international institutions. He cannot borrow from other governments. He is certainly not in a position to borrow from American financial institutions. Since we insure those institutions even putting aside the policy reasons I have argued, we shouldn’t allow it.

Finally, what will at this point be a crumbling argument, some of my colleagues may argue: Well, maybe he doesn’t have credit, but he can certainly bargain with our banks with Cuba’s cane sugar.

What sugar? Cuba is now producing less sugar than it produced in 1960. Every year’s crop is less. He has already tried to barter for oil and manufactured products. He has been unable to deliver the sugar to meet the contracted price. There is no sugar.

I end this discussion this case is compelling as far as the war on terrorism. I think the President has challenged this Congress as he has challenged every other government: You are with us or against us. Castro chose to be against us. Let us send him a clear signal that this behavior is indefensible in the midst of this policy and this war on terrorism while he remains on that terrorist list to now finance these exports. But yet I know because we are a good and a generous people that some of my colleagues will be inclined to say maybe his government did these things. Maybe he can’t finance the exports. Maybe it is a hollow promise to American farmers. Maybe it isn’t responsible as part of the war on terrorism. But let us just show who we are. Let us do it anyway. Let us go the extra mile.

We have gone the extra mile. Since 1992, the United States has approved $3 billion worth of food and medicine to Cuba free—free—despite our relationship with their government which is more adversarial than any relationship between other two countries on Earth. We are a generous people. We are helping the Cuban people. We have kept them alive with massive aid efforts.

I rest my case. This makes no sense. There is no problem. Senator Smith has offered an amendment that will remove provisions from this bill of allowing agricultural finance unless and until Fidel Castro gets himself removed from the terrorist list.

I have an amendment at the desk that will expand this to provide that unless and until he returns fugitives from justice to the United States, he also will not be allowed to get the advantage of financing of American exports.

The amendment is as follows: (Purpose: To provide for Presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States to the amendments relating to agricultural trade with Cuba becoming effective)

At the end, strike ‘‘—’’ and insert ‘‘— and until the President certifies to Congress that all felons wanted by the Political Bu- reau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.’’

Mr. TORRICELLI. Mr. President, I offer the amendment as a secondary amendment to Senator Smith’s amendment. I ask unanimous consent that it be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The amendment is pending.

Mr. TORRICELLI. Mr. President, I will continue to hold the amendment. I assure Members of the Senate that unless and until I am assured that fugitives who have killed people in my State are returned as a condition of this bill which this bill will not proceed. I will continue to hold the floor.

At this point, since I am not allowed to offer this amendment and it is not agreed to, I will continue on this floor if I have to read a phone book on this floor.

Mr. NELSON of Florida. Mr. Presi- dent, will the Senator yield?

Mr. TORRICELLI. I would be happy to yield.

Mr. NELSON of Florida. Mr. Presi- dent, I want to substantiate the seriousness of the 77 people who are fugitives from justice now living in Cuba and the crimes they have committed.

The Senator from New Jersey told us about a crime that was committed in his State. A highway patrol trooper was shot in the face twice by someone who was subsequently convicted, imprisoned, and escaped from prison, and is now a fugitive who is being harbored by the Government of Cuba.

If you look at the crimes that have been committed by these 77 fugitives, they include air piracy, hijacking an aircraft, crime aboard an aircraft, crime of escape, aiding and abetting, crime of kidnapping, and the crime of solicitation to commit murder.

I thank the Senator from New Jersey for yielding to me to underscore the gravity and the seriousness of these fugitives.

I also think it is quite symbolic that on this day so many of us in this Na- tion have been riveted to our television screen that day so many of us in this Na- tion have been riveted to our television screen and the crimes they have committed.

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having on a list published in 1999 seven states that sponsor terrorism. One of those seven states is Cuba. We have a bill before us that would allow the export of our bounty and the amber waves of grain and other products that come from the beneficent bounty of this her land and encourage internationally financed and financed by banks without Cuba being removed from the official U.S. State Department list as state sponsors of terrorism.

It is just another reminder to us that if we are going to be serious about the war against terrorists—I think America is as a result of what happened on September 11—then we had better get serious that once we mop up in Afghanistan, we have to start mopping up these cells in other places.

What does the U.S. State Department say is one of those states that sponsors terrorism?

I thank the Senator from New Jersey and the Senator from New Hampshire for bringing this to the attention of the Senate. This Senate could easily adopt, in this time of a war against terrorism, these amendments by a voice vote, and we could proceed with what is otherwise a very fine farm bill, a bill that is for the benefit of this Nation.

I want to lend my voice to the Senator from New Jersey and the Senator from New Hampshire to tell them that I believe that these amendments ought to be adopted.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. Edwards). The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I believe I still have the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, it is my understanding now that the second-degree amendment that I have offered to Senator Smith’s amendment is now incorporated?

The PRESIDING OFFICER. The second-degree amendment is pending. It is not incorporated.

Mr. ALLEN. Will the Senator from New Jersey yield?

Mr. GRAHAM. Will the Senator from New Jersey yield?

Mr. TORRICELLI. I am happy to yield.

Mr. GRAHAM. I thank the Senator.

Mr. President, I would like to, if I could, continue to amplify the issue that my good friend and colleague from Florida has just discussed; and that is to attempt to put a human face on this issue which we are dealing with at the present time.

The question is, under Senator Smith’s amendment, should there be a requirement that Cuba reform itself so that it is no longer one of the seven nations in the world to be listed as a sponsor of terrorism in order to get the benefit of U.S. financing of agricultural sales to Cuba, and now the amendment that is pending from the Senator from New Jersey, which would also require that there be a return to the United States of those fugitives from justice who have found sanctuary in Cuba?

Who are some of these fugitives from justice? Let me just talk about three of them.

First, Victor Manuel Gerena. Mr. Gerena is on the FBI’s Ten Most Wanted list. He belongs to a Puerto Rican independence group, the FLAN. This group is responsible for numerous acts of terrorism, terrorism in the United States of America, including a 1973 bombing in New York City that killed 4 and injured 63. He is also sought in connection with the armed robbery of $7 million from a security company.

How was he able to get himself in a position to rob a security company of $7 million? He got there because the Cuban Government aided Gerena and his group in preparing the robbery and allegedly funneled them $55,000 to pay for the operation.

Does that sound a little eerily reminiscent of what was happening before September 11?

Gerena and a part of the stolen $7 million were smuggled into Cuba by diplomats stationed at Cuba’s Embassy in Mexico City. That is one of the fugitives from justice that we believe should be returned to face justice as a precondition of the United States providing financing for agricultural sales to Cuba.

Let’s talk about Charles Hill and Michael Finney.

Mr. ALLEN. Mr. President, I call for regular order under rule XIX. The Senator has yielded for more than a question.

Mr. GRAHAM. Mr. President, I asked the Senator from New Jersey if he would yield. He yielded. And I am speaking on his time.

The PRESIDING OFFICER. The Chair informs the Senator that it is the custom of the Senate, with reference to Senators yielding in debate, to construe the rules liberally unless prior notice has been given that they shall not be so construed.

Mr. GRAHAM. Thank you, Mr. President. I wonder if the Senator from New Jersey.

The PRESIDING OFFICER. Let me add to the Senator from Virginia, that given the notice we have now received from you, the rules will be strictly construed from this point forward.

Mr. GRAHAM. I wonder if the Senator from New Jersey is familiar with Charles Hill and Michael Finney?

Mr. TORRICELLI. I say to the Senator from Florida, I am indeed familiar with them.

Mr. GRAHAM. Maybe you might be further illuminated, and our colleagues informed, about these two people who are also part of that large pool of those who are fleeing American justice in Cuba.

Mr. Hill and Mr. Finney are accused of murder and airplane hijacking. In 1971, the two were driving a car filled with guns and explosives from California to Louisiana in an operation for the militant Republic of New Afrika, a small organization that seeks a black separatist nation within the United States.

As Hill and Finney crossed into New Mexico, they were stopped by a 28-year-old State trooper, Robert Rosenbloom. There was a standoff. Mr. Rosenbloom was tragically shot dead.

Nineteen days later, the fugitives scrambled aboard a TWA plane in Albuquerque and hijacked a flight which was bound for Chicago.

Interviewed in Havana last year by a U.S. journalist, Hill said when he arrived in Cuba he “was accepted by Fidel Castro’s government as a soldier of the people’s revolution.”

Senator TORRICELLI, were you aware this is the kind of person but for the amendment you are proposing would continue to be harbored in Cuba and would be sheltered from U.S. justice, and for which the family of Robert Rosenbloom, shot in Chicago, would have no sense of finality in terms of the loss of their loved one?

Mr. TORRICELLI. I say to the Senator from Florida, it would leave American law enforcement with no leverage to get the next of these fugitives to the United States. You can imagine the pain of an American family whose loved one was murdered by one of these fugitives now knowing that our country’s institutions are lending money to this government, and those very institutions being, in some cases, insured by the U.S. Government. I think it would be extremely painful and difficult to explain.

Mr. GRAHAM. I thank the Senator. We have been talking about individual terrorists who are being sheltered in Cuba. But beyond individual terrorists, there are organizations of terrorists. There are cartels of terrorists which are being sheltered in Cuba. I wonder if the Senator from New Jersey is aware of the fact that after a long history of Cuba providing direct support, including direct military support for terrorists and other revolutionaries in the Western Hemisphere, now Cuba is becoming the center of the hemispheric organizations for terrorists.

Was the Senator from New Jersey aware of that latest contribution of Fidel Castro to the terrorization of the world?

Mr. TORRICELLI. Indeed, I was not. I say to Senator GRAHAM, but I am appreciative of the fact that the Senator is bringing it to the attention of our colleagues, if they are, indeed, serious about their intentions of now financing exports to this government.

Mr. GRAHAM. I say to the Senator, I am sorry to have to report that not at some distant point in the past, and not under the administration of a member of our party, but under the current administration, including July of this year, 2001, the State Department, in its report “Patterns of Global Terrorism” has this to say about Cuba and
terrorism: That Cuba maintains ties with other state sponsors of terrorism. As an example, the two most notorious Colombian insurgent groups, the Revolutionary Armed Forces of Colombia, typically referred to as the FARC, and the National Liberation Army, the ELN, maintain a permanent presence in Cuba.

However, Havana is not limited to just providing a shelter for Colombian groups. We found, within the last 18 months that the Irish Republican Army has its western hemispheric branch located in Havana. We found that from branch relationships that were being developed, particularly with the FARC in Colombia, through which it was alleged that the IRA would receive funding for its terrorist activities through the large drug resources of the FARC, and the FARC would get the IRA’s expertise in urban guerrilla terrorism tactics so that they could move from the hinterlands of Colombia into the major cities of Colombia with their acts of terrorism and civil disorder.

Was the Senator from New Jersey aware that this is one of the current phases of Fidel Castro’s support for terrorism?

Mr. TORRICELLI. I am. Indeed, it is because of not only allowing them to operate but a permanent presence for these terrorist organizations in Havana that the State Department, under both the Clinton administration and now the Bush administration, has cited Fidel Castro’s government as being complicit with terrorism on what remains a very small list of rogue nations. This is not conduct where terrorists simply pass through the country. It requires a continuous, outrageous national policy of actually harboring these organizations that the Senator cited.

Mr. GRAHAM. To go even further, that Cuba, under this same report of the State Department in April of 2001, which the Senator referred to, has now become Adolf Hitler, and that the United States, the Nation which now is being asked to provide U.S. financing for agricultural sales to Cuba.

Would the Senator suggest that the United States, the Nation which now is being asked to provide U.S. financing for agricultural sales to Cuba, would the Senator be surprised that the United States is now being asked to provide U.S. financing for agricultural sales to Cuba?

Mr. TORRICELLI. I am. I hope our colleagues understand this. When we talk about Fidel Castro’s dictatorship today, this isn’t some old, uncharted grudge. This is a continuing security problem. Ninety miles off our shore we have now established there are fugitives from American justice, including people who have hijacked airplanes and are the statements on the day of the attack.

Subsequent statements relative to the attack of September 11 have become even more hostile. A recent press report quoted Cuba’s mission to the United Nations as describing the United States’ response to the attacks as “fascist and terrorist.” so we not only are Osama bin Laden, we have now learned that the United States was using the attack as an excuse to establish “unrestricted tyranny over all people on Earth.” Castro himself has said that the U.S. Government is run by extremists and that an attack this massive could result in “the killing of innocent people.” Would the Senator believe that?

Mr. TORRICELLI. Let me respond to Senator Graham. I could. I hope every Senator thinks about the incongruity of this situation. Fidel Castro is blaming the attacks of September 11 on the policies of the United States.
when Senator Graham finished, we would yield the floor. We had settled the matter of the secondary amendment. I assumed Senator Allen would be recognized next and, at that point, I will have yielded the floor. Senator Graham will be recognized again to make his statement.

Mr. Dorgan. It is actually interesting that the Senator from New Jersey seems to be well aware of that about which you are inquiring. The Senator indicated he is well informed and, I would suggest, All I am interested in doing is to see if we can have a debate spring out and when that might occur.

Mr. Torricelli. I can't tell you how helpful it is to be reminded of these things by the Senator.

Mr. Dorgan. It also appears you are intimately familiar with all of that which is being delivered to you by my colleague from Florida.

Mr. Graham. This is a testimonial to the wisdom and range of knowledge of our colleague from New Jersey. He has certainly earned all of those accolades, and the Senator from North Dakota has reinforced that. I appreciate the Senator yielding and for his responses to our questions.

As I indicated, it is my intention, at an appropriate time, to seek recognition to make a statement of policy relative to the ill wisdom of the United States' circumstantial decision providing funding, for the sale of agricultural products to Fidel Castro that he can then use for whatever sources of intimidation and control he would put them to, as he has so many other aspects of the life of the Cuban people over the last 40-plus years. So I thank the Senator from New Jersey for yielding and for the thoughtfulness of his responses and the solid policy of his amendment.

Mr. Torricelli. I thank the Senator from Florida for being an ally through the years on this issue and for so much leadership as all of us have tried to regain the freedom of the Cuban people. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. Allen. Mr. President, I rise in support of the amendments of my colleagues, Senators Torricelli and Smith of New Hampshire. These amendments, of which I am a cosponsor, are amendments that we have not had the opportunity in years past to hear the argument and debates on these issues. I consider these amendments to be very well founded. What they do is they have conditions for lifting restrictions on the financing of agricultural sales to Cuba, and two findings have to be made. The first condition is that the President must certify to Congress that convicted felons wanted by the FBI who are currently living as fugitives in Cuba have been returned to the United States for incarceration. I will not repeat all of the evidence in this regard that was previously cited by Senator Torricelli, Senator Nelson of Florida, and Senator Graham of Virginia, concerning the return of criminals to the United States.

The second condition is that the President must certify to Congress that Cuba is not a state sponsor of international terrorism. That is the amendment of Senator Bob Smith.

Mr. President, I support fair and free trade and increased opportunities for U.S. workers and businesses, including our agricultural sector, to trade with other countries. However, prudence would lead us to seek to finance trade with countries that are not terrorist states. The Secretary of State maintains a list of countries that have repeatedly provided support for acts of international terrorism. Currently, there are seven countries on that State Department terrorism list. They are, in alphabetical order: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. It is appropriate that Cuba is on that list.

Fidel Castro's regime has a long history of providing arms and training to terrorist organizations, many of which were articulated previously by Senator Graham. Our colleagues notes that Havana remains a safe haven to several international terrorists and U.S. fugitives as well.

As we have seen since September 11, terrorists operate in an environment largely dominated by legally and geographically defined nation states. Terrorists sometimes rely on state-provided funding, bases, equipment, technical advice, logistical and support services. In the wake of the September 11 terrorist attacks on the World Trade Center and Pentagon, President Bush, in addressing our Nation, stressed that the United States, in responding to these attacks, will make no distinction between the terrorists who committed these acts and those who harbor them.

As we heard, the President characterized these terrorist acts as "acts of war." An ongoing issue for our Congress and administration is how do we respond to state-sponsored or state-sanctioned terrorists and terrorism? There is no question that we need to respond. In my view, this country has dallied along too many years not being worried about international terrorism, thinking that it would never affect us here at home. We have come to recognize that we must wage warfare against terrorists and those who aid, support, and comfort them.

An important part of that warfare is to oppose the terrorist states with every reasonable weapon at hand. That may be financial intercepts, surveillance, enhanced scrutiny of entrants into our country, infiltrating some of these terrorist organizations, greater intelligence here as well as abroad, military action when necessary, law enforcement abroad as well as here at home. All are components of our multifaceted war on terrorism.

Now, trade is also an important component of our current struggle against countries that are on the terrorism list.

Let's get into another aspect of Cuba. In February of this year, the State Department reported several salient facts about Cuba and life in Cuba for the people of Cuba, who are purportedly denied the right to help them. I do want to cite the people of Cuba, but here is how we help them: First, let's recognize what they are facing.

Cuba's human rights record remains poor. It continues to violate systematically the fundamental civil and political rights of its citizens. The State Department pointed out that the citizens of Cuba—as if we didn't know it already—do not have the right to change their government peacefully.

The Government of Cuba does not allow criticism of the revolution four decades ago or its repressive, tyrannical leaders.

Cuba's laws against antigovernment statements and expressions of dissent of Government officials carry penalties of between 3 months and 1 year in prison.

If Fidel Castro or members of the National Assembly or the Council of States are the objects of this criticism, threats of torture for such expressions can be extended to 3 years in prison.

Recently, Fidel Castro was asked by Robert McNeill:

Do you have political prisoners still in jail in Cuba?

Castro responded:

Yes, we have them. We have a few hundred political prisoners. Is that a violation of human rights?

Well, I will answer Castro's rhetorical question. Yes, it is; darn right it is a violation of human rights. Castro's human rights practices are arbitrary and repressive. Hundreds of peaceful opponents of the Government remain imprisoned. Many thousands more are subject to short-term detentions, house arrest, surveillance, arbitrary searches, even curfews. Travel and politically motivated dismissals from employment, threats to them or their families, and other forms of harassment by the Cuban Government authorities.

Mr. President, let me repeat what our State Department said. Citizens of Cuba do not have the right to change their Government peacefully. Let us recall the words written 225 years ago by Thomas Jefferson in our Declaratory of Independence:

When a long train of abuses and usurpations . . . evinces a design to reduce (people) under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

Just as it was important for our ancestors to have the right to throw off the chains of the tyrannical monarchy 225 years ago, it must be the right of the Cuban people to free themselves of the chains of the tyrannical Castro regime.

Let us support the opportunities of the Cuban people to enjoy their
unalienable rights to life, liberty, property, and the pursuit of happiness. Let us not retreat in our opposition to terrorism nor flinch from the advocacy of liberty.

Mr. President, I ask my colleagues in the support of the amendment by Senator SMITH and Senator TORRICELLI. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks seated at my desk.

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

Mr. DORGAN. Mr. President, will the Senator yield for a unanimous consent request?

The PRESIDING OFFICER. Will the Senator yield for a unanimous consent request?

Mr. HELMS. Certainly.

Mr. DORGAN. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think I may be the only Senator now a Member of this body, or maybe one or two or three, who remembers when Edward R. Murrow passed away a few years ago. He portrayed a young man out in the boon-docks of Cuba as being a humanitan who was ready to come into Cuba and save the Cuban people. That young man’s name was Fidel Castro. Night after night, CBS repeated that fiction. Morning after morning, the New York Times repeated that fiction. And finally, Fidel Castro came in after Batista left.

The first thing he did was to take up all the guns of the people who were politically opposed to him.

The second thing he did was jail most of them.

The third thing he did was to back the rest of them up against a wall and end their lives before a firing squad.

I say all this because so much fiction has been circulated about Fidel Castro, and so much cruelty is being heaped upon the farmers of North Carolina, giving them hope that they can get financial gain from making their crops available to the people of Cuba. I wish it were so, but it is not so. The Cuban Government, as has already been discussed this afternoon, is not prepared to pay for anything. It is bankrupt.

As has been said here this afternoon by two or three of the distinguished speakers, Cuba has been identified on the State Department’s so-called State Sponsors of Terrorism List for very good reason. Not only has the State Department documented evidence that Fidel Castro provides aid and comfort to the terrorists, but there is also clear evidence that Castro has close ties to insurgent groups and other government sponsors of terrorism all around the world.

Fidel Castro maintains connections with guerrillas in Colombia, Spain’s Basque separatists, the Irish Republican Army, and a lot of these women have no rights, no protection for private property rights, no provision for international arbitration of disputes, and no enforcement of contracts. This point needs to be underscored.

The Cuban Government does not pay its bills. The Cuban Government has more than $12 billion in hard currency debt. Earlier this summer, France froze $175 million in short-term trade cover for Cuba after the Castro government defaulted on a similar agreement in the year 2000. When the record is reviewed regarding this year alone, it will be clear that governments and companies from South Africa to Panama are complaining that the Cuban Government is not paying its bills. Now, how would any Senator be eager for their home State businesses, including especially their farmers, to assume the risk of doing business with the Castro regime?

President Bush’s administration has stated its strong opposition to repealing the financing restrictions on sales to Cuba: “Because of Cuba’s continued denial of basic civil rights to its citizens as well as its egregious rejection of the global coalition’s efforts against terrorism . . .”

I urge my colleagues to stand with President Bush in the fight against terrorism. Support the Torricelli amendment.

The Cuban Government has without compensation expropriated more United States property from United States citizens than any other government in the world. No other government is even close to Cuba.

Cuba is one of the most repressed economies in the world and features an appalling lack of workers’ rights, no protection for private property rights, no provision for international arbitration of disputes, and no enforcement of contracts. That is the most foolish kind of appeasement.

Despite all of this evidence, there are still some Senators who are attempting to help the terrorist state of Havana to fill its coffers with U.S. dollars. If financing restrictions are lifted, it is an absolute certainty that a great many additional American dollars will give Castro’s regime the means to enhance cooperation with our terrorist enemies and fuel its cruel repression of the Cuban people.

If we had the time, I would outline facts that are known and are part of the Foreign Relations Committee books. Women, doctors, and lawyers are having most of their income taken from them by Castro’s government, and a lot of these women have no choice that they can see in order to feed their families but to subject themselves to prostitution. This is the kind of man Fidel Castro is.

Senators who seek United States financing for United States businesses which hope by Castro are members of the Congressional Committee to discuss the fact that Cuba could not be more hostile to private business interests or more unreliable in paying its bills.
use food to punish people; don’t use food as a weapon.”

That is what this issue is about. Let me stipulate to all what has been said about Cuba or Castro or terrorism. Let me stipulate to all of it, and then ask you to stop. When you use food and medicine as a weapon against a country, any country, what on Earth have you accomplished when the day is done? What have you accomplished?

We were in the Senate on this subject before. Over 70 Members of the Senate said we ought not use food and medicine as a weapon. We ought not, in the conduct of foreign policy, trying to punish some other country, use food and medicine. It is unjust. It is wrong. It is not the moral thing to do. Over 70 Members of the Senate have already voted on that.

Did we get it done? No, because it got hijacked in a conference with the House of Reps what I now call the tax situations. So we opened up a small crevice, that some food can go to Cuba under certain conditions provided there is no public financing and no US private financing. So you have no public financing, no getting private financing, and some food can go to Cuba if someone goes to Europe and gets financing, gets a license and has to wait on a ship for 2 weeks, and in the event of a hurricane, we send some corn to Cuba, as we finally did yesterday. Because 70 Members of the Senate have already expressed themselves on this issue, someone listening to this debate earlier would believe because four or five Members have spoken about it in passionate terms, this issue is about stopping terrorism in its tracks, about punishing the Castro government, punishing the government of Cuba. I have no truck for Fidel Castro and his government. I believe we ought not to punish the ability of our family farmers to be able to move food around the world to hungry people. That is what this is about.

How often do we continue to use food as a weapon? It is one thing to shoot your bicycle trip, and come back. It is quite another thing to take aim before you shoot. That is exactly what has happened here, time and time and time again. Maybe we ought to have a little clear thinking about what we are doing.

Restrictions on food sales to Cuba are not going to punish Fidel Castro. What they do is punish poor people, sick people, hungry people, and kids. Everyone knows it. That is why 70 percent has already voted. I say this is a policy that doesn’t work.

I was in Cuba. Many Members have been to Cuba. I was in a hospital in Cuba, in an intensive care ward where a little boy was in a coma. He had been in a bowling accident. He was severely injured and was in a coma, lying in the intensive care unit, without one piece of equipment, without one machine attached to him. Why? Because they didn’t have any. In that particular hospital, they told me they were out of 210 different kinds of medicine.

Yet the policy advocated by those that push this amendment is we should continue to use medicine as an instrument of punishment against Fidel Castro or the Cuban Government. This is not about Fidel Castro or the Cuban Government. It is about kids in hospitals. It is about kids who are hungry. It is about family farmers in North Dakota who are hungry. I say again: “By the way, we intend to use your wheat fields as an instrument of foreign policy, and we are not going to pay for it.”

It is easy to put on a blue suit in the morning and come to the Senate and decide you want to use a field of wheat in Nebraska as an instrument of your foreign policy and say you can’t sell that wheat to this country or that country. We are familiar with embargoes. We have had too many. We ought never have an embargo on food. Hubert Humphrey, many years ago, said: “Sell them anything they can’t shoot back.” So they are going to shoot corn back at us, are they? All these restrictions are going to help Fidel Castro. Does anybody in this Chamber want to stand up and tell me because we had a 40-year embargo and we have decided we will cut Cuba off from being able to purchase or achieve a food shipment from the United States, that Fidel Castro’s government has ever missed a meal? Does anybody believe he has missed a meal? If so, which one? Breakfast? What day? Dinner? Lunch? I don’t think so. We know better than that. Those who govern in Cuba have much hunger because we decided to use food as a weapon. It is the hungry, the sick, and poor people that get hurt with embargoes. And America’s family farmers get hurt with embargoes.

We get all the agents of change that come to the Senate on virtually every issue except this: 40 years of a policy that doesn’t work. We know it doesn’t work. The biggest excuse Castro has made is that he says the American Government has its fist around the Cuban economy. It is pure nonsense. But that is what he says.

The quickest way to get Castro out of power is to open that country up, eliminate this embargo, see the investments go into Cuba. They are going in now from Europe. If we stop this embargo, Castro would have an awful tough time holding on to power. Aside from that, there is a narrower question. Should part of the embargo be food shipments and medicine shipments to Cuba? The answer is no.

Let me ask a question: Are we able to ship food to Communist China? I say yes. I say Communist China because China is a wonderful, big country, a big trading partner of ours. I say “wonderful” because we have spent a lot of time negotiating with them. We have treaties with them. But it is a Communist country. Is it? Has China ever been in the floor of the Senate talking about cutting off food to China, a Communist country?

Let me ask the question, when China was selling missile technology to Iran, did anybody rush down to the floor of the Senate talking about cutting off food to China? No. No, you won’t hear about that. Nobody will do that.

About North Korea, is there anybody rushing to the floor to talk about cutting off food to North Korea, a Communist country? Is anybody pushing around with their Vietnam amendment to cut off food to Communist Cuba? No, because we finally did yesterday. Cuba, in an intensive care ward where a little boy was in a coma, lying in the intensive care unit, without one piece of equipment, without one machine attached to him. Why? Because they didn’t have any. In that particular hospital, they told me they were out of 210 different kinds of medicine.

Why? This is about Cuba only. Let me stipulate again to all that which has been said before me. I don’t know about others, but I have not missed a meal, I never have missed a meal because I have been able to ship food to Cuba, even financed by private sources, and a lot of Members believe a good way to get rid of Fidel Castro is to get rid of the embargo.

Those who believe we ought not be able to ship food to Cuba, Cuba financed privately, ought to explain to us why we ought to be able to ship food to China, North Korea, Libya, and the rest of the world, through private financing. Why? Is it all right to ship food through private financing to the country of Iran? Yes, with a license. But not Cuba. Why?

It is interesting to me. It seems to me we are so blinded we cannot think our way out of this fog. I have spoken out, and I want to know a number of things about the restrictions on travel to Cuba. We are not debating that today, but those restrictions are absurd also, just absurd. You can travel anywhere else in the world, but you can’t travel to Cuba. Let me tell you about a little old lady in the State of Illinois, retired, responding to an advertisement in a Canadian travel magazine, a biking magazine. She decided she wanted to bike. The Canadian bicycle club was sponsoring a bicycle tour of Cuba for 8 days. She signed up. She lives in Illinois, loves to bike, and wanted to see Cuba. She went to Cuba, had a wonderful bicycle trip, and came back.
Eighteen months later, from the U.S. Treasury Department, she got a $9,600 fine for traveling in Cuba. So we have the Office of Financial Assets Control in Treasury tracking little old ladies in Illinois riding bicycles in Cuba while we have terrorist plotting to fly airplanes into the World Trade Center. Obsessive? I think so.

Maybe we can find our way out of this public policy mess if we just think through it clearly. It seems to me we ought to decide, every one of us, that we should not use food or medicine as a weapon.

I understand the Senator from Arizona wishes to be recognized. I ask unanimous consent he be recognized following my presentation.

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

Mr. DORGAN. Let me make one final point. We have been stuck in reverse with respect to policy for decades. The Senate has spoken on this issue; 70 Senators said using food and medicine as a weapon is absurd. Let’s change the policy. So we are going to have a vote today. I hope the vote today will reflect what the Senate has previously reflected on this issue. This is not about Fidel Castro. It is not about the Cuban Government. It is about being able to ship food to every other country in the world with private financing; Iran, Libya, North Korea, China, and on and on and on. Except this time, the action that we cannot ship food to the country of Cuba. It makes no sense. Everyone in this room understands it and knows it and it is time to change it.

Mr. SMITH of Oregon. Mr. President, I rise today as a cosponsor of both Senator Bob Smith’s and Senator Torricelli’s amendments regarding the Cuban Government. These amendments are simple and straightforward and provide for Presidential certification that Cuba is not involved in acts of international terrorism as a condition precedent to agricultural trade with Cuba. Senator Torricelli’s amendment would provide similar certification that all convicted felons living as fugitives in Cuba be returned to the United States prior to the amendments relating to agricultural trade with Cuba.

The pattern of refuge and asylum wanted in other countries is quite troubling—many of these fugitives are members of outlawed terrorist groups. History is quite clear regarding Castro’s links to international terrorist groups—these include Colombian and Salvadoran guerrilla groups, the Chilean MIN and even the PLO. Our own State Department has presented irrefutable evidence that Castro has been involved in drug trafficking to provide arms and cash to support guerilla movements.

Due to the closed and repressive nature of Castro’s Cuba, the transit of international criminals and terrorists is difficult to track. I strongly believe that this Nation needs to have some certification regarding terrorists in Cuba and the harboring of fugitives in Cuba.

As we advance our Nation’s war on terrorism, it is interesting to note that Fidel Castro’s Iran, Libya, North Korea, Cuban Government. It is about being able to ship food to every other country in the world with private financing; Iran, Libya, North Korea, China, and on and on and on. Except this time, the action that we cannot ship food to the country of Cuba. It makes no sense. Everyone in this room understands it and knows it and it is time to change it.

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As we advance our Nation’s war on terrorism, it is interesting to note that Fidel Castro told Iranian students that the United States was an imperialist king that would fall just as the U.S.-backed Shah of Iran fell in the 1979 revolution. He said:

you destroyed the strongest gendarmerie of the region and the people of the region should thank you for that . . . However this Imperialist King will finally fall, just as your King was overthrown.

I urge all my colleagues to support these amendments and look forward to a day when democratic values reign in a free and democratic Cuba.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 258

Mr. MCCAIN. Mr. President, I send an amendment to the underlying bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk reads as follows:

At the end of the underlying bill, insert the following:

SEC. 2. MARKET NAME FOR CATFISH.

The term ‘‘catfish’’ shall be considered to be a common or usual name (or part thereof) for any fish in keeping with Food and Drug Administration procedures that follow scientific standards and best practices for establishing such names for the purposes of section 403 of the Federal Food, Drug, and Cosmetic Act, including with respect to the importation of such fish pursuant to section 801 of such Act.

SEC. 3. LABELING OF FISH AS CATFISH.


Mr. MCCAIN. Mr. President, we will have additional time, I am sure, after the cloture vote and perhaps I may urge all my colleagues to support these amendments and look forward to a day when democratic values reign in a free and democratic Cuba.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. SMITH of Oregon. Mr. President, we will have additional time, I am sure, after the cloture vote and perhaps I may even make a tabling motion, depending upon the parliamentary situation on this issue. But it is very simple. The amendment was an amendment slipped into the 2002 Agriculture appropriations bill as part of a managers’ amendment.

I still remember very clearly, it was in the evening. We were about to vote final passage. I said: Wait a minute; has anybody seen the managers’ amendment? There was dead silence. I asked maybe 50 or 60 Members here. So I said: We really should look at the managers’ package. Everybody grumbled, so I relented.

It turned out there were 35 amendments, 15 of them specific to members of the Appropriations Committee. One bans catfish, basically bans catfish from being imported into the United States of America, without debate, without discussion, without knowledge until the next day after the bill was passed.

Again, the remarkable degeneration of the parliamentary system that is taking place as we address appropriation bills. This is remodeled of it: 35 amendments, no one knowing what they are. We all voted aye. One of them fundamentally affected a trade agreement that had just been completed between the United States of America and Vietnam.

This is happening all the time. We find amendments slipped in which affect national policy, which affect, in the case of the North American Free Trade Agreement, commerce as far as Mexican trucks are concerned. There was legitimate debate on both sides but—what? It was put into an appropriations bill. Time after time after time. This is another dramatic example of it.

It is entertaining. We will get to talk about it a lot. But this is a provision, as I say, which was added without debate, discussion, or knowledge of the Members that basically calls catfish from one country catfish and catfish from any other part of the world not catfish. Remarkable.

According to the Food and Drug Administration and the American Fishery Society, the Pangasius species of catfish is imported from Vietnam and other countries as “freshwater catfishes of Africa and southern Asia.” Existing regulations required imported catfish to be labeled differently from catfish grown domestically so consumers can make informed choice about what they are eating. Yet the Agriculture appropriations language overturns these regulations by allowing only North American catfish grown in the U.S. to call their catfish “catfish” and prohibits catfish from any other country being labeled as such. Remarkable.

This was commented on by several newspapers and magazines. Also, by the way, there was an advertising campaign mounted against catfish. According to the Far Eastern Economic Review, in its feature article on this issue:

For a bunch of profit-starved fisherman, the catfish lobby, S.C. catfish interests, hired some$o to wage a highly xenophobic advertising campaign against their Vietnamese competitors.

This protectionist campaign against catfish imports has global repercussions and has brought a campaign against the European Union and World Trade Organization because the Europeans have claimed exclusive rights to the use of the word “sardine” for trade purposes.

As a direct consequence of the passage of this restrictive catfish labeling language in the Agriculture appropriations bill, USTR has withdrawn its
brief supporting the Peruvian position in the sardine case against the European Union because the catfish provision written into United States law makes the United States guilty of the same type of protectionist labeling scheme for which we have brought suit against the Europeans in the WTO.

Sooner or later, we are going to have to stop legislating on appropriations bills. Sooner or later, we are going to have to stop giving away to special interests, and we are going to have to have campaign finance reform. We would be very interested in hearing the campaign contributions made by this catfish lobby in past and present political campaigns.

We have to stop the kind of protectionism which will destroy free trade on which America’s economy is built and maintained. We are seeing example after example and case after case of protectionism creeping in but not through open and honest debate. If the supposition of defense reform is that we have a good amendment, why couldn’t we have brought it up and had open and honest debate and amendments? No. It was snuck in a managers’ package, the most disgraceful practice—the most disgraceful is putting it in the conference report. That is the worst. The second worst is putting it in the so-called managers’ package. Usually, it is late at night.

I stray from the subject a bit, but if you think you have had fun, wait until you see the DOD appropriations bill. Wait until next Friday when everybody is going to want to get out of town because Christmas is coming and the last train is leaving. It is going to have more Christmas trees on it than the North Pole. It will be a remarkable document. But I intend to be here and make sure that at least the American people know what is in it.

Putting an amendment that affects trade relations, trade agreements, and fundamental defense of the United States, in a managers’ package is the kind of conduct that causes the American people to lose confidence in their elected representatives.

I don’t mind open and honest debate. I wouldn’t mind losing an open and honest debate. I do mind on the part of my constituents and the American people that this kind of amendment gets the attention it has received.

I know it is almost time, according to the unanimous consent agreement, for the cloture vote. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, let me explain very briefly to our colleagues what we hope to do.

The Senator from Kansas and the Senator from Oregon have an amendment that would make this a national defense program. They would like 2 minutes on a side to present it. Immediately following that, I will make a unanimous consent request that would allow us the opportunity to consider and debate the defense authorization conference report between 5 and 5:30. At that time, we will have the cloture vote, then the Department of Defense authorization conference report vote, and then a vote on a judge, all stacked, from 5:30 to whatever time following that.

Following those votes, if Senators wish to offer additional amendments on the farm bill, they are certainly entitled to do so.

Mr. LOTT. Is the majority leader proposing that a unanimous consent request at this time or are you going to wait until after this?

Mr. DASCHLE. Actually, I now have the text.

Mr. LOTT. If you would be willing to do it now, we would get on to this issue quicker.

UNANIMOUS CONSENT REQUEST

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate, immediately following the disposition of the amendment to be offered, turn to the consideration of the conference report to accompany S. 1438, the Department of Defense authorization bill; that when the report is considered, it be considered under the following limitations: that there be 75 minutes for debate, with time controlled as follows: 45 minutes for the chair and ranking member or their designees; and 30 minutes under the control of Senator Byrd; that upon the use or yielding back of time, without further intervening action, the Senate proceed to vote on adoption of the conference report following a vote on the motion to invoke cloture on the Harkin substitute amendment to S. 1731; that upon adoption of the conference report, the Senate then turn to the conference report to accompany H.R. 2983, the intelligence authorization; that the conference report be considered agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate; provided further that H. Con. Res. 288, a concurrent resolution providing for a technical correction in the enrollment of S. 1438, be considered and agreed to, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

Mr. LEVIN. Reserving the right to object.

Mr. DASCHLE. Mr. President, let me just say that I will not object. I think this is a reasonable arrangement. I want to explain, though, why we are doing this. We were scheduled to have a vote at 4 o’clock on the cloture motion. We had at least a couple Senators who were unavoidably delayed, and we would want to accommodate that under these circumstances. This allows us to move forward on the Defense authorization bill, which we need to do, and that we would have the vote on the cloture motion that was scheduled for 4 o’clock at 5:30, as I understand it, followed by the vote on the defense authorization conference report, followed by a vote on a judge—stacked votes.

For those of you who are worried about agriculture, as I understand it, don’t worry, because everything will be at this point when we, if and when, come back to it. But this is to accommodate as many Senators as possible while getting a vote on the very important defense authorization bill and a vote on the cloture motion on the agriculture bill.

Mr. McCAIN. Reserving the right to object.

Mr. LOTT. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. It is a good thing this is the Defense authorization conference report or I would object. I do not intend to permit anything else to interrupt this farm bill until we finish it. It is defense. It is important for our country, so I will not object. I just want to put everyone on notice, that is it. Once we get back on the farm bill, we will be on it. I will object to going off this farm bill for anything else other than the defense of this country. I just want to make it clear.

Secondly, I want to ask my leader about tonight. We are going to have three votes. We have some amendments. We have some amendments ready to go tonight. I want to know if it is the intention to have the Senate stay in session tonight and to have votes, to debate amendments and have votes tonight to move this farm bill forward. I would just like to know if that is what we are going to do.

Mr. DASCHLE. I would be happy to respond to the Senator from Iowa.

This does not preclude additional consideration of amendments or votes tonight.

Mr. HARKIN. So there will be votes tonight, if again, Senators offer amendments and we debate them? We do have votes tonight on further amendments to the farm bill?

Mr. DASCHLE. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

Mr. LOTT. Reserving the right to object.
The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Just to clarify what was said, Senator HARKIN said that there will be more votes tonight. That is not what Senator DASCHLE said. He said this afternoon that we have our normal rights for full debate, and we have to work out agreements to when we would vote, ordinarily. So I am not saying there will not be votes, but I just do not want to leave the impression that.

Mr. HARKIN. So I guess what I read into that is that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

Mr. NICKLES. I announce that the Senate from New Mexico (Mr. DOMENICI) is necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

YEAS—53

Akaka—Dodd
Baucus—Durbin
Bayh—Edwards
Baucus—Feingold
Baucus—Graham
Baucus—Harkin
Byrd—Harkin
Cantwell—Hollings
Carnahan—Hutchison
Claro—Inouye
Chafee—Jeffords
Clay—Johnson
Clinton—Kennedy
Collins—Kerry
Collins—Kerry
Cordy—Krug
Corton—Langston
Corzine—Landrieu
Dayton—Leahy

Lieberman—Levin
Lincoln—Mikulski
Miller—Mikulski
Nelson (FL)—Nelson (FL)
Nelson (NE)—Reed
Reid—Reid
Rockefeller—Schumer
Sarbanes—Schumer
Stabenow—Stabenow
Torrace—Torrace
Wells—Wells
Wyden—Wyden

NOT VOTING—2

Domenici—Murray

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. I move to reconsider the vote.

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

The PRESIDING OFFICER. The motion is entered.
Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to be clear as to what the Senator from Florida is asking. Senator BROWNBACK and I intend to be very brief. Is it the understanding of the Senator from Florida that we can dispose of that very quickly and then go back?

Mr. GRAHAM. As I understand it, if this unanimous consent agreement is accepted relative to the farm bill, the Senator from Oregon would be first, the Senator from Arizona would be second, and then consideration of the Smith-Torricelli amendment would be third.

Mr. WYDEN. I withdraw my reservation.

Mr. WARNER. Have the yeas and nays been ordered on the defense authorization conference report?

The PRESIDING OFFICER. The conference report has not yet been put before the Senate. The yeas and nays are not in order at this point.

Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, prior to the time we move to the conference report, there is one other housekeeping matter. It is always in keeping with our practice that the intelligence authorization, be considered agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, provided that H. Con. Res. 288, the concurrent resolution providing for the technical correction in the enrollment of S. 1438, be considered agreed to, and the motion to reconsider be laid upon the table without intervening action or debate.

I would just say, for the information of all my colleagues, this is done as we take up the Defense authorization bill. I made this request earlier, and I am simply repeating it now for the colloquy.

Mr. President, I ask unanimous consent when the Senate considers the Executive Calendar nominations, the first vote occur on Calendar No. 590, to be followed by Calendar No. 589 and Calendar No. 592, and that their consideration occur following this next vote.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—CONFERENCE REPORT

The PRESIDING OFFICER under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1438) “to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes,” having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agreed to it with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The report is printed in the House proceedings of the RECORD of December 12, 2001.)

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the Conference report. The clerk will call the roll.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mrs. MURRAY) would vote "aye."

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

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

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—96

Akaka Durbin Lugar
Allen Ensign McConnell
Baucus Enzi Mikulski
Bayh Feingold Miller
Bennett Feinstein Markakis
Biden Ferguson Nelson (FL)
Ringman Frist Nelson (NE)
Bond Graham Nickles
Cauci Gore Rockerfeller
Breaux Grassley Reid
Brownback Gregg Roberts
Bunning Hagel Rockefeller
Burns Harkin Santorum
Campbell Hatch Sasharn
Canwell Helms Schumer
Carnahan Hollings Sessions
Carper Hutchinson Shelby
Chafee Hutchison Smith (NH)
Cleland Inouye Smith (OH)
Clinton Jeffords Specter
Collins Johnson Stabenow
Conrad Kennedy Stevens
Corzine Kerry Thomas
Craig Kohl Thompson
Crapo Kyl Thurmond
Daschle Landrieu Torricelli
Dayton Leahy Voinovich
DeWine Lieberman Warner
Dodd Lieberman Wellstone
Dorgan Lincoln Wyden

NAYS—2

Byrd McCain
NOT VOTING—2

Domenici Murray

The conference report was agreed to. Mr. WARNER. I move to reconsider the vote and to move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report.

The 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. 2883) “authorizing appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, 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, signed by a majority of the conferees on the part of both Houses.

(The report was printed in the House proceedings of the RECORD of December 6, 2001.)

The PRESIDING OFFICER. Under the previous order, the conference report on H.R. 2883, the intelligence authorization bill, is adopted, the motion to reconsider is laid on the table; and H. Con. Res. 288, correcting the enrollment of S. 1438, is adopted and a motion to reconsider that action is laid upon the table.

EXECUTIVE SESSION

NOMINATION OF FREDERICK J. MARTONE, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. The Senate will now go into executive session and proceed to the nomination of Frederick J. Martone, of Arizona, which the clerk will report.

The legislative clerk read the nomination of Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this nominee has the support of both Senators from his home State. Blue slips have been returned by both of them. We have had the hearing. He did very well.

The Senator from Arizona, Mr. KYL, is a valued member of the Judiciary Committee, and I would like to yield to him, as he is one of those who has proposed and supported this nominee.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Vermont, the chairman of the committee, and thank him for having Justice Fred Martone as one of the judicial nominees we will be voting on this evening. I understand the only rollcall vote will be on Justice Fred Martone.

Why do I call him Justice Fred Martone, when we are going to be voting on his confirmation to become a
Federal district judge? The answer is, because he currently is one of the five justices on the Arizona Supreme Court, the highest court in the State of Arizona. He is a graduate of Holy Cross, Notre Dame Law School, and has an advanced degree from Harvard, and is an exceptionally fine jurist.

I thank the chairman and members of the committee who unanimously approved him for consideration by the full Senate. I would appreciate the support of the full Senate for his confirmation.

Mr. HATCH. Mr. President, I am pleased that the Senate is considering this afternoon three extremely well-qualified nominees for important positions in the Federal judiciary. I have no doubt that they will do great service for the citizens of this country upon confirmation.

The Honorable William Johnson has been nominated to be a Federal judge in the District of New Mexico, born and raised in Roanoke, VA. Judge Johnson attended Virginia Military Institute and law school at Washington and Lee University. He began his career practicing law in Houston, TX, and then moved to Roswell, NM, where his practice included commercial litigation, bankruptcy cases, and oil and gas litigation. Since 1995, he has served as a State district judge hearing domestic relations, child support enforcement, civil, criminal, and administrative cases. With such a wide-ranging judicial experience under his belt, Judge Johnson comes to the Federal bench ready to hit the ground running.

Like Judge Johnson, the Honorable Frederick J. Martone is no stranger to the bench. Justice Martone currently serves on the Supreme Court of Arizona. Before then, he served as a judge on the Superior Court in Maricopa County. Although he has spent his professional life in Arizona, Justice Martone was educated further east: He graduated from Holy Cross College, from Notre Dame Law School, and earned an L.L.M. from Harvard Law School. His demonstrated experience and judgment will make him a fine addition to the Federal district court for the District of Arizona.

Clay D. Land, our nominee for the Middle District of Georgia, has had an impressive career blending private practice and public service. Upon graduating cum laude from the University of Georgia law school, Mr. Land returned to his home town of Columbus, GA, where he has maintained a successful general civil practice ever since. His legal practice has not dampened his commitment to public service, however. In 1993, he served as chairman of the Georgia Indigent Defense Council, which is responsible for oversight of the funding and implementation of the State’s indigent criminal defense program. From 1995 to 1998, he served on the Columbus City Council. And from 1995 to 2000, he served as a Georgia State senator.

I want to commend President Bush on his selection of such outstanding candidates for the Federal judiciary. Each of these nominees was unanimously approved by the Judiciary Committee, and I expect that they will receive similar treatment from the full Senate. I urge my colleagues to join me in supporting their nominations.

Mr. LEAHY. Mr. President, the nominee is supported by both the Senator from Utah and myself; and we had a unanimous rollcall vote in support of the nominee. And I strongly urge a unanimous rollcall vote in support of the nominee here.

I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona?

The clerk will call the roll. The legislative clerk called the roll. Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) and the Senator from Illinois (Mr. DURBIN) are necessarily absent.

Mr. NICKEL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 97, nays 0, as follows:

Rollecall Vote No. 370 Ex.] YEAS—97

Akaka Edwards McCain
Aliard Ensun McConnell
Allen Enzi Mikulski
Baucus Feingold Miller
Bayh Feinzstein Murkowski
Bennett Fitzgerald Nelson (FL)
Riden Frist Nelson (TN)
Bingaman Graham Nickles
Bond Grassley PORTMAN
Boozman Hagel Rockafeller
Brownback Hatch Santorum
Bunning Harkin Sarbanes
Burns Helms Schumer
Byrd Hollings Sessions
Campbell Hutchinson Smith (OH)
Carneswell Hutchinson Smith (NC)
Carnahan Hutchinson Smith (NH)
Carper Inhofe Smith (OK)
Chafee Inouye Snowe
Cladon Jeffords Specter
Clinton Johnson Stabenow
Cochran Kennedy Stevens
Collins Kerry Thomas
Conrad Kohl Thompson
Cormier Leach Thurmond
Craig Landrieu Torricelli
Crappo Leahy Voinovich
Davieh Levin Warner
Dayton Lieberman Wellstone
DeWine Lincoln Wyden
Dodd Lotz
Dorgan Lugar

NOT VOTING—3

Domenici Durbin Murray

The nomination was confirmed.

Mr. LEAHY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, what is next on the agenda?

NOMINATION OF WILLIAM P. JOHNSON, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The PRESIDING OFFICER. The clerk will report Calendar No. 599.

The legislative clerk read the nomination of William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I thank the Chair.

Mr. President, I thank the distinguished majority leader, Mr. DASCHLE, and the distinguished deputy majority leader, Mr. RENI, who have worked so hard to get these nominations on the calendar so we can vote on them.

William Johnson is the third Federal judge confirmed from New Mexico in just the past few weeks. We expedited the consideration of Christina Armijo in October, who was confirmed last month; likewise, Harris Hartz, President Bush’s nominee to the Tenth Circuit from New Mexico. I had a hearing at the end of October, and he was confirmed last week. All of these nominees came to us with the strong support of both Senator DOMENICI and Senator BINGAMAN.

I mention this because it is so helpful to our committee when the White House takes the time to consult with both Senators from the home State and get their support. We got this kind of consensus: When we confirm Mr. Johnson, we are going to fill another judicial emergency vacancy. After that, we are going to another nominee, Clay Land, who has been supported by Senators CLELAND and MILLER. I mention this because if we confirm both these next 2, we will have confirmed 27 Federal judges since July, when I took over the chairmanship, and 6 court of appeals judges.

To put that in perspective, since July, in those 5 months, we have confirmed as many as we confirmed all of the first year of the last President’s administration—actually, a lot more judges in the courts of appeals.

Everybody has been working very hard. I also mention to my colleagues, this morning we were finally able to get a quorum in the Judiciary Committee. We had 10 nominations go through 5 of the judges. 5 other nominations from the Department of Justice, all of which will go now on the calendar.

Mr. REID. Will the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. REID. When did the Senator take over as chairman of the Judiciary Committee?

Mr. LEAHY. I had a fully constituted committee I think it was in late July.

Mr. REID. It is the understanding that following September 11, the Senator and his staff literally worked night and day for how long before the
committee came up with an antiterrorism bill?

Mr. LEAHY. Yes.

Mr. DASCHLE. I also commend the distinguished chair of the Judiciary Committee along the lines the assistant Democratic leader has noted. It is important at a time such as this that we move for the record what has transpired. The distinguished chairperson has been chairperson now for about 5 months, almost 6 months, and in one-half year’s time, he has compiled a record that may at the end of this period actually exceed the number of judicial appointments confirmed during the Clinton administration in an entire 12-month period of time in 1993. That is quite a remarkable accomplishment to exceed perhaps the number of judicial nominations in 6 months over and above what was confirmed in 1993 under a Democratic administration with, I might add, a Democratic Senate.

Also, as the Senator from Nevada has noted, this has been an extraordinarily difficult period, filled with adversity. September 11, the anthrax attack, not only on the Senate and my office, but on the Senator’s office itself—all of the disruption, the need for accelerated efforts on appropriations, and yet through all of that, with all of the work he has had to do with counterterrorism, this Senate has very diligently, persistently, and with remarkable leadership brought us to this point.

I publicly commend him, thank him, and tell him how proud I am for his effort and the work he has done to get us to this point.

I yield the floor.

Mr. NICKLES. Will the Senator from Vermont yield?

Mr. LEAHY. Of course, I will.

Mr. NICKLES. Mr. President, to add to some of the statements that were made, I compliment my friend. He has assisted this Senator, and he has assisted Senators, particularly on district court judges.

If my numbers are correct, I believe we are now at 27 judges confirmed, which equals the number of judges that were confirmed in President Clinton’s first year. President Clinton, nominated 47 individuals for judicial positions, and the Senate confirmed 27 of those in his first year.

President Bush has made 64 judicial nominations at a time when there are about 900 positions open. We have had a total of 27 now confirmed 27, and I hope we will confirm some more.

I say to my friend and colleague from Vermont, we have done pretty well on district court judges. However, we are a good bit behind on circuit judges. President Bush nominated eleven circuit court judges in May. Of those eleven, eight have not even had a hearing. One of these nominees is Miguel Estrada, who is a Honduran immigrant who graduated with honors from Columbia and graduated at the top of his law school class from Harvard.

Another is John Roberts, again a Harvard Law School grad. Among his many accomplishments, Mr. Roberts has argued 34 cases before the Supreme Court. I might also mention that Mr. Estrada has argued 14 cases before the Supreme Court. Both nominees are eminently qualified.

If my friend and colleague from Vermont can tell us when we will begin considering or having hearings on some of these exceptionally qualified individuals, both rated unanimously well qualified by the ABA and who have bipartisan support, who were nominated in May of this year, I have been, or I can remember going through in a President’s first year in office. We are going way beyond what the Senate usually does. It is certainly a much faster pace than the Senate has had in this past 5 years.

If we can slow down a little bit the things that are happening around here—anthrax, September 11, all the things we wish we did not have—of the chairperson of the committee could deal with a few less death threats—not from my friend from Oklahoma. The anthrax letter did not have an Oklahoma return address, nor would I expect it to.

Mr. NICKLES. I appreciate it.

Mr. LEAHY. We are moving through them. We have done Fifth Circuit Judge Clement, Second Circuit Judge Parker, Fourth Circuit Judge Gregory. I mentioned from New Mexico a circuit judge. I mentioned Judge NICKLES. If the Senator will yield, we have confirmed six circuit court judges, but in this particular instance, the President has made many more circuit court nominees during his first year in office than any recent time in history. In fact, 28 have been nominated. I urge my colleague—and I will stop here—to have more hearings, especially for some of these individuals nominated in May. They are outstanding individuals.

I was more than certain that once they have their hearings, they will be confirmed by an overwhelming majority, both in the committee and on the floor of the Senate. I urge the chairperson to have hearings on those individuals as soon as possible.

Mr. LEAHY. The Senator from Oklahoma asks an appropriate question. I can assure him we are trying to move through as many as we can. I hope, for example, the President will nominate more district judges, too. There are 77 percent of district court vacancies; about 77 percent do not even have a nominee. There is a real problem and we will work with the administration.
Some of the slowdowns have been taken care of, as the Senator from Oklahoma knows. We had a number of judges who were held up because the White House did not directly answer the question whether they had been arrested or convicted in the last 10 years. We take this to be at least as important a thing to know for someone getting a lifetime appointment. I think the White House might have realized it made sense and allowed them to answer the question, and it broke a logjam. Last week, Vice President Dick Cheney sent a letter noting that "vacancies on the Federal bench . . . With only days to go before the Senate adjourns for the year, only 28 percent of George W. Bush's nominees have been confirmed in his second year in office." I strongly believe it is not necessary to have a rollcall on the vote to confirm a nominee, that is his right.

Mr. LEAHY. I ask for a rollcall vote. If he would like rollcalls, that is his right. Mr. NICKLES. Senators want to get to the Defense authorization bill. There is no way we can accomplish anything else. I must say I do not think it is necessary to have a recorded vote. A voice vote is more than acceptable for the other two judges. I thank my friend and colleague and look forward to having a hearing on Mr. Estrada and on Mr. Roberts and other nominees for the circuit court. As soon as we get hearings, it would be much appreciated.

Mr. HATCH. Mr. President, since the topic of the Judiciary Committee's record on judicial confirmations was raised, I would like to take just a minute to make an observation.

As everyone here knows, I do not like to engage in the typical statistics joust that seems to be intrinsic to this issue. But I do want everyone to understand that, despite the progress that was just mentioned, we really have a lot more work to do.

Looking at the percentages: The Senate has exercised its advice and consent duty on only 21 percent of President Bush's circuit nominees this year. The other 79 percent of our work remains unfinished. And our overall record is not much better: the Senate has confirmed only 37.5 percent of all judicial nominations we received from President Bush. We will conclude our work by leaving nearly 100 vacancies in the judicial branch.

Now these facts are not escaping wider attention outside the Judiciary Committee. Last week, Vice President Cheney sent a letter noting that "vacancies on the Federal bench are occurring at a faster pace than the confirma-tions of new judges, and barely one in four of President Bush's nominees has received a hearing and a vote." The Washington Post editorialized on November 30 that the committee should hold more judicial nominations hearings, concluding that, "[f]ailing to hold them timely has the fashion damages the credibility of the judiciary, disrespect the President's power to name judges and is grossly unfair to often well-qualified nominees." And the Wall Street Journal observed on November 27 that there is a "pattern of judicial obstruction that has left 108 current vacancies on the Federal bench. . . With only days to go before the Senate adjourns for the year, only 28 percent of George W. Bush's nominees have been confirmed in his second year in office.

Of course, the reason why people are taking notice is that the process of advice and consent on the President's judicial nominations is not a game. This is not football or baseball, and the goal here is not a particular set of numbers. These are nominations for very important positions in the Federal Government, and it is the Senate's constitutional obligation to review them. Despite the work that we have done, there is simply no escaping the fact that we are about to stop work for the year with a judicial vacancy rate of 11.3 percent, which I believe is unacceptable by any measure. And, by the way, there is absolutely no point in ac-cepting the administration of not sending more nominations to us, when we have made it clear that we will not devote any effort at all to reviewing 30 of the nominations the President did send.

All this being said, however, I have reason to look forward to hitting the ground running next year. The Judiciary Committee's obvious focus on confirming nearly the same number of judges as we did President Clinton's first year, reassures me. After all, during President Clinton's second year in office, the Senate confirmed 100 of his judicial nominees. I fully expect that we will do the same for President George W. Bush, in fact, I take it as a pledge that we will confirm 100 Bush nominees in 2002.

Mr. LEAHY. I did not request a rollcall vote. I ask for a voice vote. The PRESIDING OFFICER (Ms. STABENOW). The question is, Will the Senate advise and consent to the nomination of Clay D. Land, of Georgia, to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

The PRESIDING OFFICER (Ms. STABENOW). The question is, Will the Senate advise and consent to the nomination of William P. Johnson to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

Mr. LEAHY. I ask for a voice vote. The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William P. Johnson to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

NOMINATION OF CLAY D. LAND, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA.

The legislative clerk read the nomination of Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

Mr. LEAHY. I ask for a voice vote. The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia?

The nomination was confirmed.

Mr. LEVIN. Mr. President, reviewing the right to object, I want to make sure that Senator Reid knows precisely what is going on. That is the only reluctance I have. I don't know whether it is even in order without first getting the bill before the Senate and then having the amendment and then setting the bill aside. I want Senator Reid to hear your request.

Mr. WYDEN. To restate my request, I ask unanimous consent the amendment I have filed with Senator Brownback of Kansas be called up at this time.

The PRESIDING OFFICER. The Senate from Michigan.

Mr. LEVIN. Mr. President, reviewing the right to object, I ask the distinguished leader from Nevada, I was under the impression that as to the amendment that has been worked out with Senator Harkin and Senator Lugar, I could speak on that for 4 minutes.

Mr. REID. I was going to get this entered, and then when everyone has agreed, prior to going to this matter Senator Wyden would be recognized for up to 4 minutes on an amendment that has been agreed to on the Agriculture bill.

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


Mr. WYDEN. I ask unanimous consent that the amendment I filed with Senator Brownback of Kansas be called up at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, reviewing the right to object, I want to make sure that Senator Reid knows precisely what is going on. That is the only reluctance I have. I don't know whether it is even in order without first getting the bill before the Senate and then having the amendment and then setting the bill aside. I want Senator Reid to hear your request.

Mr. WYDEN. To restate my request, I ask unanimous consent the amendment I have filed with Senator Brownback of Kansas that I believe can be disposed of very quickly, be considered at this time.

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

Amendment no. 256 to Amendment no. 271 (Purpose: To provide for forest carbon sequestration and carbon trading by farmer-owned cooperatives).

The PRESIDING OFFICER. The clerk will report.
Mr. WYDEN. I will be very brief. I express my appreciation to the Senator from Michigan and the Senator from Virginia. One of the most serious environmental problems in our country and in the world is the excessive emissions of carbon into the atmosphere. Senator BROWNBACK and I have worked for a number of years together on a bipartisan basis because we believe it is time for the U.S. Congress to begin moving together on a bipartisan basis to deal with this serious environmental problem. Therefore, the amendment we worked out with Senator HARKIN and Senator LUJAR sets up what is known as a carbon sequestration program, a program which allows private parties to store these carbons in trees, in agricultural products, and in the land.

Our legislation specifically does two things: It allows the research dollars in the legislation to be used by State forestry carbon sequestration. This allows mobilization of various State forestry programs such as we have in Oregon and other States in this country to seriously attack this carbon problem.

Second, our legislation sets up a carbon sequestration demonstration effort which allows private parties to pay farmers and foresters a market-based fee to store carbon and to otherwise reduce net emissions of greenhouse gases. This would be the first effort to set up a marketplace-oriented system of reducing these carbons.

We are not saying tonight, Senator BROWNBACK and I, that carbon sequestration is the be-all and end-all of dealing with the climate change problem. But it can be a significant tool in our toolbox to reduce global warming. I happen to think that carbon sequestration can be a very significant jackhammer for those who are fighting the climate change problem.

I conclude by thanking Senator HARKIN and Senator LUJAR. This is a chance to bring Americans together—businesses, environmental leaders. It will not cost jobs, it will save money. Look at the cost. It takes between $2 and $20 per ton to store carbon in trees and soil. Emissions reductions can cost as much as $100 per ton. That is why Senator BROWNBACK and I have worked for several years. I believe this legislation can reduce a third of the problems we are having with excessive emissions in our country.

With that, and with thanks to Senator HARKIN and Senator LUJAR, I ask that the amendment be agreed to on a voice vote at this time. I yield the floor.

Mr. BROWNBACK. Mr. President, today, I join with Senator WYDEN to bring an amendment to the floor on the farm bill. It is a pilot program for farmer owned cooperatives to measure, verify and trade sequestered soil carbon through agriculture conservation practices. This amendment will authorize $5 million over 5 years to establish a program that will allow our nation's farmers to implement the promise offered by carbon sequestration—a process where crops and trees convert carbon dioxide into stored carbon in the soil. At the same time, this project will provide the Congress with important information about how effective soil carbon sequestration will be in addressing the issue of climate change.

As we set farm policy for the next five years, there are several important areas with high priority to expand. One promising example is in a potential environmental market for farmers—where producers are paid by utilities and other greenhouse gas producers to offset carbon dioxide emissions from their operations. This is more cost effectively. Such a market is already being looked at in many sectors, but more information and applied research is needed to answer policy questions surrounding the effectiveness and permanence of carbon sequestration as part of the global climate change solution.

I have introduced 3 bills involving carbon sequestration in this last year. I am pleased that many of these ideas have been embraced by the new farm bill currently on the Senate floor. Many farm conservation practices have been sequestering carbon for years—but we have not adequately been able to measure and capitalize on this promising process.

The new farm bill will contain $225 million over 5 years for carbon sequestration grants to producers and research universities to do pilot projects to measure and verify carbon gains. In addition, USDA will become more engaged in measuring and verifying which farm conservation practices store carbon. There will also be continued funding for research through land grant universities—being led prominently by Kansas State University.

In addition, the farm bill contains a grant program of $500 million over 5 years for private enterprise conservation—which includes carbon sequestration activities.

Despite my concerns about many provisions in this farm bill—I am very pleased to see these provisions included. This will build a new market for farmers—one that pays for how they produce, not just what they produce. The Wyden-Brownback amendment builds on this promise and expands it to help us explore how carbon trading might work by using one of the most trusted friends of the farmer—cooperatives.

Carbon sequestration is a largely untapped resource that can buy us the one thing we need most in the climate change fight. The Department of Energy estimates that over the next 50 to 100 years, agricultural lands alone could have the potential to remove anywhere from 40 to 80 billion metric tons of carbon from the atmosphere. If we can find a way to include forests, the number will be far greater—indicating there is a real difference that could be made by encouraging a carbon sink approach.

Carbon sequestration alone can not solve the climate change dilemma, but as we search for technological advancements that allow us to create energy with less pollution, and as we continue to research the cause and potential effects of climate change, it only makes sense that we enhance a natural process we already know has the benefit of reducing existing concentrations of greenhouse gases—particularly when this process also improves water quality, soil fertility and wildlife habitat. The Wyden-Brownback amendment is like taking out insurance on your house or car. We should do no less for the protection of the Planet.

Carbon sequestration can only be one tool in the fight to reduce greenhouse gases in a cost effective way, but it is something we can be doing right now for the benefit of our atmosphere, our water, our soil and our farmers and foresters. There is no downside to supporting this amendment. We advance important conservation goals and begin taking concrete action on one of our toughest environmental challenges.

Not only does this amendment help the environment, it also helps to flesh out the details behind a very promising and potentially lucrative market for farmers and foresters—a market where they would be paid for how they produce, in addition to what they produce.

Early estimates from the Consortium for Agricultural Soils Mitigation of Greenhouse Gases indicate that the potential for a carbon market for U.S. agriculture could reach $5 billion per year for the next 30-40 years.

Mr. President—this is a common sense amendment—which is good for our farmers, good for the environment and could provide a bridge to begin dealing with one of our most challenging environmental problems by applying the market principles to reduce climate change. This is an important first step—which opens the door to a non-partisan alliance that will help make real progress on the issue. I urge my colleagues to support the Wyden-Brownback amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon, amendment No. 2546.

The amendment (No. 2546) was agreed to.
Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WYDEN. I move to lay that motion on the table.
The motion to lay on the table was agreed to.

CONFERENCE REPORT ACCOMPANYING THE NATIONAL DEFENSE Authorization Act for Fiscal Year 2002—Continued

Mr. LEVIN. I believe under the unanimous consent agreement that has been entered into, we will have a period of, I believe, 2 hours for debate which I hope perhaps will be reduced. In any event, the first half hour was to be under the control of Senator Byrd.

The PRESIDING OFFICER. The Senator is correct.

The distinguished Senator from West Virginia.

Mr. BYRD. Madam President, I thank the Chair and I thank my distinguished colleague, the chairman of the Armed Services Committee.

Madam President, I was troubled by President Bush’s announcement this morning to withdraw the United States from the Anti-Ballistic Missile Treaty of 1972. This development has earth-shaking implications for our national security, especially in considering the potential range of reactions from Russia and other nuclear powers, including China. My arms control is bound to become more difficult as these countries work to make sure that their nuclear deterrent can still work when—or if—we successfully deploy an anti-missile system. While bringing us no closer to developing a nuclear shield, deterrence is still the cornerstone of strategic stability.

I am not an expert on the technology used in nuclear weapons or ballistic missiles. But I do know that China has twenty missiles capable of delivering nuclear weapons to our shores. China has been satisfied that these twenty missiles provided it a nuclear deterrence against other nuclear powers, including the United States. As a result of this move by the President against the ABM Treaty, I have no doubt that China will seek a larger, more sophisticated nuclear arsenal. Does that make the United States more or less secure? What about our allies and friends overseas?

Does a larger Chinese nuclear arsenal help the President of South Korea sleep at night? What about the Prime Minister of Japan, or even the Prime Minister of Britain? Clearly, our friends have good cause to be concerned about U.S. withdrawal from the ABM Treaty. I do not believe it is an overstatement to say that withdrawing from the ABM Treaty will have serious consequences for our allies, and by extension, on our national security.

I also know that many experts on missile technology have grave concerns about how easy it would be to build missiles that can fool a national missile defense system, rendering it useless. Russia has already developed a missile that could pierce our planned missile defense system, even if it worked. And I think that one can bet that China is working on similar technology. If China and Russia, two countries with past records of sending missile technology to the likes of Iran and North Korea, have the technology to fool our missile defense radars, how long do we have until the technology to end up in the hands of rogue states? I understand the President’s desire to develop a national missile defense system for the United States. I support that goal, as long as it produces a system that is feasible, affordable, and effective. However, we have no assurances at this point that an effective missile shield can be developed. We are operating on little more than a hunch. In the morning to withdraw the United States from the ABM Treaty is the President’s desire to develop a national missile defense system for the United States. I support that goal, as long as it produces a system that is feasible, affordable, and effective. However, we have no assurances at this point that an effective missile shield can be developed. We are operating on little more than a hunch.

To jettison the ABM Treaty with no replacement agreement in hand and no better understanding of how or whether a missile defense system will work—and that is where we are right now—to bring additional burdens to the nuclear arsenals of both the United States and Russia. Russia has repeatedly expressed its belief that the ABM Treaty is the “cornerstone of strategic stability.” By limiting the development of missiles, the United States could shoot down an opponent’s nuclear missiles, the argument goes, both the United States and Russia understood the strategic capabilities of the other—of each other. Indeed, progress in first limiting the nuclear arms of the United States and the Soviet Union was concurrent to progress in limiting the development of anti-ballistic missiles. In the three decades since the ABM Treaty and the START Treaty were ratified, the United States has been able to reach consensus with the Soviet Union—and later Russia—on the principles of the Strategic Arms Reduction Treaties, commonly known as START, to limit the nuclear arsenals of both countries.

These arms reduction treaties have slashed the nuclear arsenals of our two countries by over half over the last decade. All the while, the ABM Treaty worked to make sure that the nuclear arsenals of our two countries by over half over the last decade. All the while, the ABM Treaty worked to make sure that the nuclear arsenals of both countries.

Senator BIDEN, the chairman of the Foreign Relations Committee, spoke very clearly yesterday on his concerns over a precipitous withdrawal from the ABM Treaty. I thank the Senator for his remarks, and for his valuable input into this extremely important subject. The Constitution of this Nation deliberately established a clear separation of powers among the executive, legislative, and judicial branches of the Government. Article II, Section 2, gives the President the power to negotiate treaties “by and with the consent of the Senate.” There is a reason for that caveat, and the reason is that treaties among nations are enormously important instruments of power. The framers of the Constitution recognized the importance of treaties, and saw the potential danger of allowing any individual to enter into a treaty with another nation. The required acquiescence of the branches of the Senate is a fundamental part of the checks and balances of our Government.

This is what disturbs me greatly about the President’s announcement of withdrawal from the ABM Treaty without seeking the advice or consent of Congress. And this announcement comes on the heels of the President’s declaration a few weeks ago that he is willing to further reduce America’s nuclear arsenal on the strength of a handshake from his Russian counterpart, Vladimir Putin, instead of pursuing the START process. Again, the decision was made without seeking the advice and consent of Congress. And this announcement comes on the heels of the President’s decision to further reduce America’s nuclear arsenal on the strength of a handshake from his Russian counterpart, Vladimir Putin, instead of pursuing the START process. Again, the decision was made without seeking the advice and consent of Congress.

I recognize that under the terms of the treaty, the President has the legal right to withdraw from the ABM Treaty with six months notice. I recognize that, upon adoption of the Defense Authorization conference report, which strikes an existing prohibition, he will have the legal authority to reduce the U.S. nuclear arsenal without the consent of Congress. But I also believe that it would be a violation of the spirit of our Constitution to take either course of action without seeking the endorsement of the Senate. I think that the President’s contention that the START Treaty is a cold war relic merits some consideration. His belief that it is time to move onto a new framework for missile defense reflecting the new realities of a world with multiple nuclear powers and would-be nuclear powers, makes a great deal of sense.

The President’s ABM and weapons reductions proposals merit debate and
Mr. WARNER. Mr. President, will the distinguished Senator from West Virginia yield for a question on the speech he has just given?

Mr. BYRD. No, sir. I think the President feels that a treaty is no longer of value to our Nation. Have they heretofore formally consulted and notified particularly the Senate which has to give the advice and consent? I will research that. But I was interested to the extent that the Senator might have some knowledge of it. We have had, I guess, minimal consultation.

The distinguished Senator from West Virginia, my colleague—I have been friends for many years: my colleague has been here many more years than I. I recall that many times we would sit down with Presidents and discuss momentous decisions regarding foreign policy informally. Then we had extensive hearings on the ABM Treaty. In each one, I advocated that we basically take the action our President was taking. But I am trying to think of the consultative process.

At this particular time, the best that I know is there was telephone calls with the Secretary of Defense and discussions with me about it. I presume that occurred with my chairman and perhaps the Senator from West Virginia. But what are the precedents for Presidents in a more formal way advising the Senate about the fact that he has reached a decision that a treaty is no longer of value to this country, and, therefore, he is going to exercise such a provision as the treaty may provide for the withdrawal?

Mr. BYRD. Madam President, as I have stated, I don’t question the President’s legal right to do that. That is not the question.

I think the question is, as I have tried to pose it, that the Senate, a body which, under the Constitution, approves or disapproves the ratification of treaties, should have an opportunity, in the case of the ABM Treaty—a treaty of such significance as this one has been and is—the Senate should have an opportunity to debate and vote on this. As I have indicated, I think the President should have asked for some advice from the Senate. He does not have to take the advice, but I have seen no evidence of the President seeking advice on this matter. He simply made up his mind to do it and did it.

Mr. WARNER. But he did forewarn the Nation.

Mr. BYRD. Yes.

Mr. WARNER. Our Nation.

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Mr. WARNER. Mr. President, was there any active consultation or any effort to pose it, that the Senate, a body which, under the Constitution, approves or disapproves the ratification of treaties, should have an opportunity, in the case of the ABM Treaty—a treaty of such significance as this one has been and is—the Senate should have an opportunity to debate and vote on this. As I have indicated, I think the President should have asked for some advice from the Senate. He does not have to take the advice, but I have seen no evidence of the President seeking advice on this matter. He simply made up his mind to do it and did it.

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consultations with President Putin, his key aides, his Secretary of State, his Secretary of Defense, and, likewise, the National Security Adviser. But I guess we come back to the problem that you feel it was a matter of comity, not of law. That is true.

Mr. BYRD. I say that he had the legal right.

Mr. WARNER. To do what he did.

Mr. BYRD. But if the Senator will recall, let’s go back to the time when we were considering the INF Treaty. Mr. Dole was the leader on that side of the aisle. I was the leader on this side. And the Reagan administration sought to reinterpret the ABM Treaty to its own way of thinking at that time. There was a big dispute about this. There was a lot of pressure on me, as the majority leader at that time—the Senator probably didn’t realize that, but I have not forgotten—to bring up the INF Treaty. I said: Well, let’s see what Mr. Nunn, the chairman of the Armed Services Committee at least, and Mr. Boren, the chairman of the Intelligence Committee, has to say. And let’s see what Mr. Dole has to say. Now, when they all come back to me and give a report to me that they are satisfied with this, then we will call it up.

There was great pressure on me to bring up that treaty because President Reagan wanted to go to Moscow and sit down with Mr. Gorbachev and have an exchange of ratification papers on the INF. Mr. Baker, at the White House, was going to be there also. But I waited until those three chairmen of the Armed Services, Intelligence, and Foreign Relations Committees, respectively, were satisfied about the treaty.

As the Senator will recall, out of that delay Mr. Shultz went to Paris, I guess it was, and met with Mr. Schevardnadze and brought back something in writing, and we all reached an agreement that any reinterpretation of the treaty had to be agreed upon and approved by the Senate. And we are talking about the ABM Treaty.

I believe it was agreed that the interpretation of the treaty would be based on the testimony of witnesses, the actual language within the four corners of the treaty, and the interpretation by the then administration expressed through its witnesses in Senate hearings, and that any subsequent administration could not change that reinterpretation without going through this process and having the approval of the Senate.

Now, I say all of that, and my memory may not be exactly accurate on every point. That was back in 1987 or 1988, somewhere along that line, a long time ago.

Mr. WARNER. Madam President, I remember. I was here.

Mr. BYRD. At that time we were very conscious of a subsequent reinterpretation of the ABM Treaty, the ratification of which the Senate had approved, by a subsequent administration. Otherwise, a treaty would be without any value if a subsequent administration could come along and reinterpret a given treaty based on the way it saw things at that later time.

I say all that to my good friend from Virginia because I have been involved in the ABM Treaty for a long time. At that time we saw it as a matter of grave importance that an administration be allowed to reinterpret that ABM Treaty without subsequent hearings and without subsequent approval by the Senate.

But here we are today, and we are walking away from that same treaty, and the administration—the President did announce this in the newspaper, but I saw nothing that was ever sent up. I do not remember ever seeing any letter from the President to the chairman of the Armed Services Committee or the Appropriations Committee or the Foreign Relations Committee or the Intelligence Committee.

Now, there may have been such, but I was not aware of it. The President said, some time ago, he was thinking about doing this. He did not feel that anything needed to be put in writing. That, to me, is a rather scary way of looking at it as far as I am concerned.

So this is why I say, I am sorry—I am not sorry we are reducing our arsenal. We ought to do that. It is costing too much, and we do not need it. But for the President just to walk away from the treaty, and the Senate not to have had any expression from the President in writing, or any formal expression at all—the Senate, as far as I am concerned, was ignored in this matter. As a result, I have to keep me awake at night. When a President says he does not think something of this nature has to be put in writing, that a mere handshake is good enough, that is a rather scary way of looking at it as far as I am concerned.

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Mr. LEVIN. Condition.

Mr. WARNER. Yes, into a treaty requiring the President, before any amendment or reinterpretation, to come back and seek the advice and consent of the Senate on his proposal. There we state very clearly. But so far as I know, I do not know of a requirement or a precedent which our President has broken, nor did he do anything that was not in agreement with the law and/or the terms of the treaty.

Mr. BYRD. I have already said the President did not do anything that is not in accordance with the law. He has not done anything that is illegal, but let’s see if you imagine that mine might be stretched to the farthest limit. Let’s imagine I became President. And that taxes the imagination.

Mr. WARNER. No. I think you would do quite well.

Mr. BYRD. In the farthest stretches of the imagination, if I were President, I would not think of walking away from a treaty—the ABM Treaty—one that has served the Nation well, without the consent of the Senate. But let’s see if you imagine that mine might be stretched to the farthest limit. Let’s imagine I became President. And that taxes the imagination.

As it is, no Senator here has pointed out to me, tonight at least, that that has been made. Nor do I think Administrator Hunter would be much wiser if it took the Senate into consideration and had some expression of support; let the American people hear some debate in the Senate. I think the administration would do much wiser if it let the Senate in on the matter and sought its advice.

Mr. WARNER. I thank my colleague.

I remember the many debates we have had in the past on the War Powers Act. Although that act is observed in spirit by Presidents, Republican and Democrat, they certainly have never accepted it really as the letter of the law. It does explicitly set out the need for consultation with the Congress.

Mr. BYRD. It does.

Mr. WARNER. And we have had various forms of consultation heretofore.

Mr. BYRD. It also requires reports from the President.

I thank the distinguished Senator.

Madam President, the conference report to the fiscal year 2002 Defense authorization bill before the Senate today contains many provisions that will help the men and women who serve our country in uniform. The bill provides for pay raises, increased educational benefits, and better housing for our military personnel. It authorizes important funds for the military services’ counter-terrorism programs, and enhances efforts to improve the serious accounting problems of the Department of Defense.

Unfortunately, as developments unfolded in our strategic relationship with Russia on nuclear weapons and the Anti-Ballistic Missile Treaty, it became clear to me that the conference report before us does not move us in the right direction on those two critical issues. It is the importance of our strategic relationship with Russia, and
the rest of the world, that compelled me to oppose this conference report. The conference report eliminates a provision of law that forbids the President from reducing our nuclear stockpile below the levels laid out in the Strategic Arms Limitation Treaty of 1991, which total about 6,000 warheads. I assume that this conference report is enacted into law—and I assume it will be on its way to the President—the President will then be accountable to no one on how much he would like to reduce our nuclear arsenal. The President could call for these cuts without so much as one minute of debate in Congress.

Let me be perfectly clear for the third time: I do not oppose reductions in our nuclear arsenal. The cold war has passed into history, and to a great degree, so has the logic of maintaining thousands of nuclear weapons pointed at a country that no longer advocates the destruction of our way of life. In the next fiscal year, the Department of Energy will spend $5.4 billion on our nuclear stockpile. That is serious money. I do not know exactly how many nuclear warheads we need to maintain, but I do not think it is a good reason to continue spending that much to maintain far more nuclear warheads than what almost all experts believe to be appropriate to meet our national security requirements. However, we need to consider the role of Congress in our national defense, as spelled out in the Constitution. To me that is the bedrock of the Republic, Congress, the people’s plans, the control over the purse. Article I, Section 8, Clause 12 reads: “The Congress shall have the power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.” The Constitution does not give the executive branch the power to raise armies. That is congressional power. The Constitution gives that power to the legislative branch, Congress. The document that establishes our republic says that Congress, not the President, shall have the power to support armies, to maintain navies. Clearly, the Founding Fathers did not want the chief executive to have the sole power to determine the size and shape of our military. By eliminating the one statutory restriction on the President’s action with regard to the sole power of the President, Congress have turned our back on that responsibility. I have already spoken today on the President’s announcement to withdraw from the ABM Treaty. I believe that it is an ill-timed move that should have been subject to consideration and debate in the Senate. I supported a provision that was included in the original version of the Defense authorization bill as passed by the Armed Services Committee to limit our missile defense testing for the next fiscal year, but those tests are allowable under the ABM Treaty. Those restrictions could have been waived under two circumstances: first, if the United States and Russia reached a new agreement on missile defense testing, or if there was an affirmative vote in both houses of Congress to authorize the tests. This was a reasonable provision. It protected the constitutional duty of Congress in national defense and for foreign affairs. I regret that, following the tragic events of September 11, this provision was dropped from the bill without so much as a vote. I can understand the great desire on the part of all of us to support the President in a moment like this. Considering the President’s announcement this morning on withdrawal of the United States from the treaty, we should have had a fuller debate on the ABM Treaty provisions. What is history going to say? Where are the Senators of tomorrow going to look in the record for a debate on this very important matter? While I voted against this conference report, I appreciate the work of my colleagues ranking member of the Armed Services Committee, Senator Levin and Senator Warner, who have put in on this bill. They have few peers in their knowledge of the challenges facing the armed services. For the 7 weeks that this bill was in conference, they have had an exhausting schedule of meetings with their House counterparts, often meeting several times each day. They have continued the tradition of bipartisan spirit on the Armed Services Committee and I applaud what we all have labored day and night, hour after hour to bring forth this legislation.

The issues of nuclear arms reductions and national missile defense should not disappear from our consciousness because of the President’s announcement on the ABM Treaty. I hope that it will focus the attention of other Members of the Senate to the need to safeguard the role of Congress in defense and foreign affairs. While I look forward to future debates on vital issues, I deeply regret that this Defense authorization bill did not tackle them head-on, have a debate, votes thereon, and for that reason I voted against its adoption. I yield the floor.

Mr. WARNER. Madam President, this morning, President Bush announced that he had given Russian President Putin formal notice that the United States would be exercising its right to withdraw from the 1972 Anti-Ballistic Missile Treaty—was exercising its right to withdraw from that Treaty. That article provides that “each Party shall . . . have the right to withdraw from this Treaty” with six months’ notice. I support the President’s action.

The ABM Treaty has served the cause of peace well for many years, but the Treaty has completed its mission. It was negotiated and signed in an era when the United States and the Soviet Union operated under implacable enemies. I, as Secretary of the Navy, was in Moscow in May 1972, where President Nixon signed the ABM Treaty for the United States. Each nation sustained large nuclear forces aimed at each other. The Treaty was seen as a means of controlling the arms competition between our two nations and as a building block to other arms control agreements. It has served its purpose.

The cold war, as President Bush noted in his remarks today, is long over. The Soviet Union has fallen, and Russia is, in the words of President Bush, no longer an enemy. Our President is pursuing with Russia a new strategic relationship. President Bush has said, “We’re moving to replace mutually assured destruction with mutual cooperation.” President Putin has accepted this new challenge and we can expect the two Presidents to make further progress. Now our President must explore new technologies and provide a system to protect our people from attacks by a limited number of missiles.

The events of September 11 dramatically illustrate that this nation has enemies willing to use any lengths to attack our homeland and indiscriminately kill thousands of innocent civilians. Where some doubted such devastation to our nation could ever occur, all doubts are now gone. We now know that terrorists are seeking to acquire weapons of mass destruction, and we know that many of the nations that support the terrorists either have, or are seeking to acquire, both weapons of mass destruction and the means to deliver them.

It is the first obligation of any U.S. President to provide for the defense of our citizens and our vital national interests. President Bush is committed to protecting our nation—from all known threats. His commitment to provide defenses against attack from a limited number of ballistics missiles, and his determination to move beyond the ABM Treaty are motivated by this solemn obligation.

Upon the inception of the new administration, President Bush and his key advisors have persistently pursued with Russia, through a series of consultations, a framework of understandings that would enable the United States to perform testing of new options and other steps leading to the eventual deployment of a ballistic missile defense system. These discussions will continue, but it is timely for the United States to give notice under article 15 of the 1972 Anti-Ballistic Missile Treaty to withdraw from that Treaty. That article provides that “each Party shall . . . have the right to withdraw from this Treaty” with six months’ notice, I support the President’s action.

The Russian Government certainly recognizes and accepts this. Indeed, the statements coming from Russian leaders indicate that President Bush, and his key advisors, have carefully laid the groundwork for U.S. withdrawal from the treaty. The U.S. action was preceded by U.S. and Russian commitments to serious reductions in offensive nuclear forces in the history of arms control. This was a high priority for Russia.
There is no sense that U.S. withdrawal will result in a new arms race. There is, instead, a sense of acceptance and a recognition that our close relationship will continue to grow.

The President has an obligation to defend this nation. He must ensure that our right to defend our homeland and our people. The President has acted courageously. He has my full support.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank our dear friend from West Virginia for his kind remarks about myself and my ranking member. I yield myself 10 minutes. I would like to comment on a few things which the good Senator from West Virginia said.

Mr. WARNER. Would the Senator yield so that I could join him simply in thanking the Senator for his reference to the two of us and our staffs. We very much rank as a member of the Armed Services Committee.

Mr. BYRD. I thank both Senators.

Concerning the work, the diligence, the dedication, and the loyalty to our country that is constantly being demonstrated and exhibited by these two leaders of the Armed Services Committee, my words fall pitifully short in expressing my true respect for these two Senators.

They leave nothing undone when it comes to the expenditure of hours, labor, toil, and sweat. I also say the same with regard to the staffs of both Senators. As a Member, I have been treated very fairly on both sides. I thank the Senators.

To my dear friend our good friend from West Virginia on that point. I want to thank him also for his comments relative to the decision of the President to unilaterally withdraw from the ABM Treaty. I think it is a serious mistake.

I made a statement earlier today going into great detail as to why I think it was a mistake. I don’t think any subject has taken more time of our committee than the national missile defense program and its relationship to the Anti-Ballistic Missile Treaty. I think it is a serious mistake.

Unilateral withdrawal is not wise because it risks upsetting strategic stability. It risks provoking a dangerous arms race in offensive and defensive technologies that would leave America less secure. Even though the missile defense system being pursued by the administration is limited, the technologies that would be created as part of this limited system could quickly lead to a much larger program that could—in Russian eyes—undermine their nuclear deterrent. This could prompt Russia to take the destabilizing step of putting multiple warheads on missiles, so-called MIRVed missiles...this could lead China to rapidly increase their nuclear program. It could also lead China or other countries to devise countermeasures and decry that they could develop and test national missile defenses.

Finally, the President’s decision to withdraw unilaterally from the ABM Treaty is not wise because it risks undermining our relationship with Russia. We have, by this action of the President today, removed a structure that made it possible for us to have a stable relationship and allow us to be much more, it seems to me, rational in the use of our resources.

So I agree with the Senator from West Virginia on that point. I want to remind him of what I said at the time, and that is, if I can. First of all, the language I had offered in the committee requiring a vote before any of the funds that are authorized or appropriated would be used for any test in conflict with the ABM Treaty was language which, by its own terms, did not affect the power of the President to withdraw from the ABM Treaty. Subsection (d) of that language, which I had offered, and we were able to pass with the help of the Senator from West Virginia by one vote in the Armed Services Committee, explicitly said: Nothing in this section shall be construed to limit the authority of the United States to withdraw
from the ABM Treaty at any time upon a decision of the United States that extraordinary events relating to the subject matter of the treaty jeopardized the supreme interest in accordance with article V of the treaty.

To me, the language that was removed, for reasons which I gave at the time, did not prevent the President from withdrawing from the treaty. In fact, if it had prevented the President from withdrawing from the treaty, we would not have been able to get the majority vote in the Armed Services Committee. Some colleagues would not have voted for it if it had limited the President’s right to withdraw from the ABM Treaty.

The second thing I want to say to my good friend from West Virginia is this: The language that prohibited the executive branch from going to a lower level of nuclear weapon delivery systems below the START I level, has been in the law for a number of years. We have tried to remove that language for many years. Indeed, I think the Senator from West Virginia may have said at that time that we are reluctant to try to remove that language. The uniformed military has urged us to repeal that language. The top defense civilian leadership has urged us to repeal that language.

But I want to assure the chairman of the Appropriations Committee of something that he knows better than any Member of this body, so I am even a little reluctant to give him this assurance, because if anybody stands for what I am going to say, it is the Senator from West Virginia: Nobody can take away from Congress the power of the purse. Nobody can take away from Congress the power to tell the President of the United States you must have whatever level of nuclear forces we determine you must have.

Mr. BYRD. The Supreme Court ruled within the last couple of years that Congress cannot give away its constitutional power.

Mr. LEVIN. Indeed, we cannot.

Mr. BYRD. The Senator from Michigan, together with the then-distinquished Senator from New York, Mr. Moynihan, and the then-Senator from Oregon, Mr. Hatfield, and I sought to bring that case before the Court. The Court said we didn’t have standing. But subsequent to that, other parties that did have standing were able to remove that language as having standing by the Court, pursued that case. The Court, throughout that—I am trying to think of a word I can safely say here in the Senate about the line-item veto.

Mr. LEVIN. What would suggest the word “abomination.”

Mr. BYRD. The Supreme Court, throughout that miserable piece of legislation, upheld the fact that, as the Senator said, the Congress cannot give away its powers as set forth under the Constitution.

Mr. LEVIN. And that is what I just want to reassure my good friend from West Virginia that he has been the most steadfast, the most valorous, and the most determined representative of that point of view. I was proud to join him in the Supreme Court.

The Appropriations Committee, of which our friend and the chairman, has determined there will be funds in fiscal year 2002 for 500 minutemen ICBMs—it is in your bill—and for 50 peacekeeper ICBMs. There will be 17 to 18 Tridents, and the bill will be 94 B–52Hs. That is the power of the purse. So we have done nothing to diminish that power. The President cannot take that away. We could not give it away. We should never try. But if anyone ever tried, we can’t give it away. The chairman of the Appropriations Committee and the appropriators, and then ultimately this Congress, determines what level of weaponry we are going to fund and what must be maintained. We determined on the appropriations bill this year to determine the level of nuclear forces or any other weapons we have in our inventory.

That remains, should remain, and always must remain the power of the Congress, the purse.

Madam President, this is no ordinary time. Two days ago, the Nation observed the 3-month anniversary of the most deadly attack ever against the United States. For more than 2 months, U.S. forces have been engaged in a military campaign on the ground and in the skies of Afghanistan. Their success has been remarkable: after just 9 weeks, the Al Qaeda terrorist network is on the run. The Taliban regime that harbored them is no more. Our brave men and women in uniform embody America’s determination to protect our citizens from more terror and our resolve to track down and relentlessly pursue terrorists and those who would shelter them. And even as we continue to remove flag-draped coffins from the ruins in New York, flag-draped coffins have returned from Afghanistan with the bodies of heroes who have given their lives for our freedom, including our freedom from fear.

Against this background, I am pleased to bring to the floor of the U.S. Senate the National Defense Authorization Act for Fiscal Year 2002. The conference has produced a good, balanced bill that will strengthen our national security. The U.S. military is the most capable fighting force in the world today, and this bill ensures it will remain so, especially as it is engaged in a war against terrorism.

This bill reflects the contributions and hard work of many, many people over many, many months. I am grateful to my colleague Senator Stump for working with me every step of the way in producing this bill. We have served together on this committee for more than two decades. We agree on most things. When we disagree, we trust one another. No chairman could ask for a better partner. I want to take this occasion to express my gratitude for his invaluable support, which made this a better bill.

I also want to thank the chairman and ranking members of the sub-committees for their action in the conference and throughout the year in completing action on this important bill.

Finally, I want to thank Representatives Stump and Skelton. Like Chairman Stump, this was my first year as chairman. He was also chairman of the conference. As conference, we faced many difficult decisions. This was a very challenging conference. But Representatives Stump and Skelton made a great contribution to this bill that is in the national interest. Madam President, the National Defense Authorization Act for Fiscal Year 2002 authorizes $383.3 billion for national defense programs, the full amount requested by the President and in the budget resolution. This bill addresses a number of important priorities.

This bill builds on Congressional efforts in recent years to improve the compensation and quality of life for our troops and their families to vote.

It authorizes a pay raise of at least 5 percent for all military personnel, effective January 1, 2002, and targeted pay raises between 6 and 10 percent for mid- and senior-level enlisted personnel and junior officers. It extends critical bonuses and special pay authorities by 1 year. It authorizes personnel with critical skills to transfer up to 18 months of unused benefits under the Montgomery G.I. bill to family members in return for additional commitment for 12 years. It authorizes $10 billion for military construction and family housing, an increase of more than $500 million above the budget request. It includes a series of provisions to enhance the ability of military voters and their families to vote.

One of the most difficult issues for the conference was whether disabled military veterans would receive their
retired pay and veterans disability compensation concurrently. This is a popular and meritorious benefit that Senator HARRY REID has championed. I was disappointed that the House was unwilling to accept this benefit because it was not required under the budget point of order. The conference agreement authorizes disabled military veterans to receive their retired pay and veterans disability compensation concurrently, but make this concurrent retirement compensation off-setting the cost of this benefit. The conference agreement also includes an extremely modest enhancement to special pay for retirees with service-connected disabilities. It is my hope that in the future Congress will allow our military veterans to receive the retired pay and veterans disability compensation that they earned and deserve.

This conference report improves the ability of U.S. forces to combat terrorism. This conference report improves the ability of the United States to combat the proliferation of nuclear, biological and chemical weapons. To help combat terrorism, it adds to the budget request: $47 million for science and technology to help improve and develop asymmetric threats such as chemical and biological warfare; $17.4 million to procure additional protective equipment for chemical and biological agents; and, $10 million to help fund our combatant commanders around the world and high-priority projects to defend U.S. forces against terrorism.

This bill also authorizes the full $403 million requested by the administration for the Cooperative Threat Reduction program to continue destroying and dismantling nuclear warheads and missiles in the former Soviet Union. The bill also adds nearly $60 million for Energy Department programs and research to combat proliferation of such weapons. This additional funding, the conference report states, is to give the Department of Energy additional support to combat the continuing effort to reduce the threats posed by offensive nuclear weapons, their delivery systems, and related materials.

On missile defense, we followed the funding formula in the Senate bill, making a reduction of $1.3 billion in the request and authorizing the President to use the $1.3 billion for which ever he determines is in our national security interest: one, research and development of missile defense programs as previously requested; and two, DOD activities to combat terrorism. I sincerely hope the President will wisely choose to use these funds to combat the more likely threats to the United States than terrorism, rather than the least likely threat of a ballistic missile attack on our Nation.

The bill contains important language requiring the Department to provide additional information and program reviews to ensure adequate congressional oversight and transparency of the program. I would add that the Senate owes a great debt to Senator REED of Rhode Island, who worked on this issue tirelessly over many months to reach this point.

The House bill contained language that could have been interpreted to authorize the use of Fort Greely, AK, as an operational defense site. A number of us in the Senate felt very strongly that we should not authorize an operational site in violation of the Anti-Ballistic Missile Treaty. So this language was modified in conference to clarify that Congress has authorized the construction of only those facilities that are necessary to establish a test bed, not an operational missile defense site.

As I already mentioned, the national missile defense testing program is not constrained at this time by the ABM Treaty. The President’s decision to unilaterally withdraw from the treaty is a serious mistake for our national security. It is not necessary and it is not wise.

As I also mentioned, I am pleased that the conference report contains a provision from the Senate bill that would eliminate statutory restrictions on the President’s ability to retire unneeded U.S. nuclear forces. We have based our defense strategy for major wars for many years, and I was disappointed that we had to drop a similar provision in the conference on last year’s defense bill. This conference agreement allows the administration to move the United States toward nuclear force levels contemplated under START III and below, and toward levels being sought by the administration.

This bill allows for significant savings through improved management in several important areas of the Defense Department. This bill includes a major victory for good government and for the readiness and transformation our military forces, it authorizes another round of base realignment and closure. The overwhelming leadership of the Department of Defense have told us over and over again, through two administrations, that DOD has excess infrastructure and needs a new round of base closings to free up billions in savings for higher priority defense needs. Senator MCCAIN and I have been fighting for a new BRAC for more than 5 years, and I am very pleased it is included in this bill.

This bill makes several minor changes to the previous BRAC process and to the Senate bill. Instead of occurring in 2003 as proposed in the Senate bill, the new round of BRAC will, in order to obtain approval by the House, occur in 2005. Even with this delay, the House held out until the last minute. We also have tightened the provisions by which the base closure commission can add additional facilities for closure not already included in the list proposed by the Secretary of Defense. I want to be very clear about this second change. As in the past, the Secretary will propose to the commission for their consideration a list of installations he suggests for closure or realignment. If the commission wishes to add to the Secretary’s list more installations for its consideration, at least 7 of the 9 commissioners, a super-majority, must vote to do so. However, once an additional installation is added for consideration, the rec-ommendation on whether to close or realign it will be by a simple majority vote, 5 votes, of the commission, just the same as the original list. In other words, we have raised the preliminary hurdle for the commission to add to the Secretary’s list installations for consideration, but the final hurdle, whether to actually include that installation in the commission’s rec-ommendation to Congress, will be the same for all installations and the same as in previous BRACs, that is, a simple majority.

BRAC was by far the most difficult issue in conference, and I want to especially thank Senator McCAIN for his leadership and Senator WARNER for his work on this issue. I would have preferred BRAC in 2003 over 2005. But I also prefer 2005 over no BRAC at all. In the end, those were the options. This bill is clear, there will be another round of base closure in 2005. And if we cannot get our way, if we don’t want to give the Defense Department the ability to realize the significant savings that can only come from more base closures.

The bill provides for improved contract management and greater competition for the $50 billion of service contracts awarded by the Department of Defense each year. Secretary Rumsfeld has testified that the Department should be able to achieve 5 percent savings across the board through manage-ment improvements. We have identi-fied a number of management tools and strategies already in wide use in the private sector that should enable the Department to save billions of dollars on its service contracts over the next several years.

This bill makes the Defense Depart-ment, rather than Federal Prison Indus-tries, FPI, responsible for deter-mining whether FPI products meet the Department’s needs. This means that private sector companies will have an opportunity to compete with FPI for Department of Defense contracts that are paid for with their tax dollars. It is fundamentally unfair that these com-panies have been denied this oppor-tunity in the past, and I am delighted that we have finally been able to address this problem.

This bill makes significant contribu-tions to the readiness of our military. It authorizes funding to improve the readiness of Army aviation, including: funding for 22 Black Hawk helicopters, 10 more than the administration re-quested; upgrades to Apache heli-copters; and additional TH-67 training helicopters. It authorizes $625 million for 28 additional B-2 bombers and an additional $100 million to maintain the B-1 bombers, which continue to demon-strate their effectiveness against
terrorist targets in Afghanistan. It authorizes $55 million to upgrade engines and reduce maintenance costs for the F-15 and F-16 aircraft.

The bill also adds money to increase full-time manning in the Army National Guard; upgrade the Navy’s electronic warfare capabilities; improve the operational safety and capabilities of our test ranges and space launch facilities; and continue modernizing the training aircraft used by the Air Force and Navy for the training of new pilots. The bill supports the transformation of our military to a lighter, more lethal, more flexible force. It authorizes the request of $3.9 billion for the F-22, including funding to procure 13 aircraft. It approves the requested funding of $3.0 billion for three Arleigh Burke-class destroyers, $2.3 billion for one Virginia-class attack submarine, and $370.8 million for one T-AKE auxiliary cargo and ammunition ship. It provides the full request of more than $1.5 billion for joint Strike Fighter program. It authorizes nearly $200 million for Navy transformation, including an increase of $178 million for converting four excess Trident strategic missile submarines to carry Tomahawk cruise missiles instead of two as requested in the budget. It authorizes more than $561.3 million for Unmanned Aerial Vehicles, UAVs, including an increase of $26 million for procurement of Predator UAVs, which have been used successfully in Afghanistan in the war on terrorism.

The conference agreement modifies the provisions that we adopted last year regarding the status of training exercises by the Navy and Marine Corps on the Island of Vieques. It cancels the referendum on live-fire training that was required in last year’s authorization bill. It also authorizes the Secretary of the Navy to close the Vieques training range only if the Secretary certifies to the President and Congress, according to the recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps, that an alternative facility or facilities will provide equivalent or superior training.

In view of the importance of this issue to the people of Puerto Rico, I would have preferred a solution that placed the decision on whether to close the range in the hands of the President. I believe that this approach would have been more likely to ensure peaceful access to the island for training purposes in the long run. However, the House rejected this approach, and this compromise is the best outcome we could achieve.

Included in the Conference Report Statement of Managers is an excerpt of a letter dated November 29, 2001, from Deputy Secretary Wolfowitz making it clear that the President prefers the approach we have taken in this bill. It reads:

Consistent with the commitments made by both the President and Secretary England, the Navy remains committed to identifying a suitable alternative and is planning to discontinue training operations on the island of Vieques in May of 2003, contingent upon the identification and establishment of a suitable alternative. However, until a suitable alternative is established, Vieques remains an important element in the training of our forces deploying to fight the war.

The conference-approved legislation by providing the funding needed to successfully conduct that war.

Just 3 weeks ago, I joined Chairman Levin in visiting our military men and women who are participating in Operation Enduring Freedom. We visited with sailors and airmen in Afghanistan, to support the men and women aboard the USS Carl Vinson, from which planes are flying in support of forces in Afghanistan. Our Nation can be proud of the men and women serving in our Armed Forces. The dedication, professionalism and bravery that is being displayed at any hour of the day or night is extraordinary.

During our trip to the region, we spoke with a Special Forces team of 11 men preparing to deeply into Afghanistan. I was struck by the professionalism, courage and dedication of these soldiers. With imminent danger ahead, their thoughts were of mission, home, family and their uncompromising love of country. They knew they were embarking on a critical mission, and they were ready to go.

I have had the privilege of being associated with the United States military for over a half a century, beginning as a young sailor in the closing days of World War II. I have never seen greater bravery or dedication or commitment in the faces of our soldiers, sailors, airmen and Marines. The support of the Congress and the American people is the only modest recognition they hope for. That, we owe to them. They have, not since the days of World War II, has the nation been so united behind the men and women in uniform.

I commend President Bush for his inspiration and leadership. During the nearly 10 weeks of military operations, he has communicated his clear intent, and he has not wavered. The American people are united behind him and behind our military.

It is interesting to note that, less than a year ago, the Bush Administration inherited a proud armed force but one that was showing the effects of a decade of underfunding and over commitment abroad. While U.S. service men and women performed their military missions with great dedication and professionalism, military personnel, equipment and infrastructure were increasingly stressed by the effects of the unprecedented number of military deployments over the past decade, combined with years of declining defense spending. This contributed to the situation the former Chairman of the Joint Chiefs of Staff referred to as the “strategy-resource mismatch.”
President Bush is to be commended for the increases he has proposed in defense spending. Prior to September 11, the President recommended increases for Defense for fiscal year 2002 totaling $38.2 billion. These increases represent an almost 11 percent increase in defense spending over the fiscal year 2001 amount. The amount for Defense requested by the President in the emergency supplemental totals over $20 billion. Hopefully that additional amount will make up for the President's solid proposal for fiscal year 2002. Senator Levin and I were able to conclude a conference agreement that is much needed by the military, particularly at this time of conflict when those in uniform and their families are facing all the dangers and unknowns of war. The conference report includes several provisions to improve the management and oversight of the Department of Defense. For example, there is a provision which addresses the Department's inability to produce reliable financial information or auditable financial statements, a long-time concern for myself and a number of my colleagues. The conference report also provides for improved management and greater competition for the $50 billion allocated for equipment programs, an increase of $528.7 million to the administration's budget request. The report also includes $36 million for various systems to improve accounting for spare parts inventories and streamlined maintenance. These are important steps in our efforts to improve the facilities in which our military personnel work and the housing in which they and their families live.

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appropriations for national defense by $1.3 billion, was modified significantly to give the President the option to apply this $1.3 billion to ballistic missile defense or to counterterrorism. I believe as we look very carefully and very closely at the threats we face today and the decision to put missile defense is more immediate and more central to our concerns of this moment. I hope the President will take that opportunity to apply those resources at $1.3 billion to counterterrorism.

Fourth, the President's announcement has been greeted by different opinions in different venues. My impression is that his announcement is both unwarranted and unwise. It is unwarranted because we are far away from the time that we have the technology to effectively deploy a national missile defense. It is also many years before I sense that we need to conduct tests that would be violative of the ABM Treaty. It is unwiseful because I think we have enhanced our relationship with Russia. Although their immediate response might be muted in some respects, what we will see is less than enthusiastic cooperation on a whole spectrum of cooperative efforts on which we will need their help and assistance, from anti-terrorism to the securing of their nuclear materials, to the securing of biological materials. In this sense, it represents a departure from an endeavor over many decades, to erect a regime of arms control to get the key awareness of our relationship with Russia.

I believe we have plenty of time to develop, and should develop, an adequate system and then face the decision of deployment and the decision of the treaty perhaps years from now. In October, Secretary Rumsfeld suggested there were four potential tests that would violate the treaty. As a result, he was canceling those tests. I think in fact that might have been a situation where we could have been postponed and therefore the decision could have been easily deferred with respect to the treaty.

One of the activities in question, for example, was the use of an Aegis ship radar to observe a missile defense test, clearly in violation of the ABM Treaty. The problem is the development of a sea-based missile defense system is at least a decade away. As a result, to rush forward and try at this point to put that on the field is more immediate and more central to our concerns of this moment. I hope the President will take that opportunity to apply those resources at $1.3 billion to counterterrorism.

The dynamics of world powers have definitely changed. But the reality is that nuclear weapons still are present in the world, they still must be contained, their use prevented—we hope. In this respect, we still have a need for a structured arms control regime, a structure that I think will not be aided by the abandonment of this administration of the ABM Treaty.

Now, there is encouraging news. There is news that the Russians and the United States may, either through treaty or by unilateral decision, reduce their warheads. That would be progress.

But I do believe we are sending a signal not just to the Russians but to the rest of the world that the United States is stepping back from multilateral treaties and bilateral treaties which will further the cause of arms control. That will set not only the wrong tone but indeed perhaps the wrong direction.

The other aspect of this unilateral approach is the fact that it may not provoke an immediate and demonstrable adverse reaction from Russia, but as I said before, it will inhibit the kind of full-fledged cooperation that we need to address the more immediate threat we see today—sought by the President today—that Russian assistance in many ways has helped immensely in our struggle in Afghanistan. The use of their intelligence sources and the fact that they have, in an economic sense, continued to propel the energy prices, that energy prices remain low are examples of their cooperative efforts.

I ask whether or not, given our unilateral withdrawal, given our unwillingness to continue a dialogue with respect to treaty modifications, would essentially undercut other areas of cooperation that, I argue, also are extremely necessary.

The proliferation of nuclear materials, the presence of vast stocks of biological materials, the field of biological terrorism, the field of anti-terrorism, all of these with questionable security mechanisms—raise a profound issue of our security. This afternoon in our committee we had a hearing with respect to the control of our nuclear weapons, and we have elaborated on procedures, expensive procedures. I suggest the Russians probably do not match us with those procedures but they should. That is an example of cooperation we have to undertake immediately, cooperation that might be undercut.

China has expressed concern—an other area we have to consider—in terms of their ability to deploy more missiles, to provide more sophisticated warheads with more penetrating aids, with more decoys so things that will make the world less stable, the nuclear balance less stable.

I believe we have, today, taken the wrong path. Rather than continuing to work for a structure of arms control agreements, we have turned away from that structure. I hope the President not only recognizes perhaps the arguments we are making this evening, but truly works to reach out to try to develop more cooperative efforts with Russia that are to our mutual advantage; also, that we would recognize we still have an obligation to develop a structure of arms control agreements that will make the world safer.

The other aspect of this is, in my view, unwarranted by the circumstances and unwise. I believe in the long run it will not aid materially our security. I hope the provisions we have included in this legislation that provide for overview of the Ballistic Missile Defense Program, that provide the option to use funds not only for ballistic missile defense but for counter-terrorism, will be used by the administration to pursue those aspects of counterterrorism and also a prudent development program for ballistic missile defense.

I yield the floor.

The PRESIDING OFFICER (Mrs. Lincoln). The Senator from Virginia.

Mr. WARNER. Our good friend from Rhode Island is a valued member of our committee, very hard working, very industrious. I expect it will be that situation for an indefinite period as the Chairman has himself, had a distinguished military career himself, a graduate of West Point.

But I do have a few differences of view. And my good friend, the chairman, utilized these same key phrases I keep hearing. That is, we have a great threat to our Nation from trucks, ships, or an airplane that might bring in a missile or some type of nuclear device. We are putting so much money on missile defense at the time “when it is the least likely means of delivery.”

I say to my friend, I listened carefully, but you don't rule out the possibility that someone could fire in anger but a single missile.

That is the fallacy that I find in this administration. They do not rule out, they do not address the possibility, that but a single missile would come in and in all probability that missile would cause devastation far greater than a device that perhaps was conveyed by a truck or otherwise.

So I think I just cannot accept the arguments, that concept of the “least likely” would deter this President or any President from proceeding toward a system to protect us against an attack by a limited number of missiles. That is all this President has asked repeatedly in his short term since he has been President. That is what he is asking. I hope Congress eventually delivers on that request by our President.

Then there is a second argument; that is, suppose a nation possessed nuclear weapons which potentially they could use against us. They might not fire the weapon. But as our President might be deploying our forces to a region of the world, perhaps not unlike the supposed coalition of coalition of nations, the threat could come: If you deploy a single member of the Armed Forces of the
United States in an effort to deter or, indeed, engage an enemy on a foreign land, which enemy is acting against an ally or friendly country or in any way inimical to the cause of freedom, that missile could be used as a threat against our President. A single missile could make the political and diplomatic change of the ability of a President, as Commander in Chief of our Armed Forces, to make a decision on a deployment.

So perhaps at some point those Senators who have spoken against this could also ask themselves what it is that I leave pending at this point.

The PRESIDING OFFICER. Who yields time to the Senator from Alabama?

Mr. WARNER. I yield such time as our distinguished colleague from Alabama desires.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair and I thank Senator WARNER for yielding time to me. It has been a tremendous experience for me to serve on the Armed Services Committee—over 3 years now, under the leadership of Senator WARNER and now Senator LEVIN.

It has been a pleasure to watch how the committee operates. On occasion, we have disagreements, but the committee works with such good grace and harmony and a generalized interest in what is best for America that I think it has been a good example for other committees.

Senator LEVIN, I thank you for your consistent courtesy, your brilliant leadership; and Senator WARNER, thank you for your leadership on this bill and in the past as chairman of the committee, now as ranking member.

I am generally very pleased with this legislation. Essentially, as I see it, we had about a $30 billion increase in expenditures planned in our budget item as we came forward this year over last year in actual appropriations dollars. Then we had a supplemental. Then we had the $20 billion supplemental that we passed after September 11. We are spending the money to do that, and it is time to move forward.

I believe this bill has progressed in those areas, for which I am very delighted. One of the issues that we did have a dispute about and debate about in the committee was what to do about an anti-ballistic missile system in our country. I believe it is time to move forward.

The Congress voted 94-to-3 to deploy an anti-ballistic missile system as soon as technologically feasible several years ago. President Clinton signed that legislation. I thought that pretty much settled it.

But we known a good bit of debate since. President Clinton put in $5 billion for ballistic missile defense this year in his budget request before he left office. Under President Bush, that figure was raised $3 billion, to $8 billion.

That is an increase he felt very strongly about. That was an increase that reflected an interest of his that was very important. He campaigned on it, and he wanted to do it. He has suggested ever since he was elected, and even before he was elected, that we ought to either negotiate a new treaty with Russia, or we ought to take advantage of the provisions in the treaty that allows him to get out of the treaty if he wants to. We ought to make the decision on a deployment.

Let me share a few things about this that I think are very important. We sign a treaty with the Soviet Union in 1972, with an “evil empire” that no longer exists. We now have a healthy, positive, growing, developing relationship with Russia—a country with which we want to continue to grow and develop our relationship. That old treaty has caused the least possible damage between us. It was only a few pages. It only dealt exclusively with the details of prohibiting us from developing a ballistic missile defense and the Soviet Union from building one. It was a good idea at the time. Nobody had missiles then. But the United States and Russia, and perhaps our allies in Europe, we didn’t feel threats from anywhere but each other.

We had mutual assured destruction. So we agreed that neither country would spend billions of dollars to develop a system that really wouldn’t be effective against the massive amount of missiles that each country had. But now something has changed. Other nations have missiles. Lots of nations have them. They are buying more on the market today. We know the story of North Korea. We know about Iran’s effort. We know other countries are expanding their ability to develop ballistic missile systems.

Thus, I think that leaves us in a vulnerable position. We are in an ironic position, if you think about it, by prohibiting this Nation from building a missile defense system to protect us from other hostile nations on the basis of a treaty from 1972 with a nation that no longer exists.

I don’t believe Russia has any right—certainly no moral right and no legal right—to ask the United States to keep a treaty, as Henry Kissinger said, vulnerable to attack because of that old treaty. They have no right under the generally recognized rules of international relations to ask a nation to leave itself vulnerable to serious attack because of that old treaty.

The President said he wants a new relationship with Russia. We are going to move forward, with a great new future between us. But I am not going to...
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Sit here and allow these United States to be vulnerable to attack from Korea, Iran, or any other nation that may acquire a nuclear missile and leave our people subject to attack.

As Senator Warner said, it is a real problem. President Bush is trying to build a national missile defense system. The administration has been unilaterally withdrawn from, and we don’t have money to transform the Army, or we don’t have money to buy high-tech weaponry, and we don’t have money to do other things. In the scheme of things, this extra $3 billion is not the back breaker to any one program when we have a $330-plus billion defense budget.

Also, I am pleased to see one of the finest Senators on the floor, Senator Cochran. It was his legislation, I believe with Senator Lieberman, that we passed overwhelmingly in this body 97-to-3 to deploy a national missile defense system as soon as was technologically feasible. He led that effort. He was ahead of his time.

I am sure he has every right to feel today that through that effort our Nation is moving on to a new day, geared more to the real threats that we face. I was pleased to support him in that effort, and Senator Lieberman. They were on the right track.

I believe the President has shown consistent courage throughout this effort. There were a lot of people who said we were testing it not going to go for this, the Senate is not going to go for this, and the Russians are not going to go for this.

I know the Russians knew we wanted to get out of the treaty, but they know it doesn’t do us a damn bit for us to get out of this treaty. They would like to see us maybe make some concessions on some other arrangements in order to try to justify them giving us a little here.

I will not call it extinction, but we are trying to deal with us on this issue. I am glad the President worked with them openly. He worked with this Congress openly. He worked with the American people openly. He campaigned on a national missile defense system. He has never waffled on it.

President Clinton’s was an unwise policy of claiming that he really wasn’t building a national missile defense system, but just doing some research on it. We are working on some things that are leading to the point where we were actually in violation of the treaty. A good lawyer could assert that.

President Bush has been honest from day 1. He said we have to get out of this treaty. We can’t keep on being clever and manipulative about the wording of it while intending to build a national missile defense system. The treaty prohibits the building of a national missile defense system. If it says anything at all, it says you cannot build a national missile defense system.

The President’s policy and the Congress’ policy was to build a national missile defense system. So we couldn’t play games forever with this treaty. It was time to put it out on the table. I salute him for biting the bullet on it. I believe it is the right step forward. I believe it will result in improving our ability to act in the world, giving the President some confidence that he does not have to be worried every minute that some missile might, by accident, be launched, or some small rogue nation might launch an attack on us.

Again, I salute our leaders, Senator Levin and Senator Warner, and all the members of the committee for their hard work. We made some real progress this year. I hope that we can continue it next year. If we have a disciplined, long-term approach to our defense spending, we can recapitalize the military. We can keep the Army, we can continue the high-tech investments in our Air Force, Navy and Marine forces and armaments, and make sure we are always ahead of the game.

We never want our men and women in combat fighting on behalf of the United States of America put in the same position that those soldiers of Iraq were in when they were being attacked on the road as they were retreating out of Kuwait. That is the kind of thing that this Nation must never allow to happen.

I believe we are doing the right things. We could use some more spending, but we are making progress. I am pleased to support this bill, and I thank our leadership for bringing it to the floor.

I yield the floor.

Several Senators addressed the Chair.

Mr. Warner. If the Senator will yield, I wish to thank our colleague, Senator Levin, the valued member of our committee. I say to the Senator, we thank you very much for your work throughout this year to make this bill possible and for your very thoughtful comments about the character and quality of the presentation.

Madam President, I yield such time to the distinguished Senator from Mississippi as he so desires.

Mr. Levin. Will the Senator from Mississippi yield for just 30 seconds?

Mr. Cochran. I am happy to yield to the Senator from Michigan.

Mr. Levin. I also thank our friend from Alabama for making a major contribution as the ranking member on the Seapower Subcommittee. We thank him for that effort. I thank him for his kind remarks in this Chamber. We have a very fundamental disagreement as to the way in which the ABM Treaty has been unilaterally withdrawn from, but that has not stopped us from having a very cordial, collegial relationship, or me thanking him for that contribution he makes to our committee. I thank the Senator from Mississippi.

The Presiding Officer. The Senator from Mississippi.

Mr. COCHRAN. Madam President, let me first thank the distinguished Senator from Virginia for yielding time to me on this conference report. And I commend the Senator from Alabama for his excellent, persuasive statement in support of the President’s actions that he announced was taking today to give notice that under the Anti-Ballistic Missile Treaty of 1972, the United States was withdrawing from that treaty. It took a lot of courage for the President to announce that today.

It has taken a lot of insight and hard work for the Senator from Alabama to rise to the position of leadership that he has in the Senate, on not only an
issue such as missile defense but on the wide range of issues that come before the Armed Services Committee on which he has served so effectively, and in a way that has reflected great credit on the Senate and on the State of Alabama.

I appreciate the kind remarks he has made about my efforts on the National Missile Defense Act of 1999, to which he referred in his remarks. There were a lot of people, a lot of Senators personally involved in that effort. He was one of them. He was right at the forefront of the effort to convince the Senate we needed to pass that legislation, that we needed to state it as a matter of national policy and elevate it in a way that it is the policy of the United States to deploy a missile defense system that will protect the United States, the territory of the United States, and the citizens of the United States from ballistic missile attack. And that is on the books.

This committee has also provided leadership in ensuring that authorities were given under this bill to the President to proceed to carry out that policy.

We have, in this conference report, $8.3 billion that is authorized for use by the administration to develop, to conduct research, to test in the missile defense programs that are underway now, to achieve the goals of not only the National Missile Defense Act of 1999 but the other responsibilities that the Commander in Chief has to protect deployed forces around the world from theater missile attack. They are already heavily involved in the activities around the world—Scud missiles other advanced missile systems—that threaten American forces that are deployed around the world.

We are at the point now of actually putting in the field defenses against these ballistic missiles. These are shorter range missiles. They are not ICBMs, and they do not travel as fast as ICBMs. But the Army has this program, the Theater High Altitude Area Defense. The acronym is THAAD, but it is not named for me.

The point I am making about that program is that it has been proven effective. It works. The tests have been phenomenally successful. There have been a series of tests with a missile hitting a missile to defend against and knock down an attack from these missile systems that would threaten our forces in the field. Those programs have achieved what the defense against missiles is possible by using interceptor missiles to knock them down.

We were heartened just recently when a missile was fired from Vandenberg, in the Pacific, and intercepted from Kwajalein. We saw that effectively tested so that the missile hit its target, traveling at high rates of speed, way up in the atmosphere. It is phenomenal what the research scientists have been able to accomplish in this area.

When President Bush was running for President, he told the American people, as Senator Sessions pointed out, that he was in favor of developing and deploying a national missile defense system. He acknowledged there was an impeding to doing that, and that impediment was a treaty the United States entered into with the Soviet Union, saying that neither would deploy a national missile defense system, except in one case: to protect a civilian population center or to protect an offensive capability. Those are the missile systems that could be launched against the other side.

The United States decided to deploy an ABM system back then. And the Senate grudgingly approved it. It was in the process of being deployed, and they changed their mind and had the authority for actual deployment of an ABM system that would protect our silos and missiles in the Dakotas. That is what we were going to protect.

The Russians, on the other hand, decided to deploy their system that was legal under the treaty to protect Moscow. And that system is still in place. People wonder: Why would you want to deploy an ABM system, West, Russia did. Russia system, and they still have it. It is still there. So they must think they have an effective, workable missile defense system in place.

So those who wonder whether it is possible to have a system that is workable and effective, look at that example, and look at theater missile systems that we have deployed, that we are deploying, and we have tested effectively, and then the series of tests for the system that has been under development here in the United States.

So what I want to do is simply point out how important the decision is to our national security interests that the President has made. By ending the ABM Treaty, the United States will be able to develop and field the best technology available to protect our citizens from missile attacks instead of being constrained by an outdated and counterproductive arms control agreement. America's scientists, engineers, and policymakers will finally be free to work toward a missile defense that responds to the threat, rather than fear of violating an outdated set of rules that prohibited testing of new technologies.

Some have predicted the sky will fall if the United States exercises its right to withdraw from this agreement and that the relationship between the United States and Russia will suffer irreparable harm from such an action. Some surely will be renewing such claims. Some have today, and in the days ahead we will hear these remarks. But before becoming overwrought, it might be helpful to note what the President of Russia said about this during his recent visit to the United States. Asked about the conflict between the United States and Russia over the ABM Treaty, President Putin said this:

Given the nature of the relationship between the United States and Russia, one can rest assured that whatever final solution is found, it will not threaten or put to threat the interests of both of our countries and of the world.

On September 11, ironically, the deputy chief of the Russian General Staff, Gen. Yuri Baluyevsky, said this:

I can assure you that our relations will be continuing regardless of whether the U.S. withdraws from the ABM treaty or not. [It] will not affect these relations of trust.

President Bush has successfully moved us beyond the cold war. He has made it clear that he will not tolerate a relationship between our two nations whose most fundamental basis is the threat of mutual annihilation and whose currency is fear, suspicion, and mistrust. The President has said he wants a new relationship with Russia, and he will not tolerate a relationship of a dangerous and bygone era. His decision to leave the ABM Treaty is a significant step in building that new
relationship, and the words of President Putin make it equally clear that Russia also wants a new relationship with the United States.

The debate over whether the United States should remain in the ABM Treaty is as important now as it was when we moved forward with the development and testing of missile defense programs, we should support our President and help him implement this important element of our homeland security.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, let me acknowledge that I have been a champion on this, and there have been times when I have disagreed with you. Nonetheless, we are now past that point.

I wish to very briefly take up other parts of this bill, including one in which Senator Reid has been so involved. I want to get to that point immediately because he is in the Chamber. I want to put this effort he has made to try to end what I think is a real unfairness in our law. The unfairness is that our disabled veterans are not permitted to receive both retirement and disability pay. The Congress and signed by the previous President.

The PRESIDING OFFICER. The Senator has the floor.

Mr. WARNER. Madam President, just one further comment: Understandably, there are those who disagree with the President, and they have accused him of a violation, but the Senator has correctly pointed out, the President was faced with, Do I move forward and break the law or do I comply with the terms of the treaty which are explicit? He decided to break the law. He in no way violated the terms of the treaty which are explicit? Am I not correct?

Mr. COCHRAN. The Senator is absolutely correct in pointing that out. That is another mark of the strong leadership the President has provided on this issue. He has made everybody understand what the real problems were and why this treaty was outdated, why we needed to move beyond the treaty is outdated. Defensive technologies are going to make us more secure because of the effort of other countries to overcome those technologies. We are going to have to try to overcome their efforts. We have debated that many times. The President has unilaterally given notice, and we are not going to have too many more of these debates. We will miss them because we have had fun doing this together.

We have held differences, also, on the Missile Defense Act of 1991. He was the author of the ABM Treaty. There were de-marcation agreements that were agreed to in the Clinton administration that limited the testing programs we were undertaking. All of that now is set aside.

When the notice the President gives becomes effective, the notice of intent to withdraw, we will then be able to resume tests that had previously been scheduled that we couldn't undertake without violating the treaty. The President was forthright and honest about it. He wasn't trying to hide our violations or get away with something that was prohibited under the treaty.

Mr. LEVIN. Madam President, let me very briefly say to my good friend from Virginia. His leadership and the efforts of Senator Levin, too, in helping to ensure that this conference report contains authorities and authorization for appropriations that will help us defend our homeland security are things for which we should all express our appreciation. I do that tonight with great thanks.

Mr. WARNER. Madam President, just one further comment: Understandably, there are those who disagree with the President, and they have accused him of a violation, but the Senator has correctly pointed out, the President was faced with, Do I move forward and break the law or do I comply with the terms of the treaty which are explicit? He decided to break the law. He in no way violated the terms of the treaty which are explicit? Am I not correct?

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Mr. LEVIN. Madam President, let me very briefly say to my good friend from Michigan, we have debated the question of whether violating the treaty country should unilaterally withdraw from the ABM Treaty and whether that would make us more or less secure probably on half a dozen occasions. I have always enjoyed those debates. We have always enjoyed each other's company, even though we are on different sides of that issue. It has been my feeling—and I have expressed it in a statement today and on the floor earlier tonight—that that will be a source as a result of unilaterally withdrawing from an arms control treaty. It is going to unleash negative forces, measures, countermeasures. We are going to find, I am afraid, in my judgment, that we are going to have a dangerous action/reaction cycle which is going to be precipitated.

Mr. LEVIN. Madam President, let me very briefly say to my good friend from Virginia, I have been a champion on this, and there...
are others in this body who have pointed out the inequity in the provision that prohibits the receipt of both retired pay and disability compensation.

At the end, we could not persuade the House to include this provision and have a better contestation in the House. So what we ended up with was something a lot less than what we hoped we would get, and that is the authorization for these payments to be made, the authorization to end the unfairness, but it would still require an appropriate appropriation to fund them in the House.

Mr. REID. Will the Senator yield for a question?

Mr. LEVIN. Yes.

Mr. REID, Madam President, I basically want to spread across the Record of this Senate my appreciation to the chairman and ranking member for the advocacy on behalf of the American veterans regarding this issue. This is basic fairness. Why should somebody retired from the military, who has a disability pension from the U.S. military, not be able to draw both? If that person retired from the Department of Energy, he could do both.

We have debated this, and there is overwhelming support from the Senate. It is the 1,000 a day we want the Record to be spread with the fact that I deeply appreciate, as do the veterans, your advocacy, I want the Record to also be very clear that the Senate of the United States has stood up for this. The House refused to go along with us.

Also, I feel some sadness in my heart because we are going to come back and do this next year. Sadly, next year there are going to be about 500,000 less World War II veterans. They are dying at the rate of about 1,000 a day. So people who deserve this and would be getting this during this next year will not because the average age of World War II veterans is about 79 years now. So there is some heaviness in my heart.

We are going to continue with this. I don’t want anybody in the House of Representatives to run and hide because there is no place to hide. This was killed by the House. For the third time, I appreciate Senator LEVIN and Senator WARNER.

So although I support the conference report for H.R. 3338, the National Defense Authorization Act for Fiscal Year 2002, I feel a sense of disappointment.

Once again this year, the conference report included a provision on an issue that I have been passionately working on for the last couple of years. Namely, the concurrent receipt of military retired pay and VA disability compensation.

Unbelievably, military retirees are the only group of federal retirees who must waive retirement pay in order to receive VA disability compensation.

Put simply, if a veteran refuses to give up their retirement pay, the veteran must forfeit their disability benefits.

My provision addresses this 110-year-old injustice against over 560 thousand of our nation’s veterans.

It is sad that 300–400 thousand veterans die every year. I repeat: 300–400,000 veterans die every year. They will never be paid the debt owed by America to its disabled veterans.

To correct this injustice, on January 24th of this year, I introduced S. 170, the Retired Pay Restoration Act of 2001.

My bill embodies a provision that permits retired members of the Armed Forces who have a service connected disability to receive military retirement pay and veterans’ disability compensation.

The list of 75 cosponsors clearly illustrates bipartisan support for this provision in the Senate.

My legislation is very similar to H.R. 303, which has 378 cosponsors in the House. I’m thankful to Congressman BILIRAKIS, who has been a vocal advocate for concurrent receipt in the House for over fifteen years.

My legislation is supported by numerous veterans’ service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

In October, I introduced an amendment identical to S. 170 for the Senate Defense Authorization bill. The Senate adopted my amendment by unanimous consent.

Unfortunately, the House chose not to appropriate funds for this important measure.

This meant that the fate of my amendment would be decided in the Senate.

This is an old game played in Congress in which members vote for an amendment to help veterans, knowing the Senate will not appropriate funds for this important measure.

It pains me deeply to see that my amendment was removed in conference.

This was a game played in Congress in which members vote for an amendment to help veterans, knowing full well the amendment will be removed at a later time.

When will decency replace diplomacy and politics when it comes to the treatment of America’s veterans?

Why won’t members of the House of Representatives join their Senate colleagues and right this wrong?

Why can’t we do our duty and let disabled veterans receive compensation for their years of service and disability compensation for their injuries?

We gather at a solemn moment in the history of our great Nation.

On September 11th, terrorists landed a murderous blow against the World Trade Center and the Pentagon.

Right away, we saw the men and women of our Armed Forces placed on the highest level of alert. American troops then deployed to the center of the storm, set to strike against the enemies of all civilized people.

Our Nation is once again calling upon the men and women of our Armed Forces to defend democracy and freedom. They will be called upon to confront the specter of worldwide terrorism.

They will be called upon to make sacrifices.

In some tragic cases, they will be seriously injured or even die.

Most believe that a grateful government meets all the needs of its veterans.

I am sad to say this is not the case today.

I will continue this fight until we correct this injustice once and for all.

Mr. LEVIN. I thank Senator REID. He has been a champion of this cause. He has fought harder than anybody I know to end this inequity. The House leadership simply would not go along with this. We had a choice: We would either have a bill or no bill. That is what this finally came down to.

I believe Senator REID got something like 75 cosponsors for his provision. The Senate overwhelmingly supported this provision. I hope we have better luck next year in the House.

In the meantime, the work we have done is what we have authorized this, and perhaps our Appropriations Committee will be able to find the means to fund this. But until next year, I am afraid the number of veterans you have pointed out—perhaps 1,000 a day—will not get the benefits they deserve.

Mr. REID. I am on the Appropriations Committee. I will work toward that. I do want the Record to reflect my overwhelming support for this legislation. I feel badly this provision is not in it, but it is to the House’s unconscionable legislative action to remove this provision on which the two of you have worked so hard.

Mr. WARNER. I also thank my distinguished colleague, Senator REID, for his leadership on this issue. We speak of a disabled veteran. I have had a lifetime of association with the men and women in the U.S. military. In my military career, I was not a combat veteran. But I served with many who have lost arms, legs, and lives. Those individuals, when they go into combat, and lose their limbs, or suffer injuries, are somewhat reduced in their capacity to compete in the marketplace for jobs and do all of the things they would like to do as a father with their children and their families.

I take this very personally. I feel that some day the three of us—and indeed I think this Chamber strongly supports it—will overcome and get this legislation through. I thank the Senator and I thank my chairman. We shall renew our efforts early next year.

Mr. LEVIN. I am on the Appropriations Committee. I want to again thank Senator WARNER. As he often points out, we came at the same time to this body. I have been blessed by having him as a partner and a ranking member for the last 15 years.

I take this very personally. I feel that some day the three of us—and indeed I think this Chamber strongly supports it—will overcome and get this legislation through. I thank the Senator and I thank my chairman. We shall renew our efforts early next year.
Chairman LEVIN and Senator WARNER, there are times, of course, that we don’t agree with each other, but there has never been a time I can remember in 23 years where we don’t trust each other.

There is nothing more important in this body to do than to look someone in the eye and say that. That is something I feel very keenly. Our staffs have been extraordinary in their work. This has been a very difficult bill.

In addition to thanking Senator WARNER, Madam President, I thank my great lawyer. He succeeded me as chairman. We just moved one step closer together. We were the first two Members of Congress to go into the area of operations in Afghanistan, having visited our troops in Uzbekistan, our troops in Pakistan and Oman, and then on up into the Bosnia region where we visited our respective National Guards who are serving there now.

As he says, the trust is there, the respect is there. We travel. We just finished our foreign trip. We were the first two Members of Congress to go into the area of operations in Afghanistan, having visited our troops in Uzbekistan, our troops in Pakistan and Oman, and then on up into the Bosnia region where we visited our respective National Guards who are serving there now.

I value our friendship. I look forward to hopefully many more years working together. I thank my friend. We shall carry forward. We do this in the spirit of bipartisanship on behalf of our men and women in uniform of the United States. We are here to do the people’s business, and I say to the Senator, we have done the people’s business. We have been a part of that effort by John Ansley, my chief of staff, having succeeded Les Brownlee; and Senator LEVIN’s wonderful David Lyles, and Peter Levine. I use Senator LEVIN’s lawyer’s legal brains as much as I use my lawyer’s legal brains.

I thank our distinguished Presiding Officer, again, for helping us here tonight. I again salute and commend my staff. I am a very fortunate individual to be served so well in the Senate. We share our staffs in many ways. They get along well together.

Mr. LEVIN. Indeed, they do.

Mr. THURMOND. Madam President, I rise in support of the Conference Report to accompany S. 1458, the National Defense Authorization Act for Fiscal Year 2002 and to congratulate Chairman LEVIN and Senator WARNER on this agreement. Having served both as the Chairman and Ranking Member of the Senate Armed Services Committee, I am aware of the challenges they have faced in reaching this compromise. It is a tribute to their leadership and strong support for our national security and our men and women in uniform that the Senate is considering this Conference Report.

Typical of all conference reports, this legislation is a compromise between the House and Senate bills. It is not a perfect bill, however, in my judgment it is a model of bipartisanship in the tragic events of September 11 and strengthens our national security. It will be critical to our effort to win the war against terrorism and meet the challenges of the ever increasing missile threat. To support the brave men and women of our armed forces, the Conference Report provides more than $15 billion. Of equal importance to our soldiers, sailors, airmen and Marines is the fact that the legislation includes the largest pay increase for military personnel since 1982, increased housing allowance and substantial improvements to the military health care benefits.

I am especially pleased that the agreement includes many programs to support our reserve components who are finally becoming equal partners to the reserve forces full-time manning by more than 1,700. It provides approximately $1 billion for reserves facilities enhancement and enhances both medical and commissary benefits for the men and women who serve our nation both as a citizen and as a soldier.

As with any compromise, there are winners and losers. I am disappointed that legislation includes a provision that will severely limit the ability of the Prison Industries to sell its products to the Department of Defense. This will have a significant impact on the prison system and its ability to provide programs to rehabilitate and occupy the prison population. I hope we will be able to reverse this setback with legislation that is pending in the Judiciary Committee.

Finally, I want to thank Chairman LEVIN, Senator WARNER, Chairman STUMP and Representative SKELTON for their leadership in the area of Energy programs. The conference report includes an increase of more than $700 million for key programs, including more than $200 million not requested in the budget to begin to re-capitalize the nation’s nuclear weapons complex infrastructure. As all those who have DoE facilities in their State know that much of the nuclear weapons complex infrastructure dates to the post-World War II era. It is critical that we begin to restore these facilities to ensure we maintain our nuclear capability.

This morning the House agreed to this conference report by a vote of 382 to 40. I urge my Senate colleagues to demonstrate no less support for our men and women in uniform and the Nation’s security.

Ms. SNOWE. Madam President, I rise today to support the fiscal year 2002 National Defense Authorization conference report which we passed today. As a former member of the Senate Armed Services Committee and chair of the Seapower Subcommittee, I fully appreciate the hard work and long hours my colleagues in the Senate and their counterparts in the House have dedicated to the completion of this report.

I also want to acknowledge the chairmen of the Armed Services Committee, Senator Lott, a former member, the senior Senator from Virginia, Mr. JOHN WARNER, for their superlub leadership throughout the entire defense authorization process.

First and foremost, the conference report continues to recognized the invaluable contributions—especially since the tragic events of September 11 and the subsequent advent of the war on terrorism—of our service members through significant improvements to their quality of life. In addition to substantial pay raises of five to ten percent, the report includes over $10.5 billion for military housing construction, which is a desperately needed increase of over $500 million from last year’s authorization; continues to improve upon the average and quality of healthcare for our active duty military members, retirees, and their family members; expands education benefits for service members and their families; and enhances the ability of active duty personnel to participate in federal, state, and local elections.

Secondly, the bill reaffirms Congress’ commitment to the war against terrorism by meeting the funding requirements needed to support our Soldiers, Sailors, Airmen, and Marines who are on the front lines with the planes, vehicles, ships, and armament they need to carry out their missions. Whether providing over $30 million to improve field living conditions for the ground troops, augmenting the Army, Navy, and Air Force budgets by over $560 million for unmanned aerial vehicles, or increasing funding for F-15 and F-16 engine conversions, this bill supports the diverse missions our armed forces are accomplishing to meet the national military strategy.

Given my tenure of the Seapower Committee and home state of Maine, I cannot overlook the substantial funding for ship construction provided by this bill. The conference report addresses the future of our nation’s Navy and the importance of recapitalization of our fleet by authorizing the construction of five new ships. This includes $3 billion for three DDG-51 Aegis class destroyers—the most advanced destroyers in the world; $370 million for the new ammunition and cargo ship, the T-AKE; and $2.3 billion for a Virginia class attack submarine.

Additionally, the committee has laid substantial and wind for continuing to modernize our amphibious fleet in fiscal year 2003 through the authorization of $421 million and $260 million in advance procurement funding for the LPD-17 and LHD programs, respectively.

I am also pleased to see that the Committee did not lose sight of the administration’s long-term goals of
transforming and modernizing the military. While we fall short of the Defense Department’s goal of allocating three percent of the defense budget to investing in future defense development programs, it does include substantial funding to meet future threats including chemical and biological weapons and develop the agility, mobility, and survivability necessary to meet the challenges of the future that we are glimpsing today in Afghanistan.

I voted for this legislation because I believe that it is critically important to ensure that our armed forces are fully prepared to carry out America’s war on terrorism. However, I support the bill despite my strong opposition to provisions authorizing a round of base closures in 2005.

Even before the horrific attacks of September 11, 2001, I had serious questions about the wisdom of the base closing process itself as well as the actual benefits realized. Now, with acts of war committed against the United States, I do not believe this is the time to be talking about closure of bases.

The base closure provision in this conference report requires that the Department of Defense submit a comprehensive force structure plan to Congress detailing the relationship between defense requirements and infrastructure. This is something I have been calling for 4 years. But I believe we need this plan before we debate base closures, not after we have already authorized them. This is putting the cart before the horse.

Before we legislate defense-wide policy that will reduce the size number of training areas critical to our force readiness, the Department of Defense ought to be held accountable for our investments in operational and maintenance infrastructure required to support our shifting national security requirements. Congress, instead, was pressed to authorize base closures essentially in the dark.

The administration and proponents of additional base closure rounds claim that reducing infrastructure has not kept pace with other post-cold-war military force reductions. They say that bases must be downsized proportionately to the reduction in total force strength. However, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Since the end of the cold war we have reduced the military force structure by 36 percent and have reduced the defense by 40 percent. But while the size of the armed services has decreased, the number of combatants who must be housed and fed has not. The provision of proper equipment and training to the men and women serving at home and on the front line requires proportionate support.

In the future all the more perplexing.

Sixty years of bombing has taken its toll on Vieques. The US citizens of Vieques and Puerto Rico have been patient long enough. They should be permitted a free and fair ability to express their wishes, which is a cornerstone of our great democracy. The language in this Bill which pertains to Vieques diminishes the rights of the citizens of Puerto Rico and the Senate should revisit this issue during the next session.

With respect to concurrent receipt, clearly, retirees who have incurred significant disabilities over the course of a military career deserve better than how they are treated today. Many such service members are compelled to forfeit their full-retired pay under current rules. I have stated before on the Senate floor, and I am compelled to reiterate now, retirement pay and disability pay are two distinct types of pay.

Retirement pay is for service rendered through 20 years of military service. Disability pay is for physical or mental pain or suffering that occurs during and as a result of military service. In this case, members with decades of military service receive the same compensation as similarly disabled members who served less than 20 years, with no recognition at all for their more extended, careers of service to our country. This is patently unfair.

President, once property is relin-

cquished and remedied, it is perma-

nently lost as a military asset for all

forces and the infrastructure required

to support our armed forces require to support and de-

fense our Nation and its interests. I want to protect the economic viability of communities in every State. And I want to make absolutely sure that this nation maintains the military infra-

structure it will need in the years to come to support the war of terrorism. We must not degrade the readiness of our armed forces by closing more bases, so I strenuously oppose the base closure provisions win this legislation, and believe it a mistake to include it in the DOD authorization.

With the exception of the basis closure provisions, this defense bill takes a positive step toward modernizing our armed services, meeting their operational and support requirements, and improving the quality of service for our committed men and women of the military.

Mr. SCHUMER. Madam President, I rise today in opposition to the conference report to accompany S.1438, the National Defense Authorization Act for fiscal year 2002. I am disappointed that the conference agreement did not include some key legislative provisions that I had sponsored in the Senate during the course of the normal legislative process, which would have gone a long way to transform the military as requested by the President. Some of the provisions in this bill that I find objectionable are provisions that: delay base realignment and closure, BRAC, authority until 2005, codify the anti-trade domestic source restrictions of the Berry amendment, and continue the unfair personnel policy which financially hurts disabled military retirees by reducing their earned military retirement. This is a broken promise to military retirees and their families, year after year. These are also the reasons why I did not sign the final conference agreement.

With respect to concurrent receipt, clearly, retirees who have incurred significant disabilities over the course of a military career deserve better than how they are treated today. Many such service members are compelled to forfeit their full-retired pay under current rules. I have stated before on the Senate floor, and I am compelled to reiterate now, retirement pay and disability pay are two distinct types of pay.

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and more must be done to correct this problem. I would also like to highlight that this year’s defense authorization bill contained $1.3 billion in unrequested add-ons to the defense budget that will rob other vital funding of priority issues. While this year’s total is less than in previous years, and is far less than the $4.5 billion in the defense appropriations bill, it is still $1.3 billion too much. We need to, and can do, better.

Over the past 6 years, Congress has increased the President’s defense budgets by nearly $60 billion in order to address the military services’ most important unfunded priorities. Still, it is sufficient to say that the military needs less money spent on pork and more money spent wisely to redress the serious problems caused by a decade of declining defense budgets.

We also must reform the bureaucracy of this bill does not even make significant improvements requested by the President and the Secretary of Defense when he presented his budget for fiscal year 2002. With the exception of minor changes, our defense establishment looks just as it did, the military does not. We must incorporate practices from the private sector, like restructuring, reforming, and streamlining to eliminate duplicative and capitalization on cost savings. More effort must be made to reduce the number of headquarters and to decentralize the Pentagon’s labyrinth of bureaucratic fiefdoms to change its way of doing business with its bloated staffs and its outdated practices.

In addition, more must be done to eliminate unnecessary and duplicative military contracts and military installations. Every U.S. military leader has testified regarding the critical need for further BRAC rounds. We can redirect at least $8.3 billion per year by eliminating excess defense infrastructure. There is another $2 billion per year that we can put to better purposes by privatizing or consolidating support and maintenance functions, something not considered in either body, and an additional $5 billion can be saved per year by eliminating “Buy America” restrictions that only undermine U.S. competitiveness overseas. Despite these compelling facts, the conference agreement does not. It did not, and several provisions that move demonstratively in the opposite direction.

The conference agreement delays a base realignment and closure, BRAC, round until 2005. There is no good reason to delay BRAC. By doing so, too many servicemen and women will continue to live in old and dilapidated barracks and homes because we have too many bases. Although I would prefer to say that base closing is a new idea, it isn’t. In 1983, the Blue Ribbon Defense Panel recommended “federal commitment to consolidation of military activities at fewer installations would contribute to more efficient operations and would produce substantial savings.” In 1983, the President’s Private Sector Survey on Cost Control, “Grace Commission,” made strong recommendations for military base closures. In 1987, the Quadrennial Defense Review recommended, even after four base closure rounds in 1988, 1991, 1993 and 1995, the Armed Forces “must shed excess infrastructure.” Likewise, the 1997 Defense Reform Initiative, DRI, and the National Defense Panel, NDP, strongly urged Congress and the Department of Defense to move quickly to restore the base realignment and closure, BRAC, process.

Defense Secretary Rumsfeld, former Secretaries Dick Cheney and William Cohen, the Chairman of the Joint Chiefs, all the Service Chiefs, the Congressional Budget Office, and other respected defense experts have been consistent in their plea that the Pentagon be permitted to divest themselves of excess infrastructure beyond what was mandated in the first rounds of base closings. Through the end of 1998, the Pentagon had closed 97 major bases in the United States after four previous rounds of BRAC. Since then, it has closed none. Moreover, the savings from the base closing additional unneeded bases would be shifted to force modernization.

The Department of Defense is obligated to maintain 23 percent excess capacity in infrastructure. When we actually look at what the Pentagon has done, the Unfunded Priority Lists as provided by the Service Chiefs, it is important to look to the billions of dollars that would be saved by base realignment and closure. Only 30 percent of the defense budget funds combat forces, while the remaining 70 percent is devoted to support functions such as bases. Continuing to squander precious dollars in this manner will make it impossible for us to adequately modernize our forces. The Joint Chiefs of Staff have stated repeatedly that they desire more opportunities to streamline the military’s infrastructure.

Total BRAC savings realized from the four previous closure rounds exceed total costs to date. Department of Defense figures suggest previous base closings will save, after one-time closing costs, $15 billion through fiscal year 2001, $25 billion through fiscal year 2003 and $3 billion a year thereafter. Sooner or later these surplus bases will be closed anyway. The sooner the issue is addressed, the greater will be the savings that will ultimately allow for defense modernization and greater pay raises for service members. Delaying the BRAC process, as we have done in this Conference Report, only harms force modernization and hurts the pocket book of service members, their families and military retirees. We can continue to maintain a military infrastructure that we do not need, or we can provide the necessary funds to ensure our military can fight and win future wars. Every dollar we spend on unnecessary bases precludes our military leaders from spending scarce resources on training our troops, keeping personnel quality of life at an appropriate level, maintaining our nuclear deterrent, new weapon systems, and advancing our military technology.

In my view, the Committee on Armed Services took a step backwards by continuing in Title 10 restrictions which divert necessary funds to ensure our military is properly equipped. Every dollar we spend on archaic procurement policies, like “Buy America,” is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

It would be unconscionable not to examine the potential for savings from removing certain protectionist procurement policy instead of codifying in Title 10 procurement legislation which obligates the Department of Defense to maintain wasteful spending. Secretary Rumsfeld and Joint Chiefs of Staff have stated repeatedly that they want more flexibility to reform the military’s archaic acquisition practices. We need to give them that flexibility.

I have spoken of the issue before in this Chamber when I pointed out the potential impact of certain domestic source restrictions on bilateral trade relations with our allies. From a philosophical point of view, I oppose protectionist trade policy, not only because I believe free trade is an important means of improving relations among nations and a key to major U.S. economic growth, but also because I believe we must reform these practices in order to get more bang for our defense dollars.

Finally, I am disappointed that the conferees did not adopt legislation by Representative Heather Wilson, R-NM, that would rescind a congressionally-mandated provision added in the National Defense Authorization Act for Fiscal Year 1999 over the strong objections of the civilian and military leadership and would return Second Lieutenants and Ensigns to regular commissions vice reserve commissions.
upon graduation from one of the Service Academies or certain ROTC scholarship programs.

Service Academies have a unique opportunity and special responsibility to provide an environment that cultivates the values, demands, and internalization of honor, loyalty, integrity, and moral courage, the qualities essential to developing leadership. The core of our officer commissioning program are the Service Academies, this is not to say that the ROTC, OCS, and other critical commissioning programs are not outstanding, they are, just look at our current military leadership: Chairman of the Joint Chiefs, General Richard Myers, Chief of Naval Operations, Admiral Vern Clark, and Marine Corps Commandant General Jim Jones. I believe returning to regular service commissions for Academy and certain ROTC junior officers will inspire a core of career-oriented officers for our military.

In conclusion, I would like to reiterate my belief in the importance of enacting meaningful improvements for active duty and Reserve service members. They risk their lives in Afghanistan and elsewhere to defend our shores and liberties abroad, and we cannot thank them enough for their service. But, we can and should pay them more, improve the benefits for their families, and support the Reserve Components in a manner similar to the active forces. Our service members past, present, and future need these improvements. We also cannot continue with this “business as usual” mind set. We must reorganize the Department of Defense and take on the special interest groups that attempt to warp our perspective and misdirect our spending. We owe so much more to our men and women in uniform who defend our country. They are our greatest resource, and I believe they are woefully under-represented. We must continue to do better.

I ask unanimous consent that a list of items added to the defense authorization bill Conference Report by the Conference Committee be printed in the Record.

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

### Fiscal Year 2002 Defense Authorization Bill Conference Report—Continued

#### Title I—Procurement

<table>
<thead>
<tr>
<th>Program</th>
<th>In million of dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft Procurement</td>
<td>$215.0</td>
</tr>
<tr>
<td>Army Rotary Wing: Helicopter New Training</td>
<td>$15.0</td>
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<tr>
<td>Other Procurement</td>
<td>$155.0</td>
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<tr>
<td>Combat Command</td>
<td>$250.0</td>
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<tr>
<td>High Frequency Radio (UHF)</td>
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<tr>
<td>Shipyards and Conversion, Army—Shipyards, Craft and Prior Year Programs</td>
<td>$200.0</td>
</tr>
<tr>
<td>Missile Program</td>
<td>$50.0</td>
</tr>
<tr>
<td>Air Force—Other Support, Space Programs</td>
<td>$100.0</td>
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<tr>
<td>Nuclear Deterrent Forces Deterrent Forces</td>
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</table>

#### Title II—Research, Development, Test and Evaluation

<table>
<thead>
<tr>
<th>Program</th>
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</thead>
<tbody>
<tr>
<td>Army Materials Technology</td>
<td>$50.0</td>
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<tr>
<td>Combat Vehicle and Automotive Technology</td>
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<tr>
<td>Counterintelligence Systems</td>
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<tr>
<td>Medical Advanced Technology</td>
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<tr>
<td>Combat Vehicle and Automotive Advanced Technology</td>
<td>$150.0</td>
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<tr>
<td>Environmental Quality Technology Demo/Vol</td>
<td>$70.0</td>
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<tr>
<td>Family of Heavy Tactical Vehicles</td>
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</tbody>
</table>

#### Fiscal Year 2002 Defense Authorization Bill Conference Report—Continued

<table>
<thead>
<tr>
<th>Program</th>
<th>In million of dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Army Reserve: St. Petersburg Armed Forces Reserve Center</td>
<td>$34.0</td>
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<tr>
<td>Air Force Reserve: Homestead ARB Add/Alter Communications Facility</td>
<td>$20.0</td>
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<tr>
<td>Georgia National Guard: Moody Air Force Base</td>
<td>$8.0</td>
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<tr>
<td>Hawaii National Guard: (Pahukou Training Area)</td>
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<tr>
<td>Land Acquisition (Kahuku Windmill Site)</td>
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<tr>
<td>Land Acquisition (Parker Ranch)</td>
<td>$14.1</td>
</tr>
<tr>
<td>Naval Station Island Water Replacement</td>
<td>$1.5</td>
</tr>
<tr>
<td>Illinois National Guard: Rock Island Arsenal Child Development Center</td>
<td>$3.5</td>
</tr>
<tr>
<td>Indiana National Guard: Crane Surface warfare Center</td>
<td>$9.1</td>
</tr>
<tr>
<td>Demilitarization Facility</td>
<td>$66.0</td>
</tr>
<tr>
<td>New York National Guard: Fort Wayne MP Upgrade Aircraft Parking Ramp and Taxiway</td>
<td>$8.5</td>
</tr>
<tr>
<td>Kansas Air Force: McConnell AFB and Wellness Center</td>
<td>$5.1</td>
</tr>
<tr>
<td>Kentucky Air Force: Fort Knox Multi-Purpose Digital Tank Range</td>
<td>$12.0</td>
</tr>
<tr>
<td>Defense-Wide: Bluegrass Army Depot Ammunition Demilitarization Facility</td>
<td>$3.0</td>
</tr>
<tr>
<td>Louisiana Air Force Reserve</td>
<td>$10.0</td>
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<tr>
<td>Air Force: Barkley AFB Control Tower</td>
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<tr>
<td>Nevada Reserve: Las Vegas Joint Reserve Base Joint Reserve Center</td>
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<tr>
<td>Maine National Guard: Gateway 2000</td>
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<tr>
<td>Maryland Air Force: Fort Meade Operations Facility (51st Signal Company)</td>
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<tr>
<td>National Guard: Aberdeen Proving Ground Ammunition Demilitarization Facility</td>
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</tr>
<tr>
<td>Michigan National Guard: Barnes ANGB Support Facility</td>
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<tr>
<td>Michigan National Guard: Augusta TADS Instruction/Administration</td>
<td>$13.32</td>
</tr>
<tr>
<td>Army: Fort Knox Multi-Purpose Digital Tank Range</td>
<td>$9.5</td>
</tr>
<tr>
<td>Minnesota National Guard: Duluth IAP Composite Aircraft Maintenance Complex</td>
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</tr>
<tr>
<td>Air Force Reserve: Minnesota-St. Paul AFB Consolidates Lodging Facility</td>
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<tr>
<td>Mississippi National Guard: Picayune AFB Arsenal</td>
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<tr>
<td>Air Force: Barksdale AFB Control Tower</td>
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</tr>
<tr>
<td>Mississippi National Guard: Barksdale AFB Health and Wellness Center</td>
<td>$10.0</td>
</tr>
<tr>
<td>Mississippi National Guard: Barksdale AFB Joint Reserve Base Joint Reserve Center</td>
<td>$10.0</td>
</tr>
<tr>
<td>Missouri National Guard: Fort Knox Multi-Purpose Digital Tank Range</td>
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<tr>
<td>Montana Air Force: Malmstrom AFB Child Development Center</td>
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<tr>
<td>Montana National Guard: Fallon Naval Air Station Water Treatment Capital Improvements</td>
<td>$6.15</td>
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<tr>
<td>New Mexico Army: Picketty Arsenal High Energy Propellant Formulation Facility</td>
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<tr>
<td>Nevada National Guard: Fort Bliss Multifaceted Digital Tank Range</td>
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</tr>
<tr>
<td>Nevada National Guard: Fort Bliss Joint Reserve Base Joint Reserve Center</td>
<td>$12.6</td>
</tr>
<tr>
<td>New Mexico Army: White Sands Missile Range Professional Development Center</td>
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<tr>
<td>Air Force: Kirtland AFB Upgrade Small Arms Range Support Facility</td>
<td>$4.3</td>
</tr>
<tr>
<td>New York Air Force: Fort Drum Training Area Access Road</td>
<td>$18.5</td>
</tr>
<tr>
<td>New York National Guard: Watsco Field</td>
<td>$1.5</td>
</tr>
<tr>
<td>Civil Engineering Facility</td>
<td>$2.0</td>
</tr>
<tr>
<td>Composite Readiness Support Facility</td>
<td>$2.5</td>
</tr>
<tr>
<td>Watsco AFB Feel Comfort Suspension Hangar Additions</td>
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<tr>
<td>North Carolina Army National Guard: Fort Bragg Military Education Facility</td>
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<td>North Dakota Army National Guard: Hector IAP Weapons Release Systems Complex</td>
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<tr>
<td>Ohio Air Force: McGuire AFB Air Freight Terminal/Base Supply Complex</td>
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<tr>
<td>Ohio National Guard: Fort Ripley Readiness Center</td>
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<tr>
<td>Ohio National Guard: Great Lakes Readiness Center</td>
<td>$5.0</td>
</tr>
<tr>
<td>Ohio National Guard: Hocking County Readiness Center</td>
<td>$3.4</td>
</tr>
<tr>
<td>Air Force: Wright-Patterson AFB, Security Gate, Base Entrance</td>
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</tr>
<tr>
<td>Armored National Guard</td>
<td>$2.0</td>
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<tr>
<td>Bowling Green Regional Readiness Center</td>
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<td>Caddo Region Readiness Center</td>
<td>$2.63</td>
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<tr>
<td>Air National Guard: Springfield-Buckeye Municipal Airport</td>
<td>$10.6</td>
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<tr>
<td>Omaha Air Force: McConnell AFB</td>
<td>$3.2</td>
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<tr>
<td>Oklahoma Air National Guard: Oklahoma City Readiness Center</td>
<td>$9.32</td>
</tr>
<tr>
<td>Arkansas Air Force: Fort Smith</td>
<td>$8.3</td>
</tr>
<tr>
<td>Air Force Reserve: Joint Force Reserve Center</td>
<td>$8.3</td>
</tr>
</tbody>
</table>
Here was an opportunity—a real chance to address a serious inequity and we let it fall by the wayside. What message are we sending to our Armed Services? This ingratitude only hurts those men and women who have devoted their working lives to our Nation because it only affects military retirees. If a soldier retires from the service after 20 years and has sustained a service-connected disability along the way, then their VA disability payments are subtracted from their military pensions. It makes no sense that those in uniform who suffer a service-connected disability end up being penalized for deciding to remain in the military, while those who chose to leave the military receive their disability payments along with any pension they may receive from an additional employer. The longer you serve in the military, the more you are penalized. Does this make sense? It doesn’t to me. They surely have earned both.

We have been fighting this fight now for too long. Year after year, it is brought to the floor and year after year Senators stand up and sing its praises. Now more than ever, Americans are fully aware of what the sacrifices of our Armed Forces mean to us all. The horrific attacks upon our country on September 11 and the recent 60th anniversary of the attack on Pearl Harbor have made us all appreciate the men and women who have selflessly served our nation and continue to protect our freedoms today. When our troops eventually return from serving in Afghanistan, undoubtedly there will be some among them who will find themselves penalized by our inability to correct this wrong. I am frustrated that even in this time when the importance of our troops is more evident than ever, we continue to shortchange our veterans. So here we are poised to send a vastly reduced version of legislation that had huge bipartisan support in Congress to the President for signature. It is my hope the minor concessions made under the Department of Defense authorization conference report will serve as a stepping-stone for future improvements. But still, how many more military retirees must see their VA disability payments reduce their retirement benefits before more meaningful changes are made and this inequality is ended?

We have troops in the field as I speak, putting their safety on the line to protect our way of life, and passage of this Defense Authorization bill is vital to our military operations. So it is important that this bill be passed. But, I want to put my colleagues and this administration on notice, this isn’t the last battle in this war. One day those who put their lives at risk by wearing the uniform of this country, and who sacrificed their lives for this service, won’t be punished for their duty. This is an un fairness that should have been corrected years ago, and an unfairness that will continue to plague those who offered their lives for the freedom we all enjoy. There is too much at stake here and I am not going to give up the fight to enact full concurrent receipt until we get this corrected.

Mr. CRAIG. Madam President, I want to address one provision of this very important bill having to do with Department of Energy facilities. This bill will require the Department of Energy to submit to Congress a plan for the infrastructure of the nuclear weapons complex. This will include those facilities that support the nuclear weapons stockpile, the naval reactors program, and nonproliferation and national security activities.

In my view, we have not seen adequate investment in the Department of Energy’s facilities over the last 10 years. This is true of the facilities and infrastructure that support both the defense and civilian missions of the Department of Energy. In addition to its vital national security missions, DOE is a premier science agency of the U.S. Government. I am concerned that my colleagues want to begin to address the decline in DOE’s infrastructure. I think this plan will be an opportunity for DOE to begin a dialog with Congress on what levels of new investment are needed.

The Naval Reactors Program—a joint DOE and Navy program—has a very proud history at the Idaho National Engineering and Environmental Laboratory in my State. Although this program is not as active as it historically was in Idaho, the critical mission of fuel examination and storage continues at the Naval Reactors Facility. This work allows our country to have continued confidence in the ability to secure our nuclear vessels to any global hotspot or point of conflict, on short notice and fully fueled. In this way, nuclear power continues its critical role in our national defense. As chair of the Nuclear Reactors Program, I am confident that as long as the Navy sends its spent nuclear fuel to Idaho for examination and storage, they will provide for the safekeeping of this material until a deep geologic repository is opened. In fact, the Navy is party to a court-enforceable agreement with the State of Idaho that commits to this very objective. I look forward to working with my colleagues in Congress, the Navy and DOE on securing a robust nuclear infrastructure within the DOE complex.

Mr. LIEBERMAN. Madam President, I am very pleased that the National Defense Authorization Act, which the Senate has passed, contains provisions to allow Federal civilian employees and military personnel, as well as their family members, to make individual use of frequent-flyer miles and other promotional benefits offered as a result of the passage of this legislation. This measure, found in section 1116 of the legislation, will correct a glaring inequity that exists between government
and private sector employees for work-related travel. The time has come for us to recognize that the current prohibition on frequent flyer benefits is unfair to our Federal workforce as well as unnecessary for good government. In fact, by making these benefits available to private sector workers, we will help make Federal service more competitive with the private sector.

I am especially proud that this measure applies to military personnel, many of whom are deployed in hostile environments far from home and family. This time of war brings home the fact that every soldier, sailor, pilot and marine who serves our country around the clock deserves the best treatment we can offer.

This provision originated in an amendment to the Defense Authorization bill offered in the Armed Services Committee in September by Senator WARNER and myself, and was further developed as S. 1498, a bill which I introduced in October with Senators THOMPSON, WARNER, and VOINOVICh, and which provided the basis for the final language of section 1116.

I ask unanimous consent that a section-by-section analysis of this provision be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

SECTION 116.—RETENTION OF TRAVEL PROMOTIONAL ITEMS

Subsection (a)—Definition. The term "agency" has the meaning given under 5 U.S.C. §5701.

Subsection (b)—Retention of Travel Promotional Items. This subsection provides that government personnel and others may make personal use of frequent flyer miles and other promotional items received from official travel. Travel may be either at Government expense or accepted by the Government from a non-Federal source. This provision is comprehensive, covering travel by civilian, military and foreign-service personnel, family members when on official travel (as when personnel are being relocated), and any other individuals (such as academic experts or fellows) who may travel at Government expense (or accepted by the Government from a non-Federal source).

Subsection (c)—Limitation. This subsection provides that only "agencies" (as defined in subsection (a)) are covered by the section. Paragraph (1) of subsection (c) states that only travel at the expense of such an agency (or agency from a non-Federal source) is covered by the section, and paragraph (2) states that travel by an officer, employee, or other Government official who is not in such an "agency" is not covered. Thus, Government personnel in one agency are covered even if they are traveling at the expense of another agency, but Government personnel who are not in any agency, even if an agency is paying for the travel.

As noted above, subsection (a) applies the definition of "agency" in 5 U.S.C. §5701, and that definition is further established by 5 U.S.C. §§101-105, which define certain terms used in §5701. The section thus covers all government personnel and agencies and most other executive-branch agencies. In the legislative branch, the section covers the General Accounting Office, the Library of Congress, the Government Printing Office, and other legislative-branch agencies. All offices and agencies in the judicial branch are covered.

Governmental entities outside of the definition of "agency" in 5 U.S.C. §5701 are not considered to be covered by the existing ban on the use of frequent flyer miles that section 6008 of the Federal Acquisition Streamlining Act, and have established their own rules and policies on this subject—some allow their employees to use frequent flyer miles and some do not. This section would not affect any of these entities. These entities include the U.S. Postal Service, government-controlled corporations, and the House and Senate.

Subsection (d)—Regulatory Authority. This subsection provides that an agency with authority to regulate official travel may issue regulations necessary to carry out subsection (a) with respect to promotional items granted in connection with such travel. So, for example, for travel by members of the foreign service, the Secretary of State may issue such regulations; for travel by members of the uniformed services, the Secretary of Defense may issue such regulations; and for travel by most other civilian employees, the Administrator of GSA may issue such regulations.

Subsection (e)—Repeal of Superseded Law. This subsection repeals section 6008 of the Federal Acquisition Streamlining Act, which now requires that awards under a frequent traveler program or other promotional items be devoted to official travel.

Subsection (f)—Applicability. This subsection provides that the section shall apply to promotional items received before, on, and after the date of enactment.

Mr. REID. Madam President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. The PRESIDENT. Without objection, it is so ordered.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

AMENDMENT NO. 2598

Mr. HARKIN. Madam President, what is the business before the Senate at this time?

THE PRESIDING OFFICER. The Memorial Day amendment of Senator Wellstone.

Mr. HARKIN. The McCain amendment to the substitute, with the understanding that tomorrow morning we will come in, the McCain amendment will be put in order on the substitute after we debate the Wellstone amendment and lay it aside tomorrow. We will not dispose of it until we come back next week.

Mr. HARKIN. Well, then, let’s see if we can work with the Chairman, with the understanding that we take the McCain amendment off tonight so we can deal with other things, with the understanding or with the agreement, with the consent that tomorrow morning the first thing we will turn to is the Wellstone amendment; when the debate is finished on the Wellstone amendment, Senator MCCAIN be recognized to offer his amendment on the substitute, and it can debated.

THE PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object, I just wish to respond to my colleague.

THE PRESIDING OFFICER. The Senator from Indiana?

Mr. LUGAR. Madam President, I think he is outlining a reasonable course of activity. As I understand the Senator’s proposal, Senator WELLSTONE would debate his amendment, others would debate the amendment as we know, a rollcall vote will not be in order, given the unanimous consent agreement, until Tuesday. Therefore, after that debate, this will be laid aside, and then Senator MCCAIN will be recognized so we can proceed thereto. If the Senator from New York has suggested, to amend the—whichever—the underlying amendment at that point; is that what the Senator said? In any event, whatever appears to be in order so he is able then to complete the debate on his amendment.

Mr. HARKIN. Maybe I should inquire of the President, what is the order right now?

THE PRESIDING OFFICER. The McCain amendment?

Mr. HARKIN. Further inquiry, Madam President. Is there a consent agreement now in which lines up some other amendments?

THE PRESIDING OFFICER. No, there is not.

Mr. HARKIN. There is not. May I further inquire, where is the Smith amendment and the Torricelli second-degree amendment thereunto in the order of things right now?

THE PRESIDING OFFICER. Those are pending to the Substitute.

Mr. HARKIN. If they are pending to the Substitute, then the Wellstone amendment will be to the Substitute, and so we will have to lay aside the Smith and Torricelli amendments tomorrow morning in order to go to Wellstone.

THE PRESIDING OFFICER. That is correct, as well as laying aside the McCain amendment.

Mr. HARKIN. Well, then, let’s see if we can come to the same understanding of this. What we would do tomorrow morning is lay aside the pending Smith amendment and the Torricelli second-degree amendment thereunto. We would
then proceed to debate on the Wellstone amendment. When debate is finished on the Wellstone amendment, we would then go to the McCain amendment as an amendment to the substitute, at which time after the McCain amendment has been disposed of, we would then return to the Smith amendment with the Torricelli second-degree amendment thereto.

The PRESIDING OFFICER. Provided that the McCain amendment has been withdrawn, the Senator is correct, and assumption that a Wellstone amendment is offered and subsequently the McCain amendment is offered.

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Jepsen). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the following amendments be laid aside and subsequently the McCain amendment be withdrawn, and that the following authority of the farm bill on Friday, the pending Smith and Torricelli amendments be laid aside and Senator Wellstone be recognized to offer an amendment regarding EQIP grants; that following debate in relation to the Wellstone amendment the amendment be laid aside, and Senator McCain or his designee be recognized to offer his amendment regarding catfish, and that following the reporting of the clerk, the McCain amendment be laid aside; further, that the pending amendments may be set aside with the concurrence of both managers for the purpose of offering additional amendments.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the McCain amendment No. 2598 be withdrawn, and that the following amendments be laid aside when we reach the consideration of the farm bill on Friday, the pending Smith and Torricelli amendments be laid aside and Senator Wellstone be recognized to offer an amendment regarding EQIP grants; that following debate in relation to the Wellstone amendment the amendment be laid aside, and Senator McCain or his designee be recognized to offer his amendment regarding catfish, and that following the reporting of the clerk, the McCain amendment be laid aside; further, that the pending amendments may be set aside with the concurrence of both managers for the purpose of offering additional amendments.

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

Mr. HARKIN. Mr. President, basically the situation is this. We are open for business again. We could take amendments right now, but I can see that there are not many people around right now.

I want to point out again that we are on the farm bill. It is Thursday, December 13. It looks as if we will have another week and a day here. Probably next Friday we will adjourn.

We have to get this farm bill done. As chairman of the Agriculture Committee, I believe I have been more than lenient and willing to let other bills come up—the Education bill next Monday, tonight the Defense bill—but now it is the hour when we have to focus on the farm bill and we have to get it done. So I intend to object to going to anything else. We will remain on this farm bill.

Obviously, conference reports are privileged, but for my part there will not be anything else to come before the Senate until we finish this farm bill. It will take unanimous consent to get off the farm bill and I, frankly, am serving notice right now that I am not giving consent for anything that keeps us from finishing the farm bill. If people want to vote against it and defeat it, that’s their business. But at least let’s get to a vote and let people know whether or not we are going to pass this farm bill. At this point in the Senate is we do not want this farm bill. But we ought to have at least a vote this year.

Farm groups all over America have been writing and calling, asking us whether we will pass this farm bill. They have not done. We have done our job in committee. I point out again, and again, every single title of this farm bill was passed unanimously out of the committee except one, the commodity title, and that at least had some bipartisan support.

I was fully aware that we would have an amendment on the floor by Senators Cochran and Roberts that was going to try to change the focus of the farm bill on the commodities and some other titles. We have been wanting to see the Cochran-Roberts amendment. We have been hearing about it, but they will not bring it up. Where are they? They are nowhere to be seen. They were not here yesterday. And I dare say they will not be here tonight. Will they be here tomorrow? There is some sort of Cochran-Roberts amendment, but they will not offer it.

It is an unusual way to make legislation unless—unless it is the desire and the plan to stop this bill from going through this year. Maybe that is the plan.

We ought to have a finite list of amendments. We ought to know what amendments may be offered. I don’t know what amendments are out there. I will ask tonight, and I will ask tomorrow, may we have a finite list of amendments? Is that possible?

Would we be able to finish and go to third reading by Tuesday night? Would that be possible? Could we do that? Or by Wednesday? Could we be finished by Wednesday noon? How about Wednesday night? Which amendments do we need to consider? We can’t seem to get anything agreed to on this.

With all due respect to my friend and my ranking member, Senator LUGAR, I just hope we can reach some kind of finite list of amendments and get them listed.

I will be asking unanimous consent for that tomorrow. I will not tonight. But tomorrow I will ask unanimous consent whether by a certain time tomorrow we may have a finite list of amendments. If that is not acceptable, I will ask for such a list by Monday. I will see whether we can ever get to a point where we can have a finite list of amendments. If not, then it will be apparent that some do not want this bill to pass this year, for whatever reason.

Again, I am not saying this is necessary so. But I am saying that is what it appears to be. We have to move ahead on the bill. Yet here we sit. We could have amendments tonight. It is not unusual to be in session Thursday night.

Senator LUGAR and I are on the floor. We are willing to work. We are willing to stay here and listen to debate and have amendments and vote. However, no one else is here, except the occupant of the chair, of course.

We cannot get the cooperation to get this farm bill moving. I hope tomorrow morning we will have some debate. I want to put on notice all offices who are watching on television right now that we will have amendments tomorrow. There will be no votes tomorrow. That has already been agreed to. But we will have amendments tomorrow, and amendments will be debated. Then they will be set aside. We have tried to stack votes for them on Tuesday. There won’t be any votes on Monday either.

We will have debate tomorrow. We will stack the votes on Tuesday. But there will be debate on amendments tomorrow.

I say to anyone who has amendments to offer that they should offer them tomorrow because, again, members ought to know we are going to vote on cloture again on Tuesday morning. If cloture happens, and they have not offered their amendments, they may be out of order.

Again, if we don’t get cloture on Tuesday, we will vote again on cloture on Wednesday. If we don’t get cloture on Wednesday, we will vote again on it on Thursday. We will just see whether or not there are those in this body who want to absolutely stymie and stall and keep us from voting on a farm bill this year.

I believe I have acted in good faith. We brought it to the floor. We can amend. I love debate. I thought we had so many good amendments offered. We have had some good debates so far. I am just hoping we can bring this debate to a conclusion at some point early next week and get this bill out of the Senate.

Again, I look around to see if there is anyone to offer any amendments. It is pretty quiet in here. Evidently, it looks as if we are not going to get any amendments here tonight.

I yield the floor to the PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I will not add to the frustration and discomfort of my chairman except to empathize with him, having been in a similar situation 5 or 6 years ago when we last proceeded with the farm bill. I found it was seemingly an endless task. It does finally come to conclusion. That will be good news for the chairman. I will work with him to try to identify the amendments so we can have appropriate debate and votes. Both the chairman and I realize we are near the end of the session, and conference reports on important bills are likely to intrude. The chairman recognizes that. We just cannot have pending business. It ought to be our pending business, aside from the privileged motions on appropriations bills that the
leaders have designated for debate on Monday and early Tuesday. I believe there probably is a finite set of amendments. I suggested earlier during the day that we will compile a list of 44 at that time. I think some of those will be removed at some point of the day. Hopefully others do not emerge.

But I think there are some basic issues involving payment limits, for example, that are still out there. Perhaps some are not parochial interests but interests of particular Senators in their States, such as, for example, the distinguished Senator from Oregon, Mr. Smith, with a legitimate basin problem not requiring much time, although the Senate may or may not agree with his point of view.

Even if these are simple amendments, perhaps they will not be offered in the event they are already accepted. Perhaps the chairman and I will be able, perhaps, to work together to see which amendments can be accepted.

We have been engaged in very heated debate on sugar and on dairy—things that claimed our attention at the time so that we have not really sifted through those things that are perhaps acceptable.

But in the course at least of the next couple of days of debate, I think the situation will disappear more clearly. The chairman knows I have a number of problems with the commodities title. I have already expressed those in the form of one amendment and others. The chairman is also correct that we did reach remarkable accord on at least eight titles, perhaps nine. My memory fails as to how many are in our bill. But those are good titles to our bill. But those are good titles to agree with his point of view.

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was 4 years old playing with G.I. Joes in his family’s backyard: the “all American,” athletic and funny, who became what he always wanted to be, the Army’s best and America’s best too. We know him as the boy at school who Alison Kaczar remembers exalting in games and hide and seek, and who never knew “hiding like there was no tomorrow.” While other kids hid behind corners and in the bottom of bushes, Dan hid in the tree tops, on the school roof, atop neighborhood homes. He was never discovered until the game was over, out of sight until his friends, exasperated, would look up and see him peering out behind a chimney, and declare him the winner, if they could find him even then.

Alison, today a police officer serving her hometown, told me simply: “we’ve lost one of our elite.” And indeed we should take a moment to honor what it really meant for Dan to have been a member of the Special Forces.

His obituary, written by Captain Jason Aamerine, who was wounded at the same time, said we should remember not how Dan and his brothers in arms died, but what they did beforehand. What an extraordinary story of courage, initiative, and resolve: a member of an 11 man team, the elite of the American fighting forces, dropped into a valley deep inside enemy territory in Afghanistan, delivered for the broth- ers and sisters, husbands and wives, children, and us. Lost in New York, Pennsylvania, and the Pentagon. Louis and Barbara, that justice will be delivered for one more man, your son, Sergeant Daniel Petithory.

President Harry Truman, himself a veteran, committed to war, committed to peace, 50 years ago honored the Greatest Generation and said of America: “We are not a warlike Nation. We do not go to war for gain or for territory; we go to war for principles, and we produce young men like these.”

Once again, our peaceful Nation is at war. We did not seek this war, but we will win it for a principle that is timeless and values which shall forever define the greatness of yet another generation of citizen soldiers. And even in our grief, we can say with pride, and conviction, this is America, the Nation we love because it produces and keeps faith with men like Dan Petithory. God bless you Dan, and God Bless the United States of America.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred May 4, 1992 in Chicago, IL. Two lesbian women were beaten and taunted by several teens in a park. Dominique Pena, 18, and Kimberly Cary, 19, each were charged with battery and hate crime in connection with the incident. I believe that by passing this legislation, we can change hearts and minds as well.

PROMOTING SAFE AND STABLE FAMILIES

Mr. DEWINE. Mr. President, I rise today to thank my colleagues for support- ing and passing H.R. 2873, the Promoting Safe and Stable Families Program. Earlier this Fall, Senator ROCKETT and I introduced similar legis- lation. The bill we are passing today, like our Senate bill, reauthorizes four programs designed to help child welfare agencies establish and maintain per- manency by providing grants to States and Indian tribes. The bill also includes programs that the President has proposed, which have my utmost support, as well as a technical correction that Senator ROCKEFELLER and I have proposed to ensure that special needs chil- dren continue to be eligible for adoptive placement.

The Promoting Safe and Stable Families Program provides vital services for thousands of at risk children in our Nation. The sad fact is that far too many children here at home are at risk, not because of the terrorist threat, but because they are neglected or abused by parents or because they are trapped in the legal limbo that is our child welfare system. Because of this, we have an obligation to these children. We have an obligation to protect these innocent lives.

With the passage of our bill, we are taking a big step toward meeting that obligation. By reauthorizing and improving the Safe and Stable Families Program, we can help strengthen fami- lies and ensure the safety of vulnerable children.

I was very pleased that during the Floor debate on the fiscal year 2002 Labor-HHS Appropriations bill, the Senate agreed to my amendment, we increased funding for Safe and Stable Families Program by $70 million. This raised the program’s overall funding level to $375 million.

The funding provided to the States through this legislation is used for four categories of services: family preservation, community-based family support, time-limited family reunification, and adoption promotion and support. These services are designed to prevent child abuse and neglect in communities at risk, avoid the removal of children from their homes, and support timely reunification or adoption. And, quite candidly, Promoting Safe and Stable Families is a very important source of funding for post-adoption services. With a nearly 40 percent increase in the number of adoptions since the implementa- tion of the Adoption and Safe Families Act, funding for adoption pro- motion and support services is espe- cially vital. These services are neces- sary to ensure that adoptions are not disrupted, which risks further traumati- zing a child.

Our reauthorization bill also amends the Foster Care Independent Living Program to extend the eligibility age from 21 to 23, so that young people aging out of foster care can qualify for ed- ucal and training vouchers. Curr- ently, too many of the 16,000 children youth who age out of foster care are not able to pursue educational or voca- tional training because they just don’t have the money. This provision helps these young people get the education and career training they need and de- serve.

The bill doubles the funding for the Child Injury Prevention and Safety Program, and reauthorizes it through 2006. The CIP program provides grants to the States to develop a system of more timely court actions that provides for the
safety of children in foster care and expedites the placement of such children in appropriate permanent settings. This money helps ensure that State courts have the resources necessary to stay in compliance with the Adoption and Safe Families Act. In my home State of Ohio this money has been used to develop and implement an attorney certification program in family law. Additionally, the CIP money has been used to implement the Court Appointed Special Advocate, CASA, Program throughout Ohio and to implement five pilot programs that uniquely address family law issues.

Also, Senator ROCKEFELLER and I have added a technical correction to the bill that would clarify how adoption assistance payments were available to parents adopting children who met three special needs criteria, regardless of whether a child was placed by a private agency or the State foster care system. Unfortunately, some private agencies were using only one of the three special needs criteria to access payments for these adoptive families.

The January 23 adoption assistance decision draws a distinction between private and State foster care systems to prevent the misuse of funds. However, the decision has had the unintended consequence of adversely affecting agencies such as Catholic Charities and their ability to provide adoptive families with payments. Our correction focuses on the children—not the placement agency—by making special needs children adopted through voluntary relinquishment eligible for adoption assistance payments.

I am particularly pleased with some of the President’s new initiatives authorized in our bill. For example, the President has proposed that the Department of Health and Human Services be allowed to provide competitive grants to support mentoring programs for children of incarcerated parents. With more than 2 million children with incarcerated parents, this program would provide valuable outreach to this vulnerable group of children.

I thank my colleagues for supporting our bill today. This is a good bill. It is an important bill. It is a major step forward in our continuing efforts to protect all children in this Nation.

AMBASSADOR STEPHAN M. MINIKES

Mr. CAMPBELL. Mr. President, as Chairman of the Helsinki Commission, I take this opportunity to welcome the recent swearing-in of Stephan M. Minikes to serve as U.S. Ambassador to the Organization for Security and Cooperation in Europe, OSCE. Prior to that ceremony, I met with Steve to discuss issues on the Commission’s agenda, including the promotion of democracy, human rights and economic liberty as well as such pressing concerns as international crime and corruption and their links to terrorism.

The Commission remains keenly interested in the OSCE as a tool for promoting human rights and democratic development, and advancing United States’ interest in the extensive 55-nation OSCE region. The terrorist attacks of September 11 represented an assault on the principles of democracy, human rights and the rule of law—core principles at the heart of the OSCE. It is crucial that OSCE efforts be advanced to advance these fundamental principles throughout the OSCE region even as we pursue practical cooperation aimed at rooting out terrorism.

The OSCE provides an important framework for advancing these vital and complementary objectives.

I am confident that Steve will draw on his extensive and varied experiences as he assumes his duties as U.S. Ambassador to the OSCE and I look forward to working with him and his team in Vienna.

I ask unanimous consent that Secretary of State Powell’s eloquent prepared remarks delivered at Ambassador Minikes’ swearing-in ceremony be printed in the Record.

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

REMARKS OF SECRETARY OF STATE COLIN L. POWELL AT THE SWARING-IN OF STEPHAN M. MINIKES

Ambassador Ducaru, Distinguished Guests, welcome to the Department of State. It is my honor and pleasure today to swear-in a distinguished civic leader as our next Ambassador to the Organization for Security and Cooperation in Europe: Steve Minikes.

As a boy in Nazi Germany, Steve knew what it is like to live under oppression. His relatives died in concentration camps. He saw hate consume a country, ravage a continent, and cause millions to flee. Steve also knew that hate could be defeated. He saw that the devastation Europe divided by force and a hot war replaced by a cold one. And since the age of eleven, when he found his new home in the United States, Steve knew that one minute taken for granted—not his or anyone else’s.

And so, when President Bush selected Steve to be his personal envoy to the OSCE, he knew that he was choosing a person who would be deeply committed to the fundamental principles of the Helsinki process.

The President knew that Steve needed no convincing that human rights, the rule of law and democracy are inextricably linked to prosperity, stability and security. And the President knew that in Steve he was choosing someone who would work hard and well to realize, in all its fullness, the dream of a Europe free and whole.

And so, Ladies and Gentlemen, Steve Minikes will bring to his new position a deep regard for and commitment to the values that the Helsinki process would be judged not by the promises made but by the promises kept.

Steve is a living example to the men and women who braved totalitarian repression to ensure that the promises made in Helsinki would be kept. So many of the promises in the OSCE are tied directly to decisions today, able to chart their own course for a new century.

The promises made in Helsinki during the Cold War and reaffirmed during the post-Cold War period, are still fundamental to European security and cooperation in this post-Cold War world.

And, like all his predecessors from Gerald Ford to William Clinton, President Bush is strongly committed to fulfilling the promise of Helsinki.

The President and I are counting on you, Steve, to work with our fellow member states, with the various OSCE institutions that have been established, and, of course, with the Members of the U.S. Commission on Security and Cooperation in Europe, to that noble end.

Human rights and fundamental freedoms remain the heart and soul of OSCE. Keep them in the spotlight. Democracy and the rule of law are key to countering extremism and terrorism. Work with our OSCE partners, the Office for Democratic Institutions and Human Rights and the Representative for Free Media to consolidate democratic gains and protect human dignity by strengthening efforts against taking in persons.

We also look to you, Steve, with your private sector experience, to explore ways to develop OSCE’s economic and environmental dimension. OSCE can also work on corruption and good governance. Portugal, the incoming Chairman-in-Office, has some interesting ideas on transboundary water issues. Help us link what else we might do.

The President and I also depend on you to use your longstanding strength and capacities for conflict prevention and crisis management. To work with OSCE’s High Commissioner on National Minorities in addressing the root causes of conflict. We will also look to you to support OSCE’s field missions which are contributing to stability from Tajikistan to Kosovo.

One of the purposes of OSCE, good progress has been made in meeting conventional force reduction commitments. We will
count on you, Steve, to help resolve the remaining issues. The Voluntary Fund for Moldova is a valuable tool for getting rid of weapons and ammunition. Keep using it. OSCE will be valuable in fighting terrorism. Implementation is critical. Keep the momentum going.

Institutionally speaking, OSCE’s strengths remain in its flexibility, the high degree of political will that is reflected in its consensus decisions, and the politically binding nature of its commitments. As OSCE considers how it might best adapt to changing needs, do not compromise these strengths. Build upon them.

Ladies and Gentlemen, next week, Steve and I will attend the Ministering of the OSCE Ministerial Council. There, the Chairmanship-in-Office will pass from the capable hands of Romania into the able hands of Portugal. And I will just as confidently witness the passing of the baton from Ambassador Johnson to Ambassador Minikes.

There is a great deal of important work ahead for the OSCE. There are still many promises to keep. And Steve, the President and I know that you will help us keep them. You have been President Bush’s and my best wishes as you embark upon your new mission for our country.

And now it is my pleasure to administer the oath of office.

FREE SPEECH IN CZECH REPUBLIC

Mr. CAMPBELL. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe, I have a keen interest in the fight against organized crime and corruption in the 55-nation OSCE region. I have raised this issue at the meetings of the OSCE Parliamentary Assembly, at Commission hearings, and in meetings with United States Government and foreign officials.

The impact of organized crime in the OSCE region is not limited to some far-off land. Organized crime and corruption directly bear on United States security and political interests at home and abroad. And at the OSCE Summit held in Istanbul in 1999, the Heads of State and Government of the participating States recognized that corruption poses a serious and great threat to OSCE shared values, cutting across security, economic, and human dimensions of the OSCE.

One of the best tools at our disposal in advancing the fight against corruption is a free and independent press that can both investigate and report on corruption. Unfortunately, it is no surprise that journalists who report on issues related to corruption sometimes find themselves the victims of harassment and, in extreme cases, violence.

Accordingly, I am disturbed by reports that the Czech Cabinet, led by Prime Minister Zeman, is seeking to have criminal charges brought against a political weekly, Respekt. Threats by the Prime Minister to shut down this political weekly, Respekt, is not the only Czech journalist to get into hot water for trying to report on corruption. In January 1998, journalist Zdenek Zakal was arrested in connection with his reporting on alleged corruption in the locality of Olomouc and charged with “spreading alarming information.” His case has dragged on for some four years without resolution.

I understand the government’s desire to get its message out. But trying to achieve that goal by menacing journalists and threatening them with jail time is not the way to do it. More to the point, it violates the OSCE commitments the Czech Republic has freely undertaken.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO TEX HALL

• Mr. DORGAN. Mr. President, I want to take a few minutes to congratulate Chairman Tex Hall on his recent election as president of the National Congress of American Indians. Tex is the chairman of Three Affiliated Tribes, Mandan, Hidatsa, and Arikara Nation, in my State of North Dakota.

As my colleagues know, the NCAI is the Nation’s oldest and largest advocacy group representing Native Americans. I can vouch from my own personal experience in working with Tex that he will be a strong and persistent voice on behalf of Native Americans. Over the years, Tex and I have worked together on such issues as Indian education, Indian health care, economic development, water needs in North Dakota, and other issues. Tex has always been fighting, and rightly so, to increase funding for Indian health, education, transportation, and other programs. Federal funding in these areas has been woefully inadequate, and I have been glad to join him in this fight.

A story from just last year illustrates what a strong advocate Tex is. I was working very hard with Tex to secure funding for the Four Bears Bridge, which is the only crossing point across the Missouri River for 150 miles and is especially important to the Fort Berthold Reservation because it connects the two halves of the reservation. The President’s budget requested only $5 million for design of the new bridge, and at first it looked like even keeping that level of funding would be a challenge. After a lot of elbow grease, however, I was pleased to call Tex to let him know that I had been able to secure $35 million, which was the full Federal Government share for the bridge’s design and construction. I was pretty proud of this accomplishment, and Tex saw it that way too; he was very graciously. Then, like the true tribal advocate that he is, he asked for more money.

Virtually his entire life, Tex has been a leader in one way or another. For instance, he served 11 years as principal and superintendent of the Mandaree school, and was named North Dakota Indian Educator of the Year in 1995. For the last year he being chairman, Tex has served in 1998, he served on the tribal business council for 3 years. He currently serves on countless boards and task forces, representing tribal interests in just about every important area of Indian policy. And he has time for his cattle and buffalo ranching and to found the All Nations High School Basketball Tournament and Tex Hall basketball camp.

Tex’s election as president of NCAI comes at a very important time in the Federal Government’s relationship with tribes. As is well documented, the Federal Government’s century of mismanagement of Indian trust funds and reservations is a disaster. I have mixed emotions about the recent move of our friend Bill Walters to Washington, DC. Although he will be sorely missed in our region, where he served in the Seattle office as deputy director for the National Park Service’s Pacific West region, we realize that he will be playing a crucial role as associate to the Director for the National Park Service in its headquarters office within the Department of the Interior. We wish him much success in this new posting.

After serving the Pacific Northwest so ably, Bill has demonstrated he is well suited for his new job. The recent leadership of the Park Service call him the “regional dad.” He has a charming way of being able to take care of things and make everyone feel good about the outcome. I imagine this is what the Director of the Park Service immediately sensed and why we lost a good person in the Northwest, but gained one at National Park Service Headquarters.

Bill arrived in Seattle in 1992, just as the new administration was talking about downsizing. He shepherded a reasonable approach to efficient management, reducing the numbers of employees without an employee losing his or
her job. More importantly, in consultation with me and other members of the congressional delegation, he maintained an office in Seattle, which provided direct service to the people of the Pacific Northwest.

The upheaval created by this reorganization was considerable. His calm voice of reason and genuine compassion made it possible for all of us to work at finding improvement, efficiency, and value in maintaining an office in the Pacific Northwest.

It was through this difficult process that I became acquainted with Bill. Since then, I have witnessed numerous examples of his good judgment and the gracious ‘‘manager in which he brings people together around thoughtful solutions. He is a master statesman.

Bill is one of the few park professionals who has experience at the local, State, and Federal levels. This experience and his rare personal qualities make him a perfect negotiator and an effective steward of the public trust. Bill developed a impressive working agreement with the State of Idaho for managing the city of Rocks National Reserve. I witnessed his skill firsthand when we worked together in the creation of the city, county, and national partnership for Washington’s Ebeys Landing National Reserve, which is bringing new vision and energy to the management of this unique park.

He was instrumental in helping to forge the partnership that resulted in the Vancouver National Historic Reserve along the Columbia River in my State of Washington. Without his personal involvement, the site would still be mired in controversy. Instead, we have Federal, State, local, and private entities working together to support a site that has 200 years of European history and 250 years of pre-European archeology.

There is a quiet competence and goodness about this man that enables him to work collaboratively with NGOs, environmental activists, employees, community leaders, and opponents alike. I have always appreciated his honesty and forthright character. Many in the Northwest have come to respect and appreciate Bill’s open and engaging manner and professionalism. Bill represents park interests in a way that has made partners go very far in the Pacific Northwest without seeing examples of Bill’s effective problem solving and sound stewardship. We may have lost a skilled and trusted manager in the Northwest, but National Park Service Director Fran Mainella has gained a valuable associate who will serve her and the National Park Service well in the years ahead. We all benefit by having this man of integrity in Government service.

**HAROLD SCHAFER: A NORTH DAKOTA ORIGINAL**

- Mr. DORGAN. Mr. President, one of my State’s leading citizens has passed away and I want to reflect on what can only be described as a triumphant life. I extend my sympathy to his family in this time of grief. But I know his family is also celebrating his full life.

Harold Schafer is the classic story of a poor youth who became successful through old-fashioned entrepreneurship and flat-out hard work. He deserves our respect for that, but, more importantly, we ought to take note of what he did with his wealth.

Harold Schafer would not permit his capital to pool into trust funds, and stock portfolios, and real estate investments. To what will be his ever-lasting credit, he worked just as hard at disbursing his money to good causes as he initially did earning it. The recipients of his generosity are legion, colonies and communities and authors and park boards and hospitals and youth groups and a cavalcade of individuals who needed a hand.

Most memorable is his re-creation of the historic and romantic cow town of Medora in the spectacular Badlands of North Dakota, it’s become the State’s primary tourist designation. Because of the enormous investment and creative imagination that Harold Schafer poured into rejuvenating this storied village, a place where Teddy Roosevelt once lived, has become symbolic of the Old West. Harold Schafer’s resurrection and promotion of Medora has made it a jewel of North Dakota’s heritage and will forever be the crowning achievement of his life.

Harold Schafer has left us, but he has given us Medora, a sweet, handsome, proud, and historic place. There can be no question but that Harold is pleased with this very special legacy and North Dakotans are thankful indeed.

**MESSAGES FROM THE PRESIDENT**

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

**EXECUTIVE MESSAGES REFERRED**

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

**MESSAGES FROM THE HOUSE**

At 12:44 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 288. Concurrent resolution directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1438.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H. J. Res. 78. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The message further announced that the House agrees to the report of the committee on the disapproving the votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


The message also announced that the House agrees to the report of the committee on the disapproving the votes of the two Houses on the amendment of the Senate to the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

At 6:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendments of the Senate to the bill (H.R. 2884) to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with an amendment, in which it requests the concurrence of the State.

**ENROLLED BILLS AND JOINT RESOLUTIONS**

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

S. 1196. An act to amend the Small Business Investment Act of 1958, and for other purposes.

S. J. Res. A joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent on the Board of Regents of the Smithsonian Institution.

The enrolled bills and joint resolution were signed subsequently by the president by the President pro tempore (Mr. BYRD).

**REPORTS OF COMMITTEES**

The following reports of committees were submitted:
By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 996. A bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes. (Rept. No. 107-123).

By Mr. LEAHY, from the Committee on Environment and Public Works, without amendment:

S. 162. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to extend the deadline for submission of State recommendations of local government assistance for disaster recovery and to authorize the President to provide additional repair assistance to individuals and households. (Rept. No. 107-124).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 561: A bill to make technical amendments to section 10 of title 8, United States Code.

H.R. 1840: A bill to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees. By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

H.R. 1876: A bill to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked. By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 2277: A bill to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

H.R. 2279: A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States. By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 8: A joint resolution designating 2002 as "the Year of the Rose".

S.J. Res. 13: A joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LEAHY for the Committee on the Judiciary:

Callie V. Granade, of Alabama, to be United States District Judge for the Southern District of Alabama.


Marcia S. Kreiger, of Colorado, to be United States District Judge for the District of Colorado.

James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada.

Philip R. Martinez, of Texas, to be United States District Judge for the Western District of Texas.

C. Arlie Royal, of Georgia, to be United States District Judge for the Middle District of Georgia.

David Preston York, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Michael A. Battle, of New York, to be United States Attorney for the Western District of New York for a term of four years.

Harry E. Cummins, III, of Arkansas, to be United States Attorney for the Eastern District of Arkansas for the term of four years.

Christopher James Christie, of New Jersey, to be United States Attorney for the District of New Jersey for the term of four years.

Dwight MacKay, of Montana, to be United States Marshall for the District of Montana for the term of four years.

(Relative to nominations without an asterisk were reported with the recommendations that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN:

S. 1815: A bill to amend the Agriculture and Food Act of 1981 to require the Secretary of Agriculture to conduct a pilot program under which the Secretary shall make grants to local non-profit organizations in the State of Arkansas to employ non-Federal resource conservation and development coordinators; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURkowski (for himself and Mr. STEVENS):

S. 1816: A bill to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. THOMPSON):

S. 1817. A bill to amend the Internal Revenue code of 1986 to provide for student loan forgiveness tax parity; to the Committee on Finance.

By Mr. DURBIN (for himself and Ms. MIKULSKI):

S. 1818: A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself, Mr. SHERSONS, Mr. CLELAND, Mr. COCHRAN, and Mr. DAYTON):

S. 1819. A bill to provide that members of the Armed Forces performing services in the Republic of Korea shall be entitled to tax benefits in same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Mr. CLELAND (for himself, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 1820. A bill to enhance authorities relating to emergency preparedness grants; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. WARNER):

S. 1821. A bill to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over, and to afford employees and Members full immediate participation in the Thrift Savings Plan upon commencing Federal service; to the Committee on Governmental Affairs.

By Mr. AKAKA (for himself and Mr. WARNER):

S. 1822. A bill to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over; to the Committee on Governmental Affairs.

By Mr. COLLINS (for herself and Mr. CARPER):

S. 1823. A bill to amend the Internal Revenue Code of 1986 to modify the exclusion relating to qualified small business stock; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 1824. A bill to authorize payments to certain Lama Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's irrigation works for 2001, to authorize funds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself, Mr. CRAIG, Mr. CHAMIO, Mr. WYDEN, Mr. SMITH of Oregon, and Mrs. FEINSTEIN):

S. 1825. A bill to authorize the Secretary of Commerce to provide financial assistance to the State of Alaska, the State of Oregon, California, and Idaho and tribes in the region for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 1826. A bill to authorize the Secretary of the Interior to conduct a study of the feasibility of providing adequate upstream and downstream passage for fish at the Chiloquin Dam on the Sprague River, Oregon; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. KENNEY, and Mr. BAUCUS):

S. 1827. A bill to provide permanent authorization for International Labor Affairs Bureau to continue and enhance their work to alleviate child labor and improve respect for internationally recognized worker rights and core labor standards, and for other purposes; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself and Mr. HATUN):

S. 1828. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER (for herself, Mr. BROWN, Mr. WELLSTONE, and Ms. MIKULSKI):

S. Res. 191. A resolution expressing the sense of the Senate commending the inclu- sion of women in the Afghan Interim Admin- istration and commending those who met at the historic Afghan Women's Summit for De- mocracy in Brussels; considered and agreed to.

By Mr. LEVIN (for himself, Mr. WAR- NER, Mr. KENNEDY, Mr. THURMOND, Mr. NAPLES, Mr. FEINSTEIN, and Mr. DARKEN):

S. Res. 192. A resolution calling upon the President to continue the moratorium on the shipment of arms to Morocco, to the Committee on Foreign Relations.
Mr. BYRD, Mr. MCCAIN, Mr. LIEBERMAN, Mr. SMITH of New Hampshire, Mr. CLELAND, Ms. INHOFE, Ms. LANDRIEU, Mr. SANTORUM, Mr. REED, Mr. ROBERTS, Mr. AKAKA, Mr. ALALD, Mr. NELSON of Florida, Mr. HUTCHINSON, Mr. NELSON of Nebraska, Mr. SESSIONS, Mrs. CARMAN, Ms. COLLINS, Mr. DAYTON, Mr. BUNNING, Mr. BINGAMAN, Mr. DASCHEL, Mr. LOTT, Mr. LEAHY, Mr. BOND, and Mr. ROCKEFELLER) that S. Con. Res. 82, a concurrent resolution recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony; considered and agreed to.

ADDITIONAL COSPONSORS

S. 724. At the request of Mr. BOND, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 724, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 1208. At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1208, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1214. At the request of Mr. HARKIN, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Texas (Mr. BACH), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), and the Senator from Arkansas (Mr. BURKHARDT) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1762. At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1762, a bill to extend and improve the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

S. 1707. At the request of Mr. KENNEDY, the name of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the Medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745. At the request of Mrs. LINCOLN, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1745, a bill to serve the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1766. At the request of Mrs. LINCOLN, the name of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1766, an amendment to amend title XVIII of the Social Security Act to provide such medical care services under Medicare for services furnished to an individual with respect to a condition that is likely to result in death, to the extent that the individual is an eligible veteran.

S. 1785. At the request of Mrs. LINCOLN, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1785, a bill to approve the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

S. 1793. At the request of Mr. BINGAMAN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1793, a bill to provide such medical care services under Medicare for services furnished to an individual with respect to a condition that is likely to result in death, to the extent that the individual is an eligible veteran.

S. 1794. At the request of Mr. BINGAMAN, the name of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1794, a bill to amend title XVIII of the Social Security Act to provide such medical care services under Medicare for services furnished to an individual with respect to a condition that is likely to result in death, to the extent that the individual is an eligible veteran.
The University of Alaska received the smallest amount of land of any State, with the exception of Delaware, that has a land grant college. Even the land in Rhode Island received more land from the Federal Government than has the University of Alaska. In a state the size of Alaska, we should logically have one of the best and most fully funded land grant colleges. In Alaska, without the land promised under the land grant allocation system and earlier legislation, the University is unable to share as one of the premier land grant colleges in the country.

Previous efforts in Congress were made to fix this problem. These efforts date back to 1915, less than 50 years after the passage of the Morrill Act, which set aside a small landholding in parks and refuges. The University of Alaska received roughly 112,000 acres of land, less than 100,000 acres and to this day the University has only 19 sections of land, approximately 11,211 acres, were ever transferred to the University. Of this amount, 2,250 were used for the original campus and the remainder was left to support educational opportunities.

The difficulties of surveying in Alaska, subsequent legislation was passed in 1929 that simply granted land for the benefit of the University. This grant totaled approximately 100,000 acres and to this day comprise the bulk of the University’s roughly 132,000 acres of land, less than one-third of what it was originally promised. In 1958, the Alaska Statehood Act was passed which extinguished the original land grants for all lands that remained unsurveyed. Thus, the University was left with little land with which to support itself and thus is unable to completely fulfill its mission as a land grant college.

The legislation I am introducing today would redeem the promises made to the University in 1915 and put it on an even footing with the other land grant colleges in the United States. The bill provides for the University to select land with the land needed to support itself financially and offers it the chance to grow and continue to act as a responsible steward of the land and educator of our young people. The legislation also provides a concrete timetable under which the University must select its lands and the Secretary of the Interior must act upon those selections.

This legislation also contains significant restrictions. The University can select the land only within a Conservation System Unit. The University cannot select old growth timber lands in the Tongass National Forest. Finally, the University cannot select land validly conveyed to the State or an ANCSA corporation, or land used in connection with federal or military institutions.

Additionally, under my bill the University must relinquish extremely valuable inholdings in Alaska once it receives its State/Federal selection awarded under Section 2 of this bill. Therefore, the result of this legislation will mean the relinquishment of prime University land. This will mean the relinquishment of thousands of acres of inholdings that will further protect Alaska’s parks and refuges.

Specifically, this Section 2 of the bill would grant to the University up to 250,000 acres of federal land. Additionally, Section 5 of the bill establishes a matching program so that the University would be eligible to receive up to an additional 250,000 acres on a matching basis, acre-for-acre, with the State. This, obviously, will be done through the state legislative process involving the Governor, the Legislature, and the University’s Board of Regents. The State matching provision is an important component of this legislation. Most agree with the premise that the University was shortchanged. However, some believe it is solely the responsibility of the State to grant the University land. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute.

The second substantial change to the bill, which was previously noted, is the revenue sharing component. This aspect provides an alternative means of paying for the remaining lands of the University. With the passage of this bill, the University of Alaska will finally be able to act fully as a land grant college. It will be able to select lands that can provide the University with a stable and secure revenue source as well as provide responsible stewardship for the land.

This is an exciting time for the University of Alaska. The promise that was made more than 80 years ago could be fulfilled by passage of this legislation, and Alaskans could look forward to a very bright future for the University of Alaska and those seeking an education or to conduct research.

By Mr. DURBIN (for himself and Ms. MILULSKI):

S. 1818. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay of the level of individual receiving if no interruption in employ- ment has occurred; to the Committee on Government Affairs.
Mr. DURBIN. Mr. President, today I would like to discuss the financial burden faced by many of the men and women who serve in the military Reserves or National Guard and who are forced to take unpaid leave from their jobs when called to active duty. While these individuals receive pay for the time they are on active duty, it is often significantly less than what they receive in their normal jobs. It is unfair to ask the men and women who have volunteered to serve their country, sometimes in dangerous situations, to also face a financial strain on their families.

A number of employers have wisely acted to remedy this hardship by establishing a financial compensation plan for their employees in the Reserves or National Guard. In response to the recent terrorist attacks of September 11, the Netherlands-based ABN AMRO Bank N.V., one of the world’s largest banks, has set up a special pay differential to provide its employees in the Reserves and National Guard compensation equaling the income they would normally have to forfeit when called to active duty. LaSalle Bank, a subsidiary of ABN AMRO in Chicago, has already seen this program help 12 reservists in its ranks. The spokesperson for LaSalle described the program as something the company wanted to do “to be supportive of the country’s efforts.”

Let us take similar action in Washington and set an example for employers throughout the country. Today, I am introducing legislation, along with Senators SESSIONS, CLELAND, COCHRAN, and DAYTON, that simply ensures that personnel serving in Korea get the same tax benefits as personnel serving in other forward deployed areas of the world such as Kuwait and the Balkans. I am hoping that this legislation can be added to the economic stimulus package we are making sure the Senators are aware of the need to take this action for the brave men and women serving in Korea.

We cannot fix all of the quality of life problems in Korea overnight, but we can at least provide basic equity in the tax treatment of military personnel who serve there so that they get the same benefits those in Kuwait and the Balkans get.

Let me share with my colleagues some of the facts that led us to decide that this tax equity is needed and is needed now.

While we have representatives of every service in Korea, the bulk of our force is from the Army. Seventeen percent of the service members stationed in, on orders to, or returning from the Republic of Korea at any given time. That’s about 37,000 soldiers.

Unlike most Army postings, which tend to be for six months, ninety-six percent of those stationed in Korea are there for at least one year of unaccompanied duty. In some Army specialties, personnel are asked to serve for far more than one unaccompanied, year-long tour in Korea, which encourages experienced personnel to leave the Army.

Duty tours in Korea involve longer separations from family, under worse quality of life conditions than almost any other overseas Army post, in a military zone that is clearly hostile, for less pay. This is a serious moral issue. Let me give you an example, a typical E-5 will make $5,136 less, $2,292 in Federal taxes that must be paid and not getting the $2,844 separation ration if sent to Korea rather than the Balkans. Our men and women in the military do not serve to become rich, but people notice and morale suffers when one assignment means working in poor conditions for a year and taking a $5,000 pay-cut. When I say the conditions are poor, I want people to know that I am not exaggerating. The quality of life in Korea is recognized as substantially lower than other overseas posts and far lower than within the United States. Consider that ordnance personnel in Korea have the highest command declination rate and the highest “no show” rate in the Army.

Even worse, look at the housing situation. Only ten percent of the command living off base in Korea can be housed, and that housing is generally substandard. Compare this to seventy-two percent of forces deployed to Japan and seventy-four percent of forces in Europe having housing available.

Let me explain what I mean by substandard housing in Korea. The same Quonset huts that I visited those Quonset huts when I traveled to Korea in August. I saw the sand bags they have to put out when it rains to prevent major flooding. I witnessed the cramped living quarters; worse than my freshman college dorm room. I have heard that when winter comes, and Korean winters are famous for their severity, these buildings are much like living in an igloo.

Our troops make the best of this deplorable situation. It is not unusual, but they deserve some relief. These are the men and women on whom we rely to deter North Korean aggression on a peninsula that is still technically in a state of war.

As the symbol of American values and ideals, the Federal Government should give these special employees of our government more than just words of support. We should not encourage Americans to protect their country and then punish those who enlist in the armed forces by taking away a large segment of the salary. We must provide our reservist employees with financial support so that they can leave their civilian lives to serve in the military without worrying about the financial well-being of their families.

By Mr. BIDEN (for himself, Mr. SESSIONS, Mr. CLELAND, Mr. COCHRAN, and Mr. DAYTON):

S. 1814. A bill to provide that members of the Armed Forces performing active duty in the Republic of Korea shall be entitled to tax benefits in same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, today I am introducing legislation, along with Senators SESSIONS, CLELAND, COCHRAN, and DAYTON, that simply ensures that personnel serving in Korea get the same tax benefits as personnel serving in other forward deployed areas of the world such as Kuwait and the Balkans. I am hoping that this legislation can be added to the economic stimulus package we are making sure the Senators are aware of the need to take this action for the brave men and women serving in Korea.

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Duty tours in Korea involve longer separations from family, under worse quality of life conditions than almost any other overseas Army post, in a military zone that is clearly hostile, for less pay. This is a serious moral issue. Let me give you an example, a typical E-5 will make $5,136 less, $2,292 in Federal taxes that must be paid and not getting the $2,844 separation ration if sent to Korea rather than the Balkans. Our men and women in the military do not serve to become rich, but people notice and morale suffers when one assignment means working in poor conditions for a year and taking a $5,000 pay-cut. When I say the conditions are poor, I want people to know that I am not exaggerating. The quality of life in Korea is recognized as substantially lower than other overseas posts and far lower than within the United States. Consider that ordnance personnel in Korea have the highest command declination rate and the highest “no show” rate in the Army.

Even worse, look at the housing situation. Only ten percent of the command living off base in Korea can be housed, and that housing is generally substandard. Compare this to seventy-two percent of forces deployed to Japan and seventy-four percent of forces in Europe having housing available.

Let me explain what I mean by substandard housing in Korea. The same Quonset huts built in the 1950s as temporary structures are still being used in 2001 to house troops today. Those huts are being shared by 4 or more personnel, often at a level of Sergeant or higher, which is well below standard quarters for such rank.

As the symbol of American values and ideals, the Federal Government should give these special employees of our government more than just words of support. We should not encourage Americans to protect their country and then punish those who enlist in the armed forces by taking away a large segment of the salary. We must provide our reservist employees with financial support so that they can leave their civilian lives to serve in the military without worrying about the financial well-being of their families.

By Mr. CLELAND (for himself, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 1820. A bill to enhance authorities relating to emergency preparedness grants; to the Committee on Commerce, Science, and Transportation.

Mr. CLELAND. Mr. President, the horrific events of September 11 underscore in red the heroism of the men and women who put their lives on the line every day, the courageous fire fighters and police officers of this Nation, the domestic defenders of America. Each and every day, fire fighters and police officers wake up wondering whether they may have to run into burning buildings or respond to chemical or biological attacks. As thousands and thousands of
people were running for their lives out of the World Trade Center and the Pentagon, police officers and fire fighters were running in the opposite direction, into the danger and toward the people who could not save themselves. Tragically, many of those first responders did not come out. Sixty police officers and 344 fire fighters are missing or have been declared dead in the World Trade Center attacks. The majority of the fire fighters who responded to the first report of the terrorist attacks, including the city’s entire search and rescue fleet of five squad companies, were in the Twin Towers when they collapsed. They are, by any definition, heroes.

We ask for a tremendous amount of responsibility from a small group of people. Fire fighters and police officers are the first responders to almost every tragedy imaginable. From car accidents that can turn into fires to towering infernos, from domestic disputes to hazardous material spills, we depend upon their service and training each and every day. This Nation's and police officers stand ready to respond to the needs of America. The terrible tragedy of September 11 is a daily reminder of how critical it is that America respond to the needs of its first responders. For the last three months our Nation has focused on how we may best increase the security of our borders. During this time, experts on terrorism have warned us to think outside the box, that if we fail to do so, this Nation will be at risk in the vulnerable position of forever responding to the last terrorist attack. The number of anthrax cases is a warning in red that biological and chemical agents are available as weapons of mass destruction. Given this, I urge our police officers and fire fighters to respond quickly to emergencies involving hazardous materials becomes more important than ever.

The U.S. Department of Transportation administers the Emergency Preparedness Grants Program, which helps State local governments train police and fire fighters to respond to hazmat emergencies. Currently that program is funded at $14 million, and the money comes from registration fees paid by certain hazmat carriers and shippers. Given the growing need for expertise in handling hazardous materials, the $14 million pot of money is clearly inadequate. If it is estimated that current funding can provide training to only about 120,000 emergency personnel a year out of a pool of almost 3 million. Grants to local governments are small, ranging from $100,000 to $300,000 on average. In a recent Washington Post article stated that Washington, D.C. is supposed to have a fire department team to respond to a chemical or biological attack, but according to the article, its members rarely train, and are used instead for routine firefighting.

Because money has never been fully allocated for hazmat training grants, there is a current $15 million surplus in the Emergency Preparedness Grants Program. This is $15 million which could be going for critical first responder training. Today I am joined by Senators ROCKEFELLER and WYDEN in introducing the HERO, the Hazardous Materials Emergency Response Operations Act, the HERO bill, which would allow the Department of Transportation to access the $15 million in surplus funds, at no cost to the taxpayer, and disperse the lion's share of this money to State and local governments for hazmat training of the men and women who are at ground zero during emergencies involving hazardous materials.

Under our legislation, $1 million of the $15 million surplus would be authorized to go to the International Association of Fire Fighters, IAFF, which provides specialized hazmat training free of charge to local fire departments. According to the IAFF, funding of $1 million would double the number of fire fighters who receive the necessary training to safeguard their health and safety as well as that of the citizens they protect during emergency response at or along our Nation’s transportation corridor. In addition, the HERO bill would also require the Department of Transportation to develop national standards for security training related to the deliberate release of hazardous materials used as weapons of mass destruction. These new standards would be in addition to the existing standards which address emergency response to accidental hazmat spills which may occur during the transportation of hazardous materials. In this era of potential chemical and biological attacks, we need to do everything we can to ensure that our local police officers and fire fighters receive the proper training to do the difficult job we ask them to do. We in Congress must do all we can to help the first responders of this Nation because they do everything they can to help us, including giving their lives in the line of duty, as we are painfully reminded by the tragedy of September 11.

Our legislation is endorsed by the International Association of Fire Fighters, IAFF, and the National Brotherhood of Police Officers, IBPO. I ask unanimous consent that the text of the HERO bill be printed in the Record.

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

S. 1389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE

This Act may be cited as the “Hazardous Materials Emergency Response Operations Act” or “HERO Act”.

SEC. 2. ENHANCEMENT OF EMERGENCY PREPAREDNESS GRANTS

(a) SECURITY TRAINING FOR TRANSPORTATION OF HAZARDOUS MATERIAL.—Subsection (i) of section 5106 of title 49, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”;

(3) by adding at the end following paragraph:

“(4) to develop minimum national standards and to develop and provide security training relating to the transportation of hazardous material in commerce, except that not more than 5 percent of the amount in surplus available in any fiscal year may be used for activities under this paragraph.”.

(b) AMOUNT AVAILABLE FOR SUPPLEMENTAL TRANSPORTATION GRANTS.—Subsection (i) of that section is amended by adding at the end the following paragraph:

“(5) The amount made available each fiscal year from the account under subsection (i)(1) for grants under this subsection shall be $1,000,000.”.

(c) AVAILABILITY OF FUNDS GENERALLY.—Notwithstanding any limitation in section 5127 of title 49, United States Code, or in any appropriations Act (including any appropriations Act enacted after the date of the enactment of this Act), all fees collected pursuant to section 5108 of that title, including any fees collected before the date of the enactment of this Act that remain available for obligation, shall be available for obligation, without further appropriation in accordance with section 5116(i) of that title, as amended by subsection (a).

Mr. ROCKEFELLER. Mr. President, it is my distinct pleasure to join my friend from Georgia, Senator CLELAND, in cosponsoring the HERO, the Hazardous Emergency Response Operations, or HERO, Act. The legislation we introduce today honors individuals whom the tragic events of the past few months have truly shown to be heroes, our firefighters and police officers. The HERO Act honors these men and women by providing grants to State and local governments to allow them dedicated public servants to be trained in the proper handling of hazardous materials emergencies.

The HERO Act expands upon the existing Department of Transportation, DOT, Hazardous Materials Emergency Preparedness Grants, which is intended to provide financial and technical assistance to enhance State and local hazardous materials planning and training. The program is authorized to distribute up to $14 million in fees that have been collected from shippers and carriers of hazardous materials to emergency responders for hazmat training. Unfortunately, this money has never been fully allocated to this important endeavor, and there is now a $15 million surplus.

The HERO Act will allow the Secretary of Transportation to access this $15 million in surplus funds and use it for its intended purpose. Additionally, the HERO Act authorizes that $1 million of the surplus funds go to the International Association of Fire Fighters, (IAFF), which offers a specialized program of hazmat training, free of charge, to firefighters across the country. The IAFF is the only organization currently offering this specialized hazmat training, and the additional funding will increase the number of firefighters with access to it.

In the course of learning some important, but painful, lessons during the
past few months, our nation has had the opportunity to focus on some positives that we may have taken for granted. As surely as the epic tragedies of September 11 made us aware of the unspeakable evil in the world, it also gave us one more reason to stand in the midst. When an anthrax-laden letter contaminated the offices of the Majority Leader and others, we came to understand our vulnerability to chemical and biological terrorism. At the same time, we came to more fully appreciate the dedication of the Capitol Police, and the highly trained biohazard units from several agencies of the Federal Government and the armed forces. I am among a group of displaced Senators and staff anxiously waiting for these experts to determine that the Hart Building is safe to re-enter, and I am confident that when we do go back in, the health of Senators and staff members will have been safeguarded by these experts. I am a woman who values the heroes in the emergency services for their selflessness. When a disaster strikes, they are there to serve the community and the general public. I further believe it is unconscionable that while hazmat teams in every State in the Union go about their much-needed training, this stockpile of money sits unused in the Treasury.

Even before the events of the past few months highlighted the need for enhanced and expanded hazardous materials training, DOT and the IFF were training as many emergency personnel as possible. However, at its current level of funding, the Emergency Preparedness Grants Program can only provide hazmat training to approximately 120,000 of the nation’s 3 million emergency personnel each year. Given what has happened, it should be obvious that the need for specialized hazmat training has quickly outpaced the money currently available. This leaves emergency workers in big cities and small towns in the untenable situation of knowing the risks they face, but lacking the proper training to react appropriately.

The legislation I am cosponsoring with Senator CLELAND offers an excellent solution to this problem. At no cost to taxpayers, the HERO Act will allow many thousands of emergency personnel to receive hazardous materials training that they would not otherwise be able to receive. Further, it will require DOT to develop minimal national standards for providing security training to those who transport hazardous materials in commerce, which should reduce the likelihood that emergency personnel will have to put their lives at risk to protect us. I commend Senator CLELAND for his work on this issue, and I wholeheartedly recommend it to my colleagues. I believe the Congress should enact this bill at its earliest opportunity, and that the President should sign it into law.

By Mrs. BOXER (for herself, Mr. CRAPO, Mr. SMITH, Mr. WYDEN, Mr. CRASCO, Mr. FEINSTEIN):

S. 1825. A bill to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho, and the tribes in the region for salmon restoration projects in coastal waters and upland drainages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, I am very pleased to be introducing the Pacific Salmon Recovery Act to grant Federal funding for salmon recovery efforts in California, Idaho, Washington, Oregon, and Alaska. The Salmon Recovery Act authorizes the Secretary of Commerce to provide $350 million during each of the next six fiscal years to these five western States and the tribes in that region.

In California, as much of the West, wild salmon have collapsed. Their precipitous decline is the result of habitat destruction, overfishing, pollution, and dams that block the passage of fish to and from their spawning areas. The results have been tragic. Fishermen have lost their jobs. Tribes have lost species that are their religious and cultural icons. And, the environment is suffering.

This bill would help to remedy these problems by investing in the restoration of these economic and culturally important fish. Specifically, it will provide funds to support projects in coastal waters and river habitats that will help restore and recover wild salmon. It directs that priority be given to the restoration of species listed as threatened or endangered under the Endangered Species Act. It establishes criteria to ensure that funds are not wasted on projects that will not benefit fish. It directs the Secretary of Commerce to develop a process for peer review of proposed projects to ensure that only scientifically sound projects receive funding. And, it requires States and Tribes to provide an annual spending plan to Congress as well as a one-time comprehensive plan for salmon restoration.

It is important to note that Idaho and the Tribes will finally be eligible for Pacific Salmon Recovery Fund dollars as a result of this bill. There is no justification for them to have been excluded in the past. Additionally, this bill requires that the funds be divided equally among the 5 States. This will ensure that the funding distribution is not distorted by political pressures.

I am particularly pleased that the supporters of this bill come from across the political spectrum. I was joined in the introduction of this bill by Senators CRAIG, R-ID, CRAPO, R-ID, WYDEN, D-OR, SMITH, R-OR, and FEINSTEIN, D-CA. We worked together for many months to craft this legislation. We were ultimately successful because we all share the same goal, saving wild salmon.

Finally, this bill illustrates clearly that our economy and our environment are linked. I have always said we cannot have a healthy economy without a healthy environment. In restoring the salmon, we will also be restoring the economy of many communities in the West. That is why, more than ever, dependent on healthy salmon runs.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SEC. 1. SHORT TITLE. This Act may be cited as the “Pacific Salmon Recovery Act”.

SEC. 2. SALMON CONSERVATION AND SALMON HABITAT RESTORATION ASSISTANCE.

(a) REQUIREMENT TO PROVIDE ASSISTANCE.—Subject to the availability of appropriations, the Secretary shall provide financial assistance in accordance with this Act to eligible States and eligible tribal governments for conservation of salmon and salmon habitat restoration activities.

(b) ALLOCATION.—Subject to section 3(f), of the amounts available to provide assistance under this section each fiscal year, the Secretary—

(1) shall allocate 85 percent among eligible States, in equal amounts; and

(2) shall allocate 15 percent among eligible tribal governments, in amounts determined by the Secretary.

(c) TRANSFER.—

(1) IN GENERAL.—The Secretary shall promptly transfer—

(A) to an eligible State that has submitted and had approved an annual spending plan under section 3(a) and a Salmon Conservation and Salmon Habitat Restoration Plan approved under section 3(b), amounts allocated to the eligible State under subsection (b)(1); and

(B) to an eligible tribal government that has submitted and had approved an annual spending plan under section 3(a) and a memorandum of understanding under section 3(c), amounts allocated to the eligible tribal government under subsection (b)(2).

(d) REALLOCATION.—The Secretary shall make the transfer under paragraph (1)(A)—

(A) to the Washington State Salmon Restoration Board, in the case of amounts allocated to Washington;

(B) to the Oregon State Watershed Enhancement Board, in the case of amounts allocated to Oregon;

(C) to the California Department of Fish and Game for the California Coastal Salmon Recovery Program, in the case of amounts allocated to California;

(D) to the Governor of Alaska, in the case of amounts allocated to Alaska; and

(E) to the Office of Species Conservation, in the case of amounts allocated to Idaho.

(d) REALLOCATION.—

(1) AMOUNTS ALLOCATED TO ELIGIBLE STATES.—Amounts that are allocated to an eligible State for a fiscal year shall be reallocated under subsection (b)(1) among the other eligible States, if—
(A) the eligible State does not have an annual salmon spending plan approved under section 3(a); (B) the eligible State does not have in effect at the end of the first fiscal year after the amounts have been allocated a Salmon Conservation and Salmon Habitat Restoration Plan approved under section 3(b); or (C) the amounts allocated remain unobligated at the end of the year following the fiscal year for which the amounts were allocated.

(2) AMOUNTS ALLOCATED TO ELIGIBLE TRIBAL GOVERNMENTS.—Amounts that are allocated to an eligible tribal government for a fiscal year following the fiscal year referenced under subsection (b)(2) to the other eligible tribal government—

(a) does not have an annual salmon spending plan approved under section 3(a); or

(b) has not entered into a memorandum of understanding with the Secretary in accordance with section 3(c) at the end of the fiscal year following the fiscal year for which the amounts were allocated.

SEC. 3. RECEIPT AND USE OF ASSISTANCE.

(a) ANNUAL SALMON SPENDING PLAN.—In order to receive assistance under this Act, an eligible State or eligible tribal government shall submit to the Secretary an annual salmon spending plan which shall include a description of projects and programs that the State or tribe plans to implement with the funds allocated. The Secretary shall review each plan within 90 days and provide a State or tribe an opportunity to resubmit the plan if necessary. Funds shall not be transferred to a State or tribe until an annual salmon plan is approved.

(b) ELIGIBLE STATE SALMON CONSERVATION AND RESTORATION PLAN.—

(1) IN GENERAL.—In order to receive assistance under this Act, an eligible State shall submit to the Secretary by the end of the first fiscal year after the amounts have been allocated an annual salmon conservation and salmon habitat restoration plan that meets the requirements of this section.

(2) NEGATIVE DETERMINATION.—If the Secretary determines that a plan described in paragraph (1) submitted by an eligible State does not meet the requirements of paragraph (3), the Secretary shall inform the State of the deficiencies of the plan, and the State may resubmit the plan for review by the Secretary.

(3) CONTENTS.—Each Salmon Conservation and Salmon Habitat Restoration Plan shall, at a minimum—

(A) be consistent with all applicable Federal laws;

(B) promote the recovery of salmon;

(C) except as provided in subparagraph (D), give priority to assistance under this Act for projects that—

(i) provide a direct and demonstrable benefit to salmon or their habitat;

(ii) conserve and restore habitat for salmon that are listed as an endangered species or threatened species, proposed for such listing, or a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(iii) are other activities in paragraph (1) that shall be validated in accordance with the requirements prescribed by the Secretary under section 4;

(D) maintenance and monitoring of salmon;

(E) protection and restoration of salmon;

(F) research and collection of data on salmon;

(2) PEER REVIEW.—

Eligible science-based peer review procedures and processes that satisfies the requirements prescribed by the Secretary under section 4.

(3) OTHER ACTIVITIES.—

(A) protection and restoration of salmon habitat, including riparian habitat protection;

(B) acquisition from willing sellers of conservation easements for riparian habitat protection;

(C) watershed evaluation, assessment, and planning necessary to develop a site-specific and clearly prioritized plan to implement watershed improvements, including for making multiyear grants;

(D) research and collection of data on salmon, and monitoring of salmon and salmon habitat;

(E) salmon supplementation and enhancement projects only for the purposes of restoring naturally reproducing salmon stocks and conserving salmon genetic diversity; and

(F) other activities related to conservation of salmon and salmon habitat restoration.

(4) SUBMISSION OF REGIONAL PLANS.

If the State is unable to complete a comprehensive statewide Salmon Conservation and Restoration Plan within the timeframe established in section 3(b) the State may submit 1 or more Plans covering distinct regions within the State. Funding shall only be available for States or regions within the State for which there is a Plan.

(b) MEMORANDUM OF UNDERSTANDING BETWEEN TRIBAL GOVERNMENT AND THE SECRETARY.—

(1) IN GENERAL.—To receive assistance under this Act, an eligible tribal government shall—

(A) have an approved annual salmon spending plan; and

(B) enter into a memorandum of understanding with the Secretary regarding use of the assistance by the end of the second fiscal year after the amounts have been allocated.

(2) CONTENTS.—Each memorandum of understanding shall, at a minimum—

(A) be consistent with all applicable Federal laws;

(B) be consistent with the goal of recovering salmon;

(C) give priority to use of assistance under this Act for activities that—

(i) provide a direct and demonstrable benefit to salmon or their habitat;

(ii) conserve and restore habitat for salmon that are listed as an endangered species or threatened species, proposed for such listing, or a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(iii) are projects referred to in clauses (i) and (ii) of subparagraph (C) that contribute to programs described in subsection (a)(3)(D) that—

(i) become a candidate for such listing, or

(ii) are listed as an endangered species or threatened species;

(D) require that activities carried out with such assistance shall—

(i) contribute to the conservation or recovery of salmon;

(ii) be scientifically based, in accordance with the requirements prescribed by the Secretary under section 4;

(iii) be cost-effective; and

(iv) not be conducted on private land, except with the consent of the owner of the land.

(3) OTHER ACTIVITIES.—

(A) protection and restoration of salmon habitat, including riparian habitat protection;

(B) acquisition from willing sellers of conservation easements for riparian habitat protection;

(C) watershed evaluation, assessment, and planning necessary to develop a site-specific and clearly prioritized plan to implement watershed improvements, including for making multiyear grants;

(D) research and collection of data on salmon, and monitoring of salmon and salmon habitat;

(E) salmon supplementation and enhancement projects only for the purposes of restoring naturally reproducing salmon stocks and conserving salmon genetic diversity; and

(F) other activities related to conservation of salmon and salmon habitat restoration.

(2) PEER REVIEW.—Eligible science-based activities in paragraph (1) shall be evaluated through eligible science-based peer review procedures and processes that satisfies the requirements prescribed by the Secretary under section 4.
(3) Columbia River basin.—Funds allocated to eligible States and tribal governments for projects or activities located within the Columbia River basin shall be used in a manner consistent with the Northwest Power Planning Council’s Columbia River Basin Fish and Wildlife Program.

(e) Use of assistance for activities outside jurisdiction of recipient.—

(1) Assistance to States.—Assistance under this Act provided to an eligible State only may be used for activities within that State.

(2) Assistance to tribal governments.—Assistance under this Act provided to an eligible tribal government may be used for activities within the borders of its resident State (or States).

(f) Cost-sharing by eligible States.—

(1) In general.—An eligible State shall provide 25 percent non-Federal match, in the aggregate, of any financial assistance provided to the eligible State for a fiscal year under this Act. The non-Federal match may be in the form of monetary contributions or in-kind contributions of services for projects carried out with assistance under this Act. For purposes of this paragraph, monetary contributions or services provided by an eligible State under this subsection shall not be considered to include funds received from other Federal sources.

(2) Limitation on requirement for matching funds.—Federal funds may not require an eligible State to provide matching funds for each project carried out with assistance under this Act.

(3) Treatment of monetary contributions.—For purposes of subsection (a)(3)(H), the amount of monetary contributions by an eligible State under this subsection shall be treated as provided by a source from a non-Federal source for salmon conservation and salmon habitat restoration programs.

(4) Bonneville power administration funds available for activities contained in the annual spending plan for each eligible State or tribal government. In order to achieve salmon recovery throughout the Columbia salmon’s range, each plan shall be considered separately on its own merits.

(b) Content.—The requirements for expedited peer review shall include the following:

(1) Panels.—Establishment of sufficient peer review panels, as determined by the Secretary, to achieve timely peer review of activities contained in the annual spending plan. The number of members, qualifications for membership, and procedure for selection of such panels shall be substantially in the same manner as the peer review panel provided for under section 4(b)(10)(D) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839b(h)(10)(D)).

(2) Necessary information.—A description of the information that must be provided to the peer review panel in order to evaluate the activities. Each State’s Salmon Conservation and Salmon Habitat Restoration Plan and each tribal government’s memorandum of understanding shall establish the mechanism for providing needed information to the peer review panel.

(3) Review of proposed activities.—Review, by the peer review panels, of activities proposed for funding with assistance under this Act, within the time prescribed by the Secretary.

(4) Determination and recommendations.—Submittal of the peer review panel’s determinations and recommendations regarding the activities within each State’s or tribe’s annual spending plan to the Secretary in approving or disapproving the annual spending plan, in accordance with the provisions of section 3(a). States or tribes may request the Secretary to review any plan, if necessary, or to propose alternative projects within their respective jurisdictions.

(c) Interim funding.—An eligible State or tribal government may receive funding under this Act prior to the finalization by the Secretary of the peer review requirements under this section.

(d) Peer review funding.—The Secretary shall pay the expenses incurred by peer review panels in an amount not to exceed $500,000 a year for administrative costs described in section 3(1)(A).

SEC. 5. PUBLIC PARTICIPATION.

(a) Eligible States.—Each eligible State seeking assistance under this Act shall establish a citizen advisory committee or provide a similar forum for local governments and the public to participate in obtaining and using the assistance, as well as in the development of the State Salmon Conservation and Restoration Plan. Each eligible State receiving assistance under this Act shall publish public meeting notices and submit reports to the Secretary on the use of the assistance.

(b) Eligible tribal governments.—Each eligible tribal government receiving assistance under this Act shall publish public meeting notices and submit reports to the Secretary on the use of the assistance.

SEC. 6. CONSULTATION NOT REQUIRED.


SEC. 7. REPORTS.

Each eligible State and tribal government shall, not later than December 31 of the second year in which amounts are available to carry out this Act, and every 2 years thereafter, submit to the Secretary a biennial report on the use of financial assistance received by the eligible State or tribal government under this Act. The report shall contain an evaluation of the success of that State or tribal government in meeting the criteria listed in section 3(b) and (c), whichever is applicable.

SEC. 8. DEFINITIONS.

In this Act:

(1) Indian tribe.—The term “Indian tribe” has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) Eligible State.—The term “eligible State” means each of the States of Alaska, Washington, Oregon, California, and Idaho.

(3) Eligible tribal government.—The term “eligible tribal government” means—

(A) a federally recognized tribal government of an Indian tribe in Alaska, Washington, Oregon, California, and Idaho that the Secretary, in consultation with the Secretary of the Interior, determines—

(i) is involved in salmon management and recovery activities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(ii) has the management and organizational capability to maximize the benefits of assistance provided under this Act; or

(B) an Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or a federally recognized tribe in Alaska, that the Secretary, in consultation with the Secretary of the Interior, determines—

(i) is involved in salmon conservation and management; and

(ii) has the management and organizational capability to maximize the benefits of assistance provided under this Act.

(4) Salmon.—The term “salmon” means anadromous or resident salmon or trout naturally produced by the following species:

(A) Coho salmon (oncorhynchus kisutch).

(B) Chinook salmon (oncorhynchus tshawytscha).

(C) Chum salmon (oncorhynchus keta).

(D) Pink salmon (oncorhynchus gorbuscha).

(E) Sockeye salmon (oncorhynchus nerka).

(F) Steelhead trout (oncorhynchus mykiss).

(G) Sea-run cutthroat trout (oncorhynchus clarki clarki).

(H) For purposes of applying this Act to Oregon, the term “salmon” also includes—

(i) laharont cutthroat trout (oncorhynchus clarki henshawi); and

(ii) bull trout (salvelinus confluentus).

(I) For purposes of applying this Act to Washington and Idaho, the term “salmon” includes—

(i) bull trout (salvelinus confluentus).

(5) Secretary.—The term “Secretary” means the Secretary of Commerce.

SEC. 8A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $350,000,000 for each of the fiscal years 2002 through 2007 to carry out the provisions of this Act. Any funds appropriated pursuant to this Act shall remain available until expended.
By Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. BAUCUS):

S. 2827. A bill to provide permanent authorization for International Labor Affairs Bureau to continue and enhance their work to alleviate child labor in foreign countries. For this purpose, the Committee on Foreign Relations.

Mr. HARKIN. Mr. President, laws are only as effective as their implementation and enforcement. That is why today I am introducing the Fair International Standards in Trade and Investment and enforcement. That is why I am introducing the Fair International Standards in Trade and Investment Act of 2001 along with my distinguished colleagues, Senator KENNEDY, chairman of the Senate Health, Education, Labor, and Pensions Committee, and Senator BAUCUS, chairman of the Senate Finance Committee.

This legislation will provide much-needed policy direction to the U.S. Labor Department, DOL, and enhance the standing and capacity of the International Labor Affairs Bureau, ILAB, within that Department in the formulation and conduct of our nation’s international economic policies. With these tools, ILAB can better inform and equip U.S. policy-makers in all three branches of our Federal Government to assist and induce our foreign trading partners to enforce their own national laws against abusive child labor and to comply with their own international laws. The U.S. laws that have been enacted since 1983 which link U.S. trade, investment, and aid policies to the elimination of abusive child labor and growing international respect for the other internationally-recognized worker rights and core labor standards.

Currently, ILAB does not have any underlying, permanent statutory authority for any of its international activities. It simply operates as an adjunct to the personal office of the Secretary of Labor. Practically speaking, this gives ILAB a very small role in inter-agency policy-making and no real voice to insist on better enforcement of the child labor provisions and other worker rights provisions in U.S. law, international law, or any of the bilateral trade and investment agreements that America has with more than 150 foreign countries.

The time has come for better equipping our government and the rest of the world’s vulnerably-needed advocates to constructively link compliance with child labor laws and other basic worker rights to the conduct of continued trade and investment liberalization. We need new thinking and new resolve to crack down on abusive child labor, particularly as child laborers are employed in significant numbers and in significant disruption of their families. We need to do more to protect all workers throughout the globe and to beef up protection of internationally-recognized worker rights and core labor standards. If enacted, this legislation will lay a solid statutory foundation under which ILAB can more effectively protect our children, workers, and families.

I have spent more than a decade in this Senate leading the charge against the exploitation of children in the workplace at home and abroad. Just last year, the Congress enacted provisions I authored in the Trade and Development Act of 2000 which prohibit trade preferences and duty-free access to the U.S. market—place for any trading nation that is not meeting its international legal obligations to eliminate the worst forms of child labor. Now we have to make certain that these new provisions and our other trade-linked worker rights laws are practically enforced and that means improving ILAB’s capacity to meet this increasingly-important responsibility.

In the final analysis, increased trade and investment are not ends in themselves. They are means for achieving more broad-based, sustainable development and greater economic and social justice in the global economy. Our real choice is not between free trade and protectionism. Our policy challenge is to identify new and constructive ways in which the power of government can be used to manage globalization in ways that curb abusive child labor and protect worker rights as much as property rights. A well-grounded and enhanced ILAB within the one Cabinet department in our government that was created to advance the needs and protect the fundamental rights of working people everywhere can help us meet this challenge for the 21st century and beyond.

By Mr. LEAHY (for himself and Mr. HATCH):

S. 2828. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors as a class of Government officials that have the most fact-to-face contact, and often in an extremely confrontational environment, with the widest range of criminal activity.

This legislation would increase retirement benefits for Federal prosecutors. It would also provide for other retirement benefits, including death benefits, to the families of Federal prosecutors who die as a result of the performance of their duties.

Mr. LEAHY. Mr. President, I rise to introduce, with my good friend Senator HATCH, the Federal Prosecutors’ Retirement Benefit Equity Act of 2001. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than other nearly all other people who are involved in the Federal justice system. The bill would increase the retirement benefits given to Assistant United States Attorneys by including them as “law enforcement officers” under the Federal Employees’ Retirement System and the Civil Service Retirement System. The bill would give them a better retirement benefit with an actuarially fair method of computing it.

Mr. LEAHY. Mr. President, I rise to introduce, with my good friend Senator HATCH, the Federal Prosecutors’ Retirement Benefit Equity Act of 2001. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than other nearly all other people who are involved in the Federal justice system. The bill would increase the retirement benefits given to Assistant United States Attorneys by including them as “law enforcement officers” under the Federal Employees’ Retirement System and the Civil Service Retirement System. The bill would also allow the Attorney General to designate other attorneys employed by the Department of Justice who act primarily as criminal prosecutors as ‘LEOs’ for purposes of receiving these retirement benefits.

The primary reason for granting enhanced retirement benefits to LEOs is the often dangerous work of law enforcement. Currently, Assistant United States Attorneys, “AUSAs”, and other Federal prosecutors are not eligible for these enhanced benefits, which are enjoyed by the vast majority of other employees in the criminal justice system. This exclusion is unjustified. The relevant provisions of the United States Code dealing with retirement benefits define an LEO as an employee whose duties are, “primarily the investigation, apprehension, or detention of individuals suspected or convicted of violating Federal law. See 5 U.S.C. §§8331(20) and 8401(17). AUSAs and other Federal prosecutors participate in planning investigations, interview witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings. Indeed, once a defendant is brought into the criminal justice system, the person with whom they have the most fact-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor.

Although prosecutors do not personally execute arrests, searches and other physically dangerous activities, LEO status is accorded to many criminal justice employees who do not perform such tasks, such as pretrial services officers and probation officers and accountants, cooks and secretaries of the Bureau of Prisons. Because they are often the most conspicuous representatives of the government in the criminal justice system, Federal prosecutors are natural targets for threats of reprisals by vengeful criminals. Indeed, there are numerous incidents in which assaults and serious death threats have been made against Federal prosecutors, sometimes resulting in significant disruption of their personal and family life.

Only recently a veteran Federal prosecutor in the Western District of Washington was murdered in his home, and, although the crime remains unsolved, based upon the facts of the case the authorities have referred to the crime as a hit. In addition, I have received many other accounts from Federal prosecutors regarding specific threats to which they and their families have been subjected because of the performance of their duties. For instance, I have been written to me that they have been forced to relocate themselves and their families due to death threats; that they have been assaulted; that they and their families have been followed by members of criminal organizations; that they have been forced to install security systems at their homes and to change their routes to and from the office to protect their safety and the safety of their families.

The war on terrorism continues. Federal prosecutors will be on the front lines once again as the symbols of our criminal justice system, and
Unfortunately therefore the targets of those who seek its downfall. Among other tasks, the Attorney General has designated AUSA’s to play a major role working with police and Federal agents in forming each judicial district’s Anti-Terrorism Task Force. One Federal prosecutor wrote to me stating that shortly after his name was in the local news as heading his district’s Anti-Terrorism Task Force and he had spoken to his family about taking suitable precautions. The young son of the retired federal prosecutor was holding a hockey stick for protection asking about their safety. Thus, Federal prosecutors and their families will deal more than ever with a level of stress and danger that justifies their being treated as LEOs.

Enhanced retirement benefits are also justified by the Federal Government’s need for experienced prosecutors to bring ever more sophisticated cases under increasingly complex Federal criminal laws. In recent years, we have seen the growth of complex Federal prosecutors to combat the threats posed by organized crime, drug cartels, terrorist groups and other sophisticated criminals. The prosecution of such defendants is best handled by experienced prosecutors. It is therefore in the public interest to provide reasonable financial incentives for talented, experienced prosecutors to remain in government service.

The Senate’s Assistant United States Attorneys and other Federal prosecutors designated by the Attorney General eligible for immediate, unreduced retirement benefits at age 50 with 20 years of service. For example, prosecutors who are covered by the Civil Service Retirement System would receive 50 percent of the average of their three highest years’ salary. At the same time, it would exempt prosecutors from the mandatory retirement provisions that require other law enforcement officers to retire at age 57. Because the loss of physical strength and agility does not adversely affect a person’s ability to function as a prosecutor, there is no reason to mandate early retirement.

Two important features of this bill will contain its costs. First, the bill provides that incumbent Federal prosecutors are themselves responsible for making up the difference in individual contributions to the Civil Service Retirement and Disability Fund for their prior service. An incumbent has the choice of making up this difference either by making a payment up front or by accepting a reduction in retirement benefits. Second, government contributions for the prior service of incumbents are made ratably over a ten-year period under this bill. Thus, payments for prior government contributions are spread out to lessen the financial impact. These two provisions will insure that the cost of the bill is kept well within reason.

This bill enjoys broad, grass root support. In the last month alone, I have received literally hundreds of letters supporting this bill, sent from over 40 States, District of Columbia and Puerto Rico. The bill also enjoys support in the law enforcement community. The National Association of Assistant United States Attorneys, the Federal Criminal Investigators Association, and the Southern States Police Benevolent Association have all written me to voice support for the inclusion of AUSAs in the definition of an LEO.

In addition, I know that other Senators including Senator Mikulski are considering additional measures to expand these same retirement benefits to other Federal employees who perform law enforcement functions, including IRS employees whose primary duty is to collect delinquent taxes. I support and commend their leadership in bringing these matters to the forefront. For all of these reasons, I am pleased to introduce this legislation with Senator Hatch, and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the Record along with a sectional analysis.

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

S. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE. This Act may be cited as the “Federal Prosecutors Retirement Benefit Equity Act of 2001.”

SEC. 2. INCLUSION OF FEDERAL PROSECUTORS IN THE DEFINITION OF A LAW ENFORCEMENT OFFICER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by striking “position,” and inserting “position and a Federal prosecutor.”

(2) FEDERAL PROSECUTOR DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (27), by striking “and” at the end; and

(B) in paragraph (28), by striking the period and inserting “; and”;

and

(C) by adding at the end the following:

“(29) ‘Federal prosecutor’ means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice designated by the Attorney General of the United States; and

(C) a Federal prosecutor;”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking “and” at the end; and

(B) in subparagraph (D), by adding “and” after the semicolon; and

(C) by adding at the end the following:

“(E) a Federal prosecutor;”.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (33), by striking “and” at the end; and

(B) in paragraph (34), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(35) ‘Federal prosecutor’ means—

“(A) an assistant United States attorney under section 542 of title 28; or

“(B) an attorney employed by the Department of Justice and designated by the Attorney General as a Federal prosecutor.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 120 days after the date of enactment of this Act.

SEC. 3. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section, the term—

(1) “Federal prosecutor” means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States; and

(2) “incumbent” means an individual who is serving as a Federal prosecutor on the effective date of this section; and

(3) “designated Attorney”—The Attorney General of the United States makes any designation under subsection (a)(1)(B) for purposes of being an incumbent under this section,—

(1) such designation shall be made before the effective date of this section; and

(2) the Attorney General shall submit to the Office of Personnel Management before that effective date—

(A) the name of the individual designated; and

(B) the period of service performed by that individual as a Federal prosecutor before that effective date.

(c) NOTICE REQUIREMENT.—Not later than 9 months after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this Act; and

(2) the effects of making or not making a timely election under this Act.

(d) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this Act; or

(B) as if this Act had never been enacted.

(2) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 120 days after the date on which the notice under subsection (c) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) LIMITED RETROACTIVE EFFECT.—

(1) EFFECT ON RETIREMENT.—In the case of an incumbent who elects or is deemed to have elected to make the election under subsection (d)(1)(A), all service performed by that individual as a Federal prosecutor shall—
SECTION 4. DEPARTMENT OF JUSTICE ADMINISTRATIVE ACTIONS.

(a) Definition.—In this section the term ‘‘Federal prosecutor’’ has the meaning given under section 2(b)(3).

(b) Regulations.—

(1) In general.—Not later than 120 days after the date of enactment of this Act, the Attorney General of the United States shall:

(A) consult with the Office of Personnel Management on this Act (including the amendments made by this Act); and

(B) promulgate regulations for making designations of Federal prosecutors who are not assistant United States attorneys.

(2) Contents.—Any regulations promulgated under paragraph (1) shall ensure that attorneys designated as Federal prosecutors who are not assistant United States attorneys have routine employee responsibilities that are substantially similar to those of assistant United States attorneys assigned to the litigation of criminal cases, such as the representation of the United States before grand juries, courts, and related court proceedings.

(c) Designations.—The designation of any Federal prosecutor who is not an assistant United States attorney for purposes of this Act (including the amendments made by this Act) shall be at the discretion of the Attorney General of the United States.

FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2001—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. Contains the short title, the ‘‘Federal Prosecutors Retirement Benefit Equity Act of 2001.’’

Sec. 2. Inclusion of Federal prosecutors in the definition of a law enforcement officer. Amends 5 U.S.C. §§3331 and 8401 to extend the enhanced law enforcement officer (‘‘LEO’’) retirement benefits to Federal prosecutors.

Sec. 3. Provisions relating to incumbents. Governs the treatment of incumbent federal prosecutors who would be eligible for LEO retirement benefits under this Act. This section requires the Office of Personnel Management to provide notice to incumbents of their rights under this subtitle; allows incumbents to opt out of the LEO retirement program; governs the crediting of prior service by incumbents; and provides for make-up contributions for prior service of incumbents to the Civil Service Retirement and Disability Fund.

Sec. 4. Department of Justice administrative actions. Requires the Attorney General to designate additional Department of Justice attorneys with substantially similar responsibilities, in addition to assistant United States attorneys, as ‘‘Federal prosecutors’’ for purposes of this Act and thus be eligible for the LEO retirement benefits.
of Nebraska, Mr. SESSIONS, Mrs. CARNABAH, Ms. COLLINS, Mr. DAYTON, Mr. BUNNING, Mr. BINGAMAN, Mr. DASCHLE, Mr. LOTT, Mr. LEAHY, Mr. BOND, and Mr. ROCKEFELLER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 93

Whereas the National Guard is the oldest component of the Armed Forces of the United States, founded on December 13, 1836, as the militia of the Massachusetts Bay Colony;

Whereas the citizen soldiers and airmen of the National Guard have fought in every major war and conflict since then, including the wars of the 17th century to the ongoing operations against the al Qaeda terrorist network and the Taliban regime in Afghanistan that harbored those terrorists;

Whereas the National Guard traditionally has served with distinction as America’s first line of defense against the consequences of natural and man-made disasters within the United States;

Whereas the men and women of the National Guard serve as an indispensable part of critical military operations around the world, including patrolling the no-fly zones over Iraq and peacekeeping in the Balkans;

Whereas headquarters elements of National Guard combat divisions lead the United States participation in the multinational Stabilization Force in Bosnia;

Whereas the men and women of the National Guard were among the first to respond to the terrorist atrocities of September 11, 2001, including Air National Guard fighter crews that battled on that day and Army National Guard personnel who deployed to assist with rescue and recovery efforts in New York and Virginia;

Whereas the citizen soldiers and airmen of the National Guard serve a critical role in protecting the freedom of American citizens and the American ideals of justice, liberty, and freedom, both at home and abroad. Now, therefore, it is resolved

Resolved by the Senate (the House of Representatives concurring), That, on December 13, 2001, the occasion of the 365th anniversary of the founding of the militia of the Massachusetts Bay Colony that was the precursor to the force of citizen soldiers and airmen now proudly known as the National Guard, Congress—

(1) recognizes that anniversary of the National Guard as an important milestone in the military tradition of the United States;

(2) honors the commitment and sacrifices made by the 458,400 citizen soldiers and airmen who proudly served their families, their employers, and their communities;

(3) recognizes the critical importance of the National Guard, at home and abroad, to the national security of the United States;

(4) salutes the citizen soldiers and airmen of the National Guard for their service on September 11, 2001, and their continuing role in homeland defense and military operations against the al Qaeda terrorist network and the Taliban regime in Afghanistan that harbored those terrorists;

(5) recognizes the value of providing the National Guard with resources necessary to ensure its continued readiness; and

(6) expresses the deep gratitude of the American people to the men and women of the National Guard for their dedication and commitment to the security and freedom of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2516. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2517. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2518. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2519. Mr. McCAIN (for himself, Mr. GRAMM, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2520. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2521. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2522. Mr. FEINGOLD (for himself, Mr. GRASSLEY, and Mr. HARKIN) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2523. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2524. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. LUGAR, Mr. JOHN- SON, Mr. NELSON, of Nebraska, Mr. TORRICELLI, and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2525. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2526. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2527. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2528. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2529. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. CRAIO, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2530. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2531. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2532. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2533. Mr. CRAPO (for himself and Mr. CHACE) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2534. Mr. JOHN, Mr. JOHNSON, Mr. GREGG, Mr. GRASSLEY, Mr. WELLSTONE, Mr. HARKIN, Mr. THOMAS, Mr. DORGAN, Mr. FEINGOLD, and Mr. DASCHLE submitted an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2535. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2537. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2538. Mr. THURMOND (for himself and Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2539. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2540. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2541. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2542. Mr. SANTORUM (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. DeWINE, Mr. KOHL, Mr. HATCH, Mrs. CLINTON, and Mr. JEP- PORD) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2543. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2544. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the
bill (S. 1731) supra; which was ordered to lie on the table.

SA 2545. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2554. Mr. CRAPO (for himself and Mr. Craig) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2555. Mr. CRAPO (for himself and Mr. Craig) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2556. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2557. Mr. ALLEN (for himself and Mr. WENDELL) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2558. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2559. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2560. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2561. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2562. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2563. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2564. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2565. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2566. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2567. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2568. Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2569. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2570. Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2571. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2572. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2573. Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2574. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. LUGAR, Mr. JOHNSON, Mr. NELSON, of Nebraska, Mr. TORRIECELLI, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2575. Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2576. Mr. DASCHLE (for himself and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2577. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2578. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2579. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2580. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2581. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2582. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2583. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2576. Mr. DASCHLE (for himself and Ms. LANDRIEU, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2584. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2585. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2586. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2587. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2588. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2589. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2590. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2591. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2592. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2593. Mr. SMITH, of New Hampshire (for himself, Mr. TORRIECELLI, Mr. GRAHAM, Mr. ALLEN, Mr. ENOUGH, Mr. HELMS, Mr. NELSON, of Florida, Mr. LIEBERMAN, and Mr. SMITH, of Oregon) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2594. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2595. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2596. Mr. SMITH, of New Hampshire (for himself, Mr. TORRIECELLI, Mr. GRAHAM, Mr. ALLEN, Mr. ENOUGH, Mr. HELMS, Mr. NELSON, of Florida, Mr. LIEBERMAN, and Mr. SMITH, of Oregon) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.
and intended to be proposed to the bill (S. 1731) supra.

SA 2598. Mr. McCAIN (for himself, Mr. GRAMM, and Mr. KERRY) proposed an amendment to the bill S. 1731 supra.

SA 2599. Mr. DURBAN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2600. Mr. CARPER (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table.

SA 2601. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2516. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2517. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of title I and insert a period and the following:

Subtitle E—Payment Limitation Commission

SEC. 171. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the “Commission on the Application of Payment Limitations for Agriculture” (referred to in this subtitle as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of the following 7 members appointed by the Secretary of Agriculture (referred to in this subtitle as the “Secretary”):

(A) 2 members from land grant colleges or universities with expertise in agricultural economics;

(B) 5 members who shall be producers of agricultural commodities, each of whom shall represent 1 of the following regions, as determined by the Secretary:

(i) The Midwest.

(ii) The Great Plains.

(iii) The South.

(iv) The Northeast.

(v) The West.

(2) FEDERAL, STATE, AND LOCAL GOVERNMENT.—Of the members of the Commission, at least 1 shall be a member of the Department of Agriculture or other Federal agencies.

(3) STATE AND LOCAL GOVERNMENT.—The membership of the Commission may include 1 or more employees of the Department of Agriculture or other Federal agencies.

(4) DATE OF APPOINTMENT.—The appointment of a member of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for a term of 4 years.

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) MEETINGS.—The Commission shall meet—

(1) on a regular basis, as determined by the Chairperson; and

(2) at the call of the Chairperson or a majority of the members of the Commission.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The Secretary shall appoint 1 of the members of the Commission to serve as Chairperson of the Commission.

SEC. 172. DUTIES.

(a) COMPREHENSIVE REVIEW.—The Commission shall conduct a comprehensive review of—

(1) the laws (including regulations) that apply or fail to apply payment limitations to agricultural commodity and conservation programs administered by the Secretary;

(2) the impact that failing to apply effective payment limitations have on—

(A) the agricultural producers that participate in the programs;

(B) overproduction of agricultural commodities; and

(C) the prices that agricultural producers receive for agricultural commodities in the marketplace;

(3) the feasibility of improving the application and effectiveness of payment limitation requirements, including the use of commodity certificates and the forfeiture of loan collateral; and

(4) alternatives to payment limitation requirements in effect on the date of enactment of this Act that would apply meaningful limitations to improve the effectiveness and integrity of the requirements.

(b) RECOMMENDATIONS.—In carrying out the review under subsection (a), the Commission shall develop specific recommendations for modifications to applicable legislation and regulations that would improve payment limitation requirements.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the President, the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the House Agriculture Committee a report containing the results of the review conducted, and any recommendations developed, under this section.

SEC. 173. POWERS.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this subtitle.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary may provide the Commission with staff support services as the Commission requests.

SEC. 174. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is performing the duties of the Commission.

(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

SEC. 175. FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or any proceeding of the Commission.

SEC. 176. FUNDING.

Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $100,000 to carry out this subtitle.

SEC. 177. TERMINATION OF COMMISSION.

The Commission shall terminate on the day after the date on which the Commission submits the report of the Commission under section 172(c).

SA 2518. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, after line 24, insert the following:

SEC. 174. EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that all convicted felons wanted by the Federal Bureau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.
INSURANCE AND NONINSURED CROP DISASTER ASSISTANCE PROGRAMS. The implementation of current federal crop disaster assistance programs fails to adequately address situations where disaster conditions are caused by direct federal action.

(b) PROVISIONS.—

(1) 7 U.S.C. 302, as amended by P.L. 104–127, is amended—

(1) in Section (a)(3) by striking “or” and inserting “and”;

(2) in Section (a)(3) by striking “as determined by the Secretary,” and inserting in lieu thereof “as determined by the Secretary, or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation,” and

(3) in Section (c)(2) by striking “or other natural disaster, as determined by the Secretary,” and inserting in lieu thereof “other natural disaster (as determined by the Secretary), or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation.”

(2) 7 U.S.C. 1508 is amended—

(1) in Section (a)(1) by striking “or other natural disaster (as determined by the Secretary),” and inserting “natural disaster (as determined by the Secretary), or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation,” and

(ii) in Section (b)(1) by striking “or other natural disaster (as determined by the Secretary),” and inserting in lieu thereof “other natural disaster (as determined by the Secretary, or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation.”

(c) ADMINISTRATIVE RULES.—The Secretary is encouraged to review and amend administrative rules to better describe disaster conditions to accommodate situations where planting decisions are based on federal water allocations. The Secretary is further encouraged to review the level of disaster payments to irrigated agriculture producers in such cases where federal water allocations are withheld prior to the planting period.

(d) EFFECTIVENESS.—

(1) Subsections (a)(1) and (a)(2) of this section shall be made effective only upon:

(i) the Secretary taking implementation subsections (a)(1) and (a)(2); and

(A) do not affect the financial soundness of approved insurance providers or the integrity of the Federal crop insurance program, and

(B) additional authorities are not needed to achieve actuarial soundness of implementing subsections (a)(1) and (a)(2).

SA 2519. Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. MARKET NAME FOR CATFISH.

The term “catfish” shall be considered to be a common or usual name (or part thereof) for any fish in keeping with Food and Drug Administration procedures that follow scientific standards and market practices for "catfish."

SA 2520. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes, which was ordered to lie on the table; as follows:

Beginning on page 762, strike line 16 and all that follows through page 763, line 20, and insert the following:

SEC. 741. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

Section 601 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended—

(1) by striking subsection (b) and inserting the following:

(2) in subparagraph (A), the following:

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account to carry out this section—

(A) not later than 30 days after the date of enactment of this subparagraph, $50,000,000; and

(B) on October 1, 2002, and each October 1 thereafter through October 1, 2005, $50,000,000.

(2) EXCEPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.”; and

(2) in subsection (e), by adding at the end the following:

(3) MINORITY-SERVING INSTITUTIONS.—The Secretary shall ensure, to the maximum extent practicable, 10 percent of the funds made available to carry out this section for a fiscal year for grants to minority-serving institutions.

SA 2521. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—NUTRITION PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the “Food Stamp Simplification Act of 2001”.

Subtitle A—Food Stamp Program

SEC. 411. CATEGORICAL ELIGIBILITY FOR REVERSE FUNDING FOR NONINSURED CROP DISASTER ASSISTANCE PROGRAMS.

Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) in the second sentence, by striking “receives benefits” and inserting “receives cash assistance”; and

(2) in the third sentence, by striking “receives benefits” and inserting “receives cash assistance”.

SEC. 412. DISREGARDING OF INFREQUENT AND UNANTICIPATED INCOME.

Section 5(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(2)) is amended by striking “$30” and inserting “$100”.

SEC. 413. SIMPLIFIED TREATMENT OF INDIVIDUALS COMPLYING WITH CHILD SUPPORT LAWS.

(a) EXCLUSION.—Section 5(d)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(6)) is amended by adding at the end the following:

(1) including child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.”;

(b) SIMPLIFIED PROCEDURE.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e), by striking paragraph (4) and inserting the following:

“(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

(A) IN GENERAL.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.”;

(B) ORDER OF DETERMINING DEDUCTIONS.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6); and

(2) by adding at the end the following:

“(5) STATE OPTIONS TO SIMPLIFY DETERMINATION OF CHILD SUPPORT PAYMENTS MADE BY HOUSEHOLD MEMBERS.—

(I) IN GENERAL.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies to determine the amount of the legally obligated child support payments made, including procedures to allow the State agency to rely on information from the other party responsible for providing the program under part D of title IV of the Social Security Act (42 U.S.C. 661 et seq.) concerning payments made in prior months in lieu of obtaining current information from the household.

(II) DURATION OF DETERMINATION OF AMOUNT OF SUPPORT PAYMENTS.—If a State agency makes a determination of the amount of support payments of a household under paragraph (1), the State agency may provide that the amount of the exclusion or deduction for the household shall not change until the eligibility of the household is next redetermined under section 11(e)(4).”.

SEC. 414. COORDINATED AND SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking “and (15)” and inserting “(15)”;

(2) by inserting before the period at the end the following:

“11(e)(16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans’ educational benefits, and the like (other than loans, grants, scholarships, fellowships, and the like) received by veterans, veterans’ educational benefits, and the like (other than loans, grants, scholarships, fellowships, and the like) received by veterans, 2001.”; and

SEC 415. CONFORMING AMENDMENTS.

“11(e)(16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans’ educational benefits, and the like (other than loans, grants, scholarships, fellowships, and the like) received by veterans, veterans’ educational benefits, and the like (other than loans, grants, scholarships, fellowships, and the like) received by veterans, 2001.”
are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), (17) at the option of the State agency, any State supplementary assistance program that is not subject to title IV of the Social Security Act (42 U.S.C. 1396d–1), (18) at the option of the State agency, any type of income that the State agency does not consider when determining eligibility for medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396a–1), (19) at the option of the State agency, any type of income that the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels.

**SEC. 415. EXCLUSION OF INTEREST AND DIVIDEND INCOME.**

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2026(d)) (as amended by section 414(g)(2)(B)) is amended by inserting before the period at the end the following: “(2) any interest or dividend income received by a member of the household”.

**SEC. 416. ALIGNMENT OF STANDARD DEDUCTION WITH POVERTY LINE.**

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2026(e)) is amended by striking paragraph (1) and inserting the following:

“(1) STANDARD DEDUCTION.—

(A) IN GENERAL.—Subject to the other provions of this paragraph, the Secretary shall allow a standard deduction for each household that is—

(i) equal to the applicable percentage specified in subparagraph (D) of the income standard of eligibility established under subsection (c)(1); but

(ii) not less than the minimum deduction specified in subparagraph (E).

(B) GUAM.—The Secretary shall allow a standard deduction for each household in Guam that is—

(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

(i) equal for fiscal year 2002;

(ii) 8.5 percent for each of fiscal years 2003 through 2005;

(iii) 9 percent for each of fiscal years 2006 through 2008;

(iv) 9.5 percent for each of fiscal years 2009 and 2010; and

(v) 10 percent for each fiscal year thereafter.

(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, $189 for Hawaii, $189 for American Samoa, and $189 for the Virgin Islands of the United States, respectively.”.

**SEC. 417. SIMPLIFIED DEPENDENT CARE DEDUCTION.**

Section 5(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2026(e)(3)) is amended by adding at the end the following:

“(C) STANDARD DEPENDENT CARE ALLOWANCE.—

(I) ESTABLISHMENT OF ALLOWANCE.—

(1) IN GENERAL.—In determining the dependent care deduction under this paragraph, in lieu of requiring the household to establish the standard dependent care costs of the household, a State agency shall use standard dependent care allowances established under subclause (II) for each dependent for whom the household incurs costs for care.

(II) AMENDMENT TO STATE PLAN.—A State agency that elects to use standard dependent care allowances under subclause (I) shall submit for approval by the Secretary an amendment to the State plan of operation under section 11(i)(d) that—

(aa) describes the allowances that the State agency will use; and

(bb) includes supporting documentation.

(II) HOUSEHOLD ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in clause (iii), a household may elect to have the dependent care deduction of the household based on actual dependent care costs rather than that the allowances established under clause (i).

(II) FREQUENCY.—The Secretary may by regulation limit the frequency with which the household may make a election described in subclause (I) or reverse the election.

(III) MANDATORY DEPENDENT CARE ALLOWANCES.—The State agency may make the use of standard dependent care allowances established under clause (i) mandatory for all households that incur dependent care costs.

**SEC. 418. SIMPLIFIED DETERMINATION OF HOUSING COSTS.**

(a) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2026(e)(7)) is amended by—

(1) in subparagraph (A)—

(II) by striking “A household” and inserting the following:

“I (I) IN GENERAL.—A household”;

and

(B) by adding at the end the following:

(i) INCLUSION OF CERTAIN PAYMENTS.—In determining the housing costs of a household under this paragraph, the Secretary shall include any required payment to the landlord of the household without regard to whether the payment is designated to pay specific charges.”;

and

(2) by adding at the end the following:

(D) HOMELESS HOUSEHOLDS.—

(1) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless individuals to receive a deduction of $13 per month.

(ii) INELIGIBILITY.—The State agency may make a deduction for a household who is receiving shelter with no restrictions placed on employment, education, or training opportunities.

(b) CONFORMING AMENDMENTS.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended—

(1) in subsection (e)—

(A) by striking subparagraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(2) in subsection (k)(4)(B), by striking “subsection (e)(7)” and inserting “subsection (e)(6)”.

**SEC. 419. SIMPLIFIED DETERMINATION OF UTILITY COSTS.**

Section 5(f)(3) of the Food Stamp Act of 1977 (as amended by section 418(b)(1)(B)) is amended—

(1) in clause (b)(b), by inserting “(without regard to subclause (III))” after “Secretary finds;” and

(2) by adding at the end the following:

Clauses (ii)(I) and (ii)(II) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory for all households.

**SEC. 420. SIMPLIFIED DETERMINATION OF EARNED INCOME.**

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(f)(1)) is amended by adding at the end the following:

“(C) SIMPLIFIED DETERMINATION OF EARNED INCOME.—

(i) IN GENERAL.—A State agency may elect to determine monthly earned income by multiplying weekly income by 4 and bi-weekly income by 2.

(ii) ADJUSTMENT OF EARNED INCOME DEDUCTION.—A State agency that makes an election described in clause (i) shall adjust the earned income standard prescribed by the Secretary, any change consistent with standards promulgated by the Secretary.”.

**SEC. 421. SIMPLIFIED DETERMINATION OF DEPENDENCY COSTS.**

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(f)(1)) as amended by section 430 is amended by adding at the end the following:

“(D) SIMPLIFIED DETERMINATION OF DEPENDENCY COSTS.—

(i) IN GENERAL.—Except as provided in clause (ii), for the purposes of subsection (c), a State agency may elect to disregard until the next determination of eligibility under section 11(e)(4) or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

(ii) CHANGES THAT MAY NOT BE DISREGARDED.—Under clause (i), a State agency may disregard—

(I) any reported change of residence; or

(II) any one-time change in earned income.

**SEC. 422. SIMPLIFIED RESOURCE ELIGIBILITY LIMIT.**

Section 5(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(g)(1)) is amended by stricking “a member who is 60 years of age or older” and inserting “an elderly or disabled member.”.

**SEC. 423. EXCLUSION OF LICENSED VEHICLES FROM FINANCIAL RESOURCES.**

(a) IN GENERAL.—Section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2026(g)(2)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii), by adding “and” at the end;

(B) by striking clause (iv); and

(C) by redesignating clause (v) as clause (iv).

(2) by striking subparagraph (C) and inserting the following:

“(C) EXCLUDED VEHICLES.—The Secretary shall exclude from financial resources any licensed vehicle used for household transportation;”.

(b) CONFORMING AMENDMENT.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (b).

**SEC. 424. EXCLUSION OF RETIREMENT ACCOUNTS FROM FINANCIAL RESOURCES.**

Section 5(g)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2026(g)(2)(B)) (as amended by section 423(a)(1)) is amended by striking clause (iv) and inserting the following:

“(4) RETIREMENT ACCOUNTS (OTHER THAN A RETIREMENT ACCOUNT (INCLUDING AN INDIVIDUAL ACCOUNT)).”).
SEC. 425. COORDINATED AND SIMPLIFIED DEFINITION OF RESOURCES.
Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(5)) is amended by adding at the end the following:

"(6) EXCLUSION OF TYPES OF FINANCIAL RESOURCES NOT CONSIDERED UNDER CERTAIN OTHER PROGRAMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall promulgate regulations under which a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(ii) medical assistance under section 1902(a) of the Social Security Act (42 U.S.C. 1396u-1).

(B) LIMITATIONS.—Subparagraph (A) does not authorize a State agency to exclude—

(i) amounts in any account in a financial institution that are readily available to the household; or

(ii) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essentially equivalent determinations of eligibility under the food stamp program, except to the extent that any of those types of resources are excluded under another paragraph of this subsection.

SEC. 426. ALTERNATIVE ISSUANCE SYSTEMS IN DISASTERS.
Section 5(b)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(3)) is amended—

(1) by striking "on a monthly basis"; and

(2) by adding at the end the following:

"(D) FREQUENCY OF REPORTING.—(i) In GENERAL.—As provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

"(I) not less often than once each 6 months; but

"(II) not more often than once each 12 months.

(ii) HOUSEHOLDS WITH EXCESS INCOME.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the standard established under section 5(c)(2).

SEC. 427. SIMPLIFIED REPORTING SYSTEMS.
Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in paragraph (B), by striking "on a monthly basis"; and

(2) by adding at the end the following:

"(D) SIMPLIFIED REPORTING.—(i) In GENERAL.—As provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

"(I) not less often than once each 6 months; but

"(II) not more often than once each 12 months.

(ii) HOUSEHOLDS WITH EXCESS INCOME.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the standard established under section 5(c)(2).

SEC. 428. SIMPLIFIED TIME LIMIT.
Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(5)) is amended—

(1) by striking "36-month" and inserting "12-month";

(2) by striking "3 and inserting "6"; and

(3) by redesignating subparagraph (D), by striking "(4), (5), or (6)" and inserting "(4), or (5)";

by striking paragraph (5);

by striking paragraph (6); and

(3) in paragraph (6)(A)(ii)—

(A) in subclause (III), by adding "and" at the end;

(B) in subclause (IV), by striking "and inserting a period; and

(C) by redesignating clauses (V) and (6) as (5) and paragraphs (5) and (6), respectively.

(b) IMPLEMENTATION OF AMENDMENTS.—For the purpose of implementing the amendments made by subsection (a), a State agency shall disregard any period during which an individual receives food stamp benefits before the effective date of this title.

SEC. 429. PRESERVATION OF ACCESS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.
(a) IN GENERAL.—Section 7(i)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(c)(1)) is amended by adding at the end the following:

"(E) ACCESS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

"(1) IN GENERAL.—No benefits shall be taken off-line or otherwise made inaccessible because of inactivity of a household having difficulty accessing the benefits of the household.

"(2) APPLICATION.—The amendment made by subsection (a) shall apply with respect to each State agency beginning on the date on which the State agency, after the date of enactment of this Act, enters into contract to operate an electronic benefit transfer system.

SEC. 430. COST-NEUTRALITY FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS.
Section 7(i)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2016(c)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesigning subparagraphs (B) through (H) as subparagraphs (A) through (H), respectively.

SEC. 431. SIMPLIFIED PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.
(a) IN GENERAL.—Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(1) SIMPLIFIED PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.—

"(A) IN GENERAL.—At the option of the State agency, allotments for residents of facilities described in subparagraph (B), (C), or (D) of section 3(i) may be determined and issued under this subsection in lieu of subsection (a).

"(B) AMOUNT OF ALLOTMENT.—The allotment determined under this subsection shall be the allotment typically received by residents of facilities described in paragraph (1).

"(C) ISSUANCE OF ALLOTMENT.—(A) A State agency shall issue an allotment determined under this subsection to the administration of a facility described in paragraph (1) as the authorized representative of the residents of the facility.

"(B) ADJUSTMENT.—The Secretary shall establish procedures to ensure that a facility described in paragraph (1) does not receive a greater proportion of a resident’s monthly allotment than the proportion of the month during which the resident lived in the facility.

"(D) DEPARTURES OF COVERED RESIDENTS.—

"(A) NOTIFICATION.—Any facility described in paragraph (1) that receives an allotment for a resident shall—

"(i) notify the State agency promptly of the departure of the resident; and

"(ii) notify the resident, before the departure of the resident, of any changes to the allotment.

"(B) ISSUANCE TO DEPARTED RESIDENTS.

"(B) ISSUANCE TO DEPARTED RESIDENTS.—In a case in which benefits are taken off-line or otherwise made inaccessible, the household shall be sent a notice that—

"(I) explains how to reactivate the benefits; and

"(II) offers assistance if the household is having difficulty accessing the benefits of the household.

"(C) APPLICABILITY.—The amendment made by subsection (a) shall apply without regard to this subsection.

SEC. 432. STATE OPTION.—The State agency may elect not to issue an allotment under subparagraph (B)(i) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

"(D) EFFECT OF REAPPLICATION.—If the departed resident reapplies to participate in the food stamp program, the allotment of the departed resident shall be determined without regard to this subsection.

SEC. 433. CONFORMING AMENDMENTS.—

(1) Section 3(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)) is amended—

(A) by striking "‘1’ ‘Household’ means (1) an individual and inserting the following:

"(1) ‘Household’ means—

"(A) an individual;

"(B) in the first sentence, by striking “others,” or (2) a group” and inserting the following: “others; or (2) a group’;

(C) in the second sentence, by striking “Spouses” and inserting the following:

"(D) ‘Spouses’;

(D) in the third sentence, by striking “Notwithstanding” and inserting the following: “(3) Notwithstanding”;

(E) in paragraph (3) (as designated by subparagraph (D)), by striking “the preceding sentences” and inserting paragraphs (1) and (2); and

(F) in the fourth sentence, by striking “In no event” and inserting the following: “In no event”;

(G) in the fifth sentence, by striking “For the purposes of this subsection, residents” and inserting the following: “(5) For the purposes of this subsection, the term ‘residents’ shall not be considered to be residents of institutions and shall be considered to be individual households.”;

(H) in paragraph (5) (as designated by subparagraph (G))—

(i) by striking “Act, or are individuals” and inserting the following: “Act, “(5) Individuals”;

(ii) by striking “such section, temporary” and inserting the following: “(C) Temporary”; and

(iii) by striking “children, residents” and inserting the following: “children”;

"(D) Resident’;

"(E) Coupons’; and

(v) by striking “shall not” and all that follows and inserting a period.

(2) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking “the last sentence of section 3(c)” and inserting “the last sentence of section 3(c)”.

(3) Section 8(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(e)(1)) is amended by striking “(the last sentence of section 3(c))” and inserting “the last sentence of section 3(c)”.

(4) Section 17(b)(1)(B) of the Food Stamp Act of 1977 (7 U.S.C.
SEC. 432. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2020l) is amended by inserting after the first sentence the following: ‘‘Notwithstanding the preceding sentence, a center, organization, institution, shelter, group living arrangement, or establishment described in that sentence may be authorized to redeem coupons through a financial institution described in that sentence if the center, organization, institution, shelter, group living arrangement, or establishment is equipped with 1 or more point-of-sale devices and is operating in an area in which an electronic benefit transfer system described in section 7(h) has been implemented.’’

SEC. 433. SIMPLIFIED DETERMINATIONS OF CONTINUING ELIGIBILITY.

(a) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020n(e)) is amended—

(1) by striking paragraph (4) and inserting the following:

‘‘(4) A household may elect to report in the certification period on which the cash assistance period or benefits period ends that the household is not eligible for transitional benefits. A household that elects to report in the certification period that the household is not eligible for transitional benefits may be subject to audits and reviews as provided in section 6(b).’’

(2) by adding at the end the following:

‘‘(5) A household may elect to report in the certification period on which the cash assistance period or benefits period ends that the household is not eligible for transitional benefits. A household that elects to report in the certification period that the household is not eligible for transitional benefits may be subject to audits and reviews as provided in section 6(b).’’

(b) CONFORMING AMENDMENTS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020n(e)) is amended—

(1) in paragraph (1)—

(A) by striking ‘‘income shall be informed’’ and inserting the following: ‘‘income shall be informed’’;

(B) by striking ‘‘and program and assisted’’ and inserting the following: ‘‘and program’’;

(C) by striking ‘‘office and be certified’’ and inserting the following: ‘‘office; and’’;

(D) by striking paragraph (5)(B)(ii) and (v) and inserting the following:

‘‘(B) all that follows through ‘occurs earlier’.‘‘

(E) by striking (2)(B) and (3)(B) and inserting the following:

‘‘(B) A redetermination under subparagraph (A) is not required because a household covered by a memorandum of understanding under subpart (A) did not complete an application under subparagraph (A).’’

(c) EFFECTIVE DATE.—This section shall apply to certifications made on or after the date that is 60 days after the date on which regulations promulgated under this section are published in the Federal Register.

SECTION 434. SIMPLIFIED APPLICATION PROCEDURES FOR THE ELDERLY AND DISABLED.

(a) IN GENERAL.—Section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020n(i)) is amended—

(1) in paragraph (1)—

(A) by striking ‘‘income shall be informed’’ and inserting the following: ‘‘income shall be informed’’;

(B) by striking ‘‘and program and assisted’’ and inserting the following: ‘‘and program’’;

(C) by striking ‘‘office and be certified’’ and inserting the following: ‘‘office; and’’;

(D) by striking paragraph (5)(B)(ii) and (v) and inserting the following:

‘‘(B) all that follows through ‘occurs earlier’.‘‘

(b) CONFORMING AMENDMENTS.—Section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020n(i)) is amended—

(1) in paragraph (1)—

(A) by striking ‘‘income shall be informed’’ and inserting the following: ‘‘income shall be informed’’;

(B) by striking ‘‘and program and assisted’’ and inserting the following: ‘‘and program’’;

(C) by striking ‘‘office and be certified’’ and inserting the following: ‘‘office; and’’;

(D) by striking paragraph (5)(B)(ii) and (v) and inserting the following:

‘‘(B) all that follows through ‘occurs earlier’.‘‘

SECTION 435. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) IN GENERAL.—Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2020m) is amended by adding at the end the following:

‘‘(E) TRANSITIONAL BENEFITS OPTION.—

‘‘(1) IN GENERAL.—A State agency may provide transitional food stamp benefits to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and continues to receive food stamp benefits for a period of up to 6 months after the date on which cash assistance is terminated.

‘‘(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may continue to receive food stamp benefits for a period of not more than 6 months after the date on which cash assistance was terminated, adjusted for—

(A) the change in household income as a result of the termination of cash assistance; and

(B) any changes in circumstances that may result in an increase in the food stamp allotment of the household and that the household elects to report.

‘‘(3) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

(A) requires the household to cooperate in a redetermination of eligibility; and

(B) initiates a new eligibility review period for the household without regard to whether the preceding eligibility review period has expired.

‘‘(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

(A) require the household to cooperate in a redetermination of eligibility; and

(B) initiate a new eligibility review period for the household without regard to whether the preceding eligibility review period has expired.

‘‘(5) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

(A) loses eligibility under section 6;

(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.’’

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2020c) is amended by adding at the end the following: ‘‘The limits specified in this section may be extended until the end of any transitional benefit period established under section 6(b).’’

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2020m(c)) is amended by striking
“No household” and inserting “Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(e), no household...”

SEC. 436. QUALITY CONTROL.

(a) In General.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2023c(c)) is amended—

(1) in paragraph (1), by striking “enhances payment accuracy” and all that follows through “(A) the Secretary” and inserting the following: “(A) corrective action plans.—The Secretary shall foster management improvements by the States by requiring State agencies to develop and implement corrective action plans to reduce payment errors.”

(2) in paragraph (2)(A), by striking “to carry out” and inserting “shalt carry out”;

(3) in the first sentence of paragraph (3), by striking “the Secretary” and inserting “Secretary”;

(4) in the second sentence of paragraph (3), by striking “or review under subparagraph (B)(iii) for the fiscal year, to comply with paragraph...” and inserting “or review under subparagraph (B)(i) among the 20 State agencies...”;

(5) in the first sentence of paragraph (4), by striking “the Secretary shall adjust the payment error rate determined under subparagraph (C), for any fiscal year...” and inserting “the Secretary shall adjust the payment error rate determined under subparagraph (B)(i) among the 20 State agencies...”;

(6) in the second sentence of paragraph (4), by striking “the performance measure under subparagraph (B)(i) among the 20 State agencies...” and inserting “the performance measure under paragraph (1), the Secretary shall adjust the payment error rate under paragraph (1)”;

(7) in the last sentence of paragraph (5), by striking “and” and inserting “and the Secretary shall adjust the payment error rate under paragraph (1)”.

(b) Investigation and Initial Sanctions.

(1) Investigation.—Except as provided under subparagraph (C), for any fiscal year in which the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than one percentage point, other than for good cause shown, the Secretary shall investigate the administration by the State agency of the food stamp program and shall take such corrective action determined upon by the Secretary as necessary to improve administrative funding; and

(A) corrective action plans.—The Secretary shall foster management improvements by the States by requiring State agencies to develop and implement corrective action plans to reduce payment errors.

(ii) the percentage of households in the State that...(C) additional sanctions.—If, for any fiscal year, the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than one percentage point, other than for good cause shown, that the Secretary determines that sufficient information is available to review the administration by the State agency, the Secretary...;

(iv) the number of households in the State that...

(v) the lowest negative error rate;

(vi) the greatest dollar amount of total claims collected in the fiscal year as a proportion of the overpayment dollar amount in the previous fiscal year; and

(vii) the lowest underpayment error rate;

(viii) the greatest percentage point improvement from the previous fiscal year to the fiscal year in the underpayment error rate;

(ix) the greatest percentage of new applications processed within the deadlines established by clauses (2) and (3) of section 11(e); and

(x) the last average period of time needed to process applications under paragraphs (2) and (3) of section 11(e);

(C) High Performance Bonus Payments.—

(1) Definition of Caseload.—In this subparagraph, the term ‘caseload’ has the meaning given the term ‘caseload’ in section 10(i)(A).

(2) Amount of Payments.—

(I) In General.—For each fiscal year, the Secretary shall—

(aa) make 1 high performance bonus payment of $10,000,000 for each of the 10 performance measures specified in subparagraph (B); and

(bb) allocate the high performance bonus payment made for the performance measure under subparagraph (B) to the State agencies with the highest performance measure in accordance with subclauses (II) and (III).

(II) Payment for performance measure consistent with claims collected.—For each fiscal year, the Secretary shall allocate the high performance bonus payment made for the performance measure under subparagraph (B) to the State agencies with the highest performance measure in the performance measure in the ratio that...
‘‘(aa) the caseload of each such State agency; and
‘‘(bb) the caseloads of all such State agencies;

‘‘(III) PAYMENTS FOR OTHER PERFORMANCE MEASURES.—For each fiscal year, the Secretary shall allocate the high performance bonus payment made for the performance measure under clause (II) to as many decimal places as are necessary to determine which State agency has the same percentage with respect to a performance measure, the Secretary shall have the same percentage with respect to a performance measure in the ratio that
‘‘(aa) the caseload of each such State agency; and
‘‘(bb) the caseloads of all such State agencies;

‘‘(III) Determination of Highest Performers.—

‘‘(I) In General.—In determining the highest performers under clause (ii), the Secretary shall calculate allocable percentages to 2 decimal places.

‘‘(II) Determination in Event of a Tie.—If, under subclause (I), 2 or more State agencies have the same percentage with respect to a performance measure, the Secretary shall determine the State agencies with the highest performance in the performance measure in the ratio that

‘‘(bb) the caseload of each such State agency; and
‘‘(bb) the caseloads of all such State agencies;

‘‘(III) LIMITATIONS FOR STATE AGENCIES SUBJECT TO SANCTIONS.—If, for any fiscal year, a State agency is subject to a sanction under paragraph (I)—

‘‘(i) the State agency shall not be eligible for a high performance bonus payment under clause (ii), (iv), (v), or (vi) of subparagraph (B) for the fiscal year; and

‘‘(ii) the State agency shall not receive a high performance bonus payment for any fiscal year, of which the State agency is otherwise eligible under this paragraph for the fiscal year until the obligation of the State agency under the sanction has been satisfied (determined by the Secretary).

‘‘(E) Payments Not Subject to Judicial Review.—A determination by the Secretary whether, and in what amount, to make a high performance bonus payment under this paragraph shall not be subject to judicial review.

‘‘(F)Appl icability.—The amendment made by subsection (a) shall apply to fiscal year 2003 and each fiscal year thereafter:

SEC. 439. SIMPLIFIED FUNDING RULES FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) Levels of Funding.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking ‘‘, or’’ and inserting ‘‘, and’’; and

(2) by striking clause (vii) and inserting the following:

‘‘(vii) to remain available until expended’’; and

(b) by striking clause (vii) and inserting the following:

‘‘(vii) to remain available until expended—

‘‘(I) for fiscal year 2002, $122,000,000;’’;

‘‘(II) for fiscal year 2003, $129,000,000;’’;

‘‘(III) for fiscal year 2004, $135,000,000;’’;

‘‘(IV) for fiscal year 2005, $142,000,000; and

‘‘(V) for fiscal year 2006, $149,000,000.’’;

(c) Allocation.—Funds made available under paragraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

‘‘(I) is determined and adjusted by the Secretary;

‘‘(II) takes into account the number of individuals who are not exempt from the work requirement under section 6(o); and

‘‘(III) includes the costs and savings from the demonstration project under this subsection.

SEC. 440. REAUTHORIZATION OF FOOD STAMP PROVISIONS.

(a) Reductions in Payments for Administrative Costs.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in the first sentence of subparagraph (A), by striking ‘‘2002’’ and inserting ‘‘2006’’; and

(2) in subparagraph (B)(ii), by striking ‘‘2002’’ and inserting ‘‘2006’’.


(c) Grants To Improve Food Stamp Participation.—Section 17(i)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2027(i)(1)(A)) is amended in the first sentence by striking ‘‘2002’’ and inserting ‘‘2006’’.

(d) Authorization of Appropriations.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking ‘‘2002’’ and inserting ‘‘2006’’.

SEC. 441. EXPANDED GRANT AUTHORITY.

Section 17(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended—

(1) by striking ‘‘, by way of making contracts with public or private organizations or agencies,’’ and inserting ‘‘enter into contracts with or make grants to public or private organizations or agencies under this section to’’; and

(2) by adding at the end the following:

‘‘The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this subsection based on which the Secretary may designate research demonstration projects that—

‘‘(I) in General.—For each fiscal year, the Secretary may designate research demonstration projects that—

‘‘(aa) have a substantial likelihood of producing important information on the impact of the food stamp program or design or operation; and

‘‘(bb) the Secretary estimates are likely to increase costs to the Federal Government by a total of not more than $30,000,000 during the period of fiscal years 2002 through 2006.

‘‘(II) Exemption.—A project described in subclause (I) shall be exempt from clause (I), offsets in title IV, and making determinations of costs to the Federal Government under this subparagraph, the Secretary shall consider savings to the Federal Government in other programs in such a manner as the Secretary determines to be appropriate.

‘‘(IV) No Look-Back.—The Secretary shall not be required to adjust any estimate made under this subparagraph to reflect the actual costs of a demonstration project as implemented by a State agency.

SEC. 443. PROGRAM SIMPLIFICATION DEMONSTRATION PROJECTS.

(a) Enhanced Waiver Authority.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended by striking subsection (e) and inserting the following:

‘‘(ee) Program Simplification Demonstration Projects.—

‘‘(I) In General.—With the approval of the Secretary, not more than 5 State agencies may carry out demonstration projects to test, for a period of not more than 3 years, promising approaches to simplifying the food stamp program.

‘‘(II) Types of Demonstration Projects.—Each demonstration project under paragraph (I) shall test changes in food stamp program rules in not more than 1 of the following 2 areas:

‘‘(A)(i) Reporting requirements under section 6(c).

‘‘(B) The income standard of eligibility established under section 6(c)(1), deductions under section 6(a), and budgeting procedures under section 5(f).

‘‘(III) Selection of Demonstration Projects.—In selecting demonstration projects, the Secretary shall seek, at a minimum, to achieve a balance between—

‘‘(I) simplifying the food stamp program; and

‘‘(II) reducing administrative burdens on State agencies, households, and other individuals and entities.

‘‘(IV) Providing Nutrition Assistance to Individuals Most in Need; and

‘‘(V) Improving Access to Nutrition Assistance.

‘‘(V) Projects Not Eligible for Selection.—The Secretary shall not select any demonstration project under this subsection that the Secretary determines does not have a reasonable likelihood of producing useful information on important issues of food stamp program design or operation.

‘‘(D) Diversity of Approaches and Areas.—In selecting demonstration projects to be carried out under this subsection, the Secretary shall seek to include—
“(i) projects that take diverse approaches;  
“(ii) at least 1 project that will operate in an urban area; and  
“(iii) at least 1 project that will operate in a rural area;  

“(B) MAXIMUM AGGREGATE COST OF PROJECTS.—The estimated aggregate cost of projects selected by the Secretary under this subsection shall not exceed $90,000,000, adjusted by the percentage change between June 30, 2001, and June 30 of the immediately preceding fiscal year;  

“(4) SIZE OF AREA.—Each demonstration project selected under this subsection shall be carried out in an area that contains not more than 250,000 more persons than the greater of—  

“(A) one-third of the total households receiving allotments in the State; or  

“(B) the minimum number of households needed to demonstrate the effects of the demonstration projects.  

“(5) EVALUATIONS.—  

“(A) IN GENERAL.—The Secretary shall provide, through contract or other means, for detailed, statistically valid evaluations to be conducted of each demonstration project carried out under this subsection.  

“(B) MINIMUM REQUIREMENTS.—Each evaluation under subparagraph (A)—  

“(i) shall include the study of control groups or areas; and  

“(ii) in each case, at a minimum, the effects of the project design on—  

“(I) costs of the food stamp program;  

“(II) State administrative costs;  

“(III) costs of the food stamp program, including errors as measured under section 16(c);  

“(IV) participation by households in need of nutrition assistance; and  

“(V) changes in allotment levels experienced by—  

“(aa) households of various income levels;  

“(bb) households with elderly, disabled, and employed members;  

“(cc) households with high shelter costs relative to the incomes of the households; and  

“(dd) households receiving subsidized housing, child care, or health insurance.  

“(C) FUNDING.—From funds made available to carry out this Act, the Secretary shall re-serve not more than $6,000,000 to conduct evaluations under this paragraph.  

“(D) REPORT TO CONGRESS.—Not later than January 1 of each year, the Secretary shall submit to Congress a report on the impact of the demonstration projects carried out under this section on the food stamp program, including the effectiveness of the demonstration projects in—  

“(A) delivering nutrition assistance to households most at risk; and  

“(B) reducing administrative burdens.”.  


SEC. 444. CONSOLIDATED BLOCK GRANTS.  

(a) CONSOLIDATED FUNDING.—Section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)(1)(A)) is amended—  

“(1) in subparagraph (A) (i) by striking “the Commonwealth of Puerto Rico” and inserting “governmental entities specified in subparagraph (D)”;  

“(b) in clause (ii), by striking “and” and inserting “and”; and  

“(c) by striking clause (iii) and all that follows and inserting the following:  

“(iii) for fiscal year 2002, $1,356,000,000; and  

“(iv) for fiscal years 2003 through 2006, the amount provided in clause (iii), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A));  

“(B) AMOUNT OF GRANTS.—For each of fiscal years 2003 through 2006, the Secretary shall provide to each State agency from funds made available under this section, including any funds remaining available from the preceding fiscal year, a grant per caseload slot for administrative costs incurred by each State agency and local agencies in the State in operating the commodity supplemental food program.  

“(2) AMOUNT OF GRANTS.—For each fiscal year 2003 through 2006, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—  

“(A) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the preceding fiscal year; and  

“(B) the value of that index for the 12-month period ending June 30 of the preceding fiscal year;” and  

“(c) in section 17(b)(1)(B)(iv)(III)(ii), by striking “and inserting “and” inserting “$10,000,000 of the funds made available under subpar-  

“(A) the Commonwealth of Puerto Rico; and  

“(B) the Secretary shall purchase $100,000,000 of and inserting “the Secretary shall use the amount specified in paragraph (2) to purchase”; and  

“(C) by adding at the end the following:  

“(2) AMOUNTS.—The amounts specified in this paragraph are—  

“(A) for each of fiscal years 1997 through 2001, $100,000,000; and  

“(B) for each of fiscal years 2002 through 2006, $10,000,000.”; and  

“(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002.  

SEC. 445. EXPANDED AVAILABILITY OF COMMODITIES.  

(a) IN GENERAL.—Section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036) is amended—  

“(1) in subsection (a)—  

“(A) by striking “amounts” and inserting the following:  

“(1) IN GENERAL.—From amounts;  

“(B) by striking “for each of fiscal years 1997 through 2002, the Secretary shall pur-chase” and inserting “the Secretary shall use the amount specified in paragraph (2) to purchase”; and  

“(C) by adding at the end the following:  

“(2) AMOUNTS.—The amounts specified in this paragraph are—  

“(A) commodity supplemental food  

“(B) for each of fiscal years 1997 through 2001, $100,000,000; and  

“(B) for each of fiscal years 2002 through 2006, $10,000,000.”; and  

“(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.  

Subtitle B—Miscellaneous Provisions  

SEC. 451. REAUTHORIZATION OF COMMODITY PROGRAMS.  

(a) COMMODITY DISTRIBUTION PROGRAM.—  

“(1) Reauthorization.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking “2002” and inserting “2006”.  

(b) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—  

“(1) by striking subsection (a) and inserting the following:  

“(a) GRANTS PER ASSIGNED CASELOAD SLOT.—  

“(1) IN GENERAL.—In carrying out the program under section 4 referred to in this sec-tion (the ‘commodity food stamp program’), for each of fiscal years 2003 through 2006, the Secretary shall provide to each State agency from funds made available under this section, including any such funds remaining available from the preceding fiscal year, a grant per caseload slot for administrative costs incurred by each State agency and local agencies in the State in operating the commodity supplemental food program.  

“(2) AMOUNT OF GRANTS.—For each fiscal year 2003 through 2006, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—  

“(A) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and  

“(B) the value of that index for the 12-month period ending June 30 of the preceding fiscal year;” and  

“(c) in subsection (d)(2), by striking “2002” each place it appears and inserting “2006”.  

SEC. 452. WORK REQUIREMENT FOR LEGAL IMMIGRANTS.  


(b) CONFORMING AMENDMENT.—  


(2) Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631c(c)(2)) is amended by adding at the end the following:  

“(L) Assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2001 et seq.)..”  

“(c) in section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(b)(2)(A)) is amended by striking “40” and inserting “40 (or, in the case of the specified Federal program described in section 402(a)(3)(B), 16)”  

SEC. 453. QUALIFIED ALIENS.  

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:  

“(L) Food stamp assistance for certain qualified aliens.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who is a qualified alien for a period of 5 years or more.”.  

December 13, 2001  
CONGRESSIONAL RECORD—SENATE  
S13165
SEC. 454. COMMODITIES FOR SCHOOL LUNCH PROGRAMS.

(a) In General.—Section 8(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking ‘‘2001’’ and inserting ‘‘2003’’.

(b) EFFECTIVE DATE.—The amendment made by this section applies to the date of enactment of this Act.

SEC. 455. ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

(a) In General.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1756(b)) is amended by adding at the end the following:

‘‘(7) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—For each of fiscal years 2002 and 2003, the amount of a basic allowance for housing paid to an individual who is a member of the uniformed service for housing that is acquired or constructed under subchapter IV of chapter 190 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the uniformed service or for a member of the family of the member of the uniformed service for free or reduced price lunches under this Act.’’.

(b) EFFECTIVE DATE.—The amendment made by this section applies to the date of enactment of this Act.

SEC. 456. SENIORS FARMERS’ MARKET NUTRITION PROGRAM.

SEC. 457. ELIGIBILITY FOR ASSISTANCE UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) In General.—Section 17(b)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786d(2)(B)(i)) is amended—

(1) by striking ‘‘basic allowance for housing’’ and inserting the following: ‘‘basic allowance for housing’’;

(2) by striking ‘‘and’’ at the end and inserting ‘‘or’’; and

(3) by striking at the end the following: ‘‘(II) provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, and’’;

(b) EFFECTIVE DATE.—The amendments made by this section apply to the date of enactment of this Act.

SEC. 458. CONGRESSIONAL HUNGER FELLOWS PROGRAM.

SEC. 459. FUNDING FOR COMMUNITY SUSTAINABLE AGRICULTURE PROGRAMS.

SEC. 460. COMMISSIONERS FOR THE CONGRESSIONAL HUNGER FELLOWS PROGRAM.

SEC. 461. FUNDING FOR PROGRAMS AND PROJECTS.

SEC. 462. COMMISSIONER FOR THE CONGRESSIONAL HUNGER FELLOWS PROGRAM.

SEC. 463. FUNDING FOR PROGRAMS.

SEC. 464. CONGRESSIONAL HUNGER FELLOWS.
(1) PURPOSES.—The purposes of the Program are—
(A) to encourage future leaders of the United States to pursue careers in humanitarian service;
(B) to recognize the needs of people who are hungry and poor;
(C) to provide assistance and compassion for people in need;
(D) to increase awareness of the importance of public service; and
(E) to provide training and development opportunities for leaders through placement in programs operated by appropriate entities.

(2) AUTHORITY.—The Program may develop fellowships to carry out the purposes of the Program, including the fellowships described in paragraph (3).

(3) FELLOWSHIPS.—
(A) IN GENERAL.—The Program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) CURRICULUM.—
(i) IN GENERAL.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—
(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement;
(II) experience in policy development through placement in a governmental entity or nonprofit organization.
(ii) FOCUS.—
(I) BILL EMERSON HUNGER FELLOWSHIP.—The Bill Emerson Hunger Fellowship shall address international hunger and other humanitarian needs in the United States.

(II) MICKEY LELAND HUNGER FELLOWSHIP.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iii) WORK PLAN.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the Program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including the specific duties and responsibilities relating to the objectives.

(C) PERIOD OF FELLOWSHIP.—
(i) BILL EMERSON HUNGER FELLOWSHIP.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for a period of not more than 2 years, which shall be extended to 3 years only in the case of a fellow who demonstrates an intent to pursue a career in humanitarian service and outstanding potential for such a career.

(ii) MICKEY LELAND HUNGER FELLOWSHIP.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for a period of not more than 3 years, which shall be extended to 4 years only in the case of a fellow who demonstrates an intent to pursue a career in humanitarian service and outstanding potential for such a career.

(D) SELECTION OF FELLOWS.—
(i) IN GENERAL.—A fellowship shall be awarded through a nationwide competition established by the Program.

(ii) QUALIFICATION.—A successful applicant shall be an individual who has demonstrated—
(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;
(II) leadership potential or leadership experience;
(III) diverse life experience;
(IV) proficient writing and speaking skills;
(V) the ability to live in poor or diverse communities; and
(VI) such other attributes as the Board determines to be appropriate.

(3) USE OF FUNDS.—
(A) IN GENERAL.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the Program.

(B) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Any individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(C) RECOGNITION OF FELLOWSHIP.—
(I) EMERSON FELLOWSHIP.—An individual awarded a Bill Emerson Hunger Fellowship shall be known as an “Emerson Fellow.”

(II) LELAND FELLOWSHIP.—An individual awarded a Mickey Leland Hunger Fellowship shall be known as a “Leland Fellow.”

(D) EVALUATIONS.—
(i) IN GENERAL.—The Program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships.

(ii) REQUIREMENTS.—Each evaluation shall include—
(I) an assessment of the successful completion of the work plan of each fellow;
(II) an assessment of the impact of the fellowship on the fellows;
(III) an assessment of the accomplishment of the purposes of the Program; and
(IV) an assessment of the impact of each fellow on the community.

(E) TRUST FUND.—
(I) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “Congressional Hunger Fellows Trust Fund”, consisting of—
(A) amounts appropriated to the Fund under subsection (k);
(B) any amounts earned on investment of amounts in the Fund under paragraph (2); and
(C) amounts received under subsection (i)(3)(A).

(ii) INVESTMENT OF AMOUNTS.—
(A) IN GENERAL.—The Secretary shall invest the amounts credited to, and form a part of, the Trust Fund.

(B) AGENCY.—The amounts described in subparagraph (A) shall be transferred to the Fund under this subsection only in an interest-bearing account or other investment that is determined by the Secretary to be consistent with this section as the Board shall prescribe.

(C) USE OF FUNDS.—Funds transferred to the Fund under this subsection shall be used consistent with this section as the Board shall prescribe.

(D) AUDIT OF FUNDS.—The Comptroller General shall conduct an annual audit of the accounts of the Program.

(E) FUNDING.—The Program may accept gifts, bequests, devises, or transfers of money or other property, both real and personal, for the purpose of aiding or facilitating the work of the Program.

(F) USE OF GIFTS.—Gifts, bequests, or devises of money or other property received by the Program shall be deposited in the Fund and be available for disbursement on order of the Board.

(G) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—To carry out this section, the Program may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay payable for level GS-15 of the General Schedule.

(4) STAFF; POWERS OF PROGRAM.—

(A) STAFF.—The Program may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property, both real and personal, for the purpose of aiding or facilitating the work of the Program.

(B) USE OF GIFTS.—Gifts, bequests, or devises of money or other property received by the Program shall—
(I) be deposited in the Fund; and
(II) be available for disbursement on order of the Board.

(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—To carry out this section, the Program may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay payable for level GS-15 of the General Schedule.
(C) CONTRACT AUTHORITY.—To carry out this section, the Program may, with the approval of a majority of the members of the Board, contract with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—(1) Subject to clause (ii), the Program may make such other expenditures as the Program considers necessary to carry out this section.

(ii) PROHIBITION.—The Program may not expend funds to develop new or expanded projects at which fellows may be placed.

(3) EFFECT.—Not later than December 31 of each fiscal year, the Board shall submit to the appropriate congressional committees a report on the activities of the Program carried out during the preceding fiscal year that includes—

(1) an analysis of the evaluations conducted under subsection (f)(4) during the fiscal year; and

(2) a statement of—

(A) the total amount of funds attributable to gifts received by the Program in the fiscal year under subsection (f)(3)(A); and

(B) the total amount of funds described in subparagraph (A) that were expended to carry out the Program in the fiscal year.

(k) EFFECT OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $18,000,000.

(1) EFFECTIVE DATE.—This section takes effect on October 1, 2002.

(l) EFFECTIVE DATE.

(i) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title take effect on the date of enactment of this Act.

(ii) EXISTING PROGRAMS.—(A) IN GENERAL.—Except as otherwise provided in this title, the amendments made by section 123(b) are as follows:

(1) to arbitrate the dispute in accordance with any other lawful method of dispute resolution, including mediation and civil action.

(2) to resolve the dispute in accordance with any other lawful method of dispute resolution, including mediation and civil action.

(ii) REPEAL OF EXPONENTIAL RATING.—The amendment made by section 401(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended by adding at the end the following: “Not later than 180 days after the date of enactment of this Act, the Secretary shall determine by regulation the standard of identity for fluid milk a required minimum protein content that is commensurate with the average protein content of milk produced in the United States as of that date of enactment. In carrying out the preceding sentence, the Secretary shall use data collected by milk marketing administrators of the Department of Agriculture and State regulatory agencies, and any appropriate industry data that the Secretary determines to be necessary to establish the required minimum protein content.”

SA 2524. Mr. DORGAN (for himself, Mr. LUGAR, Mr. JOHNSON, Mr. NELSON of Nebr., Mr. TORRICELLI, and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 165 and insert the following:

SEC. 165. PAYMENT LIMITATIONS, NUTRITION AND COMMODITY PROGRAMS. (a) PAYMENT LIMITATIONS.

(1) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1938) is amended by striking paragraphs (1) through (6) and inserting the following:

“(1) LIMITATIONS ON DIRECT AND COUNTER-CYCLICAL PAYMENTS.—Subject to paragraph (5)(A), the total amount of direct payments and counter-cyclical payments made directly or indirectly to an individual or entity during any fiscal year may not exceed $75,000.

“(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

“(A) IN GENERAL.—Subject to paragraph (5)(A), the total amount of the payments and···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or···or··cdot
AND INSERTING the following:

(a) PREVENTION OF CREATION OF ENTITIES TO AVOID PAYMENT LIMITATIONS—

(1) In General.—The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member to a farming operation shall not increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

(b) SUBSTANTIVE CHANGE.—

(1) In General.—The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

(c) ADMINISTRATION.—

(1) REVIEWS.—

(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall conduct a review of the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 5 States.

(B) MINIMUM NUMBER OF COUNTIES.—Each State covered under subparagraph (A) shall cover at least 5 counties in the State.

(2) REPORT.—Not later than 90 days after completing a review described in subparagraph (A), the Inspector General for the Department of Agriculture shall issue a final report to the Secretary of the findings of the Inspector General.

(3) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements of this section and sections 1001, 1001B, 1001C, and 1001E in a State and the Secretary agrees that the problems exist, the Secretary—

(A) shall initiate a training program regarding the payment limitation requirements; and

(B) may require that all payment limitation determinations regarding farming operations in a State be conducted by the headquarters of the Farm Service Agency.

(4) SCHEME OR DEVICE—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking “5 persons” and inserting “5 individuals or entities”.

(5) REPORT TO CONGRESS.—No later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall provide a report to and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes—

(A) how State and county office employees are trained regarding the payment limitation requirements described in section 1001E of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–5);

(B) the general procedures used by State and county office employees to identify potential violations of the payment limitation requirements;

(C) the requirements for State and county office employees to report serious violations of the payment limitation requirements, including violations of section 1001B of that Act; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements.

(6) SEC. 1001F. NET INCOME LIMITATION—The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308–5) the following:

SEC. 1001F. NET INCOME LIMITATION. —Notwithstanding any other provision of title I of the Federal Agriculture Improvement and Reform Act of 2002 (7 U.S.C. 13301 et seq.), an owner or producer shall not be eligible for a payment or benefit described in...
paragraphs (1) or (2) of section 1001 for a fiscal or crop year (as appropriate) if the average adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any other person or the Corporation (as the preceeding 3 taxable years exceeds $2,500,000.”

(c) Food Stamp Program.—

(1) INCREASE IN BENEFITS TO HOUSEHOLDS WITH CHILDREN.—Section 606 of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:—

“(1) STANDARD DEDUCTION.—

“(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow for each household a standard deduction that is equal to the greater of:

(i) the applicable percentage specified in subparagraph (D) of the applicable income standard of eligibility established under subsection (c)(1); or

(ii) the minimum deduction specified in subparagraph (E).

(B) GUAM.—The Secretary shall allow for each household in Guam a standard deduction that is—

(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

(C) HOUSEHOLD S OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be:

(i) 8 percent for each of fiscal years 2002 through 2004;

(ii) 8.25 percent for each of fiscal years 2005 and 2006; and

(iii) 8.5 percent for each of fiscal years 2007 and 2008;

(iv) 8.75 percent for fiscal year 2009; and

(v) 9 percent for each of fiscal years 2010 and 2011.

(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $225, $189, $209, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.

(2) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(4)(I)(i)(I)) is amended by striking paragraph (1), and inserting the following:

“(1)飞行员program.—

“(A) IN GENERAL.—During each of the 2003 through 2006 reinsurance years, the Corporation shall carry out a pilot program through which the United States under which cost of production crop insurance is made available to producers of commodities established under section 1001 for the 48 contiguous States and the District of Columbia:—

(B) PRIORITY.—Subject to subparagraph (C), in carrying out subparagraph (A), the Corporation shall offer coverage on at least—

(i) for the 2003 reinsurance year, 20 agricultural commodities;

(ii) for the 2004 and 2005 reinsurance years, in addition to the agricultural commodities described in clause (i), apples, asparagus, blueberries (wild and domestic), cabbage, canola, carrots, cherries, Christmas trees, cranberries, egg plant, floriculture, grapes, greenhouse and nursery agricultural commodities, green peas, green peppers, hay, lettuce, maple, mushrooms, nuts, pears, pineapples, popcorn beans, spinach, squash, strawberries, sugar beets, and tomatoes; and

(iii) for the 2006 reinsurance year, in addition to the agricultural commodities described in clauses (i) and (ii), 10 additional commodities, as determined by the Corporation.

(C) AVERAGE LIMITATION.—For each of the 2003 through 2006 reinsurance years, the Corporation may not extend coverage under this paragraph in excess of 40 percent of the agricultural and nursery agricultural commodity included under the pilot program.

”

(2) PERMANENT PROGRAM.—For the 2007 and subsequent reinsurance years, the Corporation shall convert the cost of production insurance program into a permanent program unless the Corporation determines that

“(A) the program could not be conducted on an actuarially sound basis; or

(B) the expansion of the coverage would cause increased risk for fraud, waste, or abuse of this program.

(2) ADDITIONAL PAYMENT OF PREMIUM.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended by adding at the end the following:

“(E) BONUS PAYMENT.—

“(A) IN GENERAL.—Subject to subparagraph (C), in addition to any other payment authorized by this subsection, the Corporation shall pay an additional amount of the premium for crop insurance policies described in subsection (a) as determined by this Corporation for each insured crop that—

(i) are small or moderate in size; or

(ii) adopt innovative risk management strategies and increase the level of coverage; or

(iii) are specialty crops and increase the level of coverage; or

(iv) are located in an underserved area.

“(B) AMOUNT PER POLICY.—A payment under this paragraph shall not exceed $850 per crop insurance policy.

“(C) FUNDING LIMITATION.—The amount of funds from the Corporation that may be used to carry out this paragraph may not exceed—

(i) $45,000,000 for fiscal year 2003;

(ii) $50,000,000 for fiscal year 2004; and

(iii) $50,000,000 for fiscal year 2005 and each subsequent fiscal year.

“(D) RESERVE.

“(i) IN GENERAL.—Subject to clause (ii), of the amount made available under this paragraph, the Corporation shall reserve for payments to producers that obtain cost of production policies described in section 523(e) of the Federal Crop Insurance Act (7 U.S.C. 1523(e)) by adding at the end the following:

“(E) COST OF PRODUCTION INSURANCE.—

“(1) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523(b)) is added by striking paragraph (1) and inserting the following:

“(1) Pilot program.—

“(A) IN GENERAL.—During each of the 2003 through 2006 reinsurance years, the Corporation shall carry out a pilot program through which the United States under which cost of production crop insurance is made available to producers of commodities established under section 1001 for the 48 contiguous States and the District of Columbia:—

(B) PRIORITY.—Subject to subparagraph (C), in carrying out subparagraph (A), the Corporation shall offer coverage on at least—

(i) for the 2003 reinsurance year, 20 agricultural commodities;”

(3) Research and Development Funding.—

Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended by striking paragraph (1) and inserting the following:

“(1) REIMBURSEMENTS.—Of the amounts made available from the insurance fund established under subsection (b) not more than—

(A) $25,000,000 for fiscal year 2002;

(B) $27,500,000 for each of fiscal years 2003 and 2004; and

(C) $25,000,000 for fiscal year 2005 and each subsequent fiscal year.

(4) Education and Information Funding.—

Section 524(a)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(4)) is amended by striking paragraph (A) and inserting the following:

“(A) for the education and information program established under paragraph (2),—

(ii) $10,000,000 for each of fiscal years 2002 through 2004; and

(ii) $5,000,000 for fiscal year 2006 and each subsequent fiscal year; and

(5) Reports.—

(A) PLAN.—Not later than December 13, 2001, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains an implementation plan for this subsection and the amounts made by this subsection.

(B) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the implementation of this subsection and the amendments made by this subsection.

(C) INITIATIVE FOR FUTURE AGRICULTURE AND FORESTRY SYSTEMS.—Section 521 of the Agricultural Research, Extension, and Education Reform Act of 1997 (7 U.S.C. 7621(b)(1)) is amended—

(i) in subparagraph (A), by striking “$120,000,000” and inserting “$130,000,000”;

(ii) $25,000,000 for fiscal year 2003;”

and

“SA 2525. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers,
to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.
(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Re-
form Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION. Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 1961(p)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $2,500,000.
(b) Active Farmers.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308-1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—
(ii) receives rent or income for such use of the land based on the land's production or the operation's operating results;
(iii) has owned the land for at least 3 years.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.
(a) FISCAL YEARS 2002 THROUGH 2004.—
(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended by striking subparagraph (A) and inserting the following:

"(A) in clause (v), by striking "and" at the end; and
(B) by striking clause (vi) and inserting the following:

"(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively; and
(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and
(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.

(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on the date of enactment of this Act.
(b) FISCAL YEAR 2005 AND THEREAFTER.—
(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).
(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

SA 2528. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.
(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Re-
form Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION. Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 1961(p)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $2,500,000.
(b) Active Farmers.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308-1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—
(i) receives rent or income for such use of the land based on the land's production or the operation's operating results;
(ii) meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A); and
(iii) has owned the land for at least 3 years.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.
(a) FISCAL YEARS 2002 THROUGH 2004.—
(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended by striking subparagraph (A) and inserting the following:

"(A) in clause (v), by striking "and" at the end; and
(B) by striking clause (vi) and inserting the following:

"(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively; and
(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and
(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.
(b) FISCAL YEAR 2005 AND THEREAFTER.—
(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).
(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

SA 2528. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.
(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Re-
form Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION. Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 1961(p)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $2,500,000.
(b) Active Farmers.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308-1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—
(i) receives rent or income for such use of the land based on the land's production or the operation's operating results;
(ii) meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A); and
(iii) has owned the land for at least 3 years."
Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.
(a) FISCAL YEARS 2002 THROUGH 2004. (1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—
(A) in clause (v), by striking “and” at the end; and
(B) by striking clause (vi) and inserting the following:
“(vi) for fiscal year 2002, $354, $366, $477, $416, and $279 per month, respectively;”.
(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) FISCAL YEAR 2005 AND THEREAFTER.—(1) IN GENERAL.—Section 5(e)(7)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(F)) is amended by striking subparagraph (B).
(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on Oct. 1, 2004.

SA 2529. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. CRAIG, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered reported out of committee.

SEC. 323. EXPORT ENHANCEMENT PROGRAM—MARKET ACCESS PROGRAM.
(a) IN GENERAL.—Section 301(e)(1)(G) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)(G)) is amended by striking “fiscal year 2002” and inserting “each of fiscal years 2002 through 2006”.
(b) UNFAIR TRADE PRACTICES.—Section 102(3)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5652(3)(A)) is amended—
(1) in clause (i), by striking “or” at the end;
(2) in clause (ii), by striking the period at the end and inserting “and”; and
(3) by adding at the end the following:
“(iii) changes United States export terms of trade through a deliberate change in the dollar exchange rate of a competing exporter.”.

SEC. 324. FOREIGN MARKET DEVELOPMENT CO-OPERATIVE PROGRAM.
Section 703 of the Agricultural Trade Act of 1978 (7 U.S.C. 5723) is amended to read as follows:

“SEC. 703. FUNDING.
(a) IN GENERAL.—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the following amounts:
(1) For fiscal year 2002, $37,500,000.
(2) For fiscal year 2003, $40,000,000.
(3) For fiscal year 2004 and each subsequent fiscal year, $42,500,000.
(b) PROGRAM PRIORITIES.—Of funds or commodities provided under this section, the Secretary shall allocate funds or commodities as follows:
(1) made by eligible trade organizations that have never participated in the market access program under this title; or
(2) for programs established under this title in emerging markets.”.

SEC. 325. FUNDING FOR PROGRESS AND EDUCATION PROGRAMS.
(a) IN GENERAL.—The Agricultural Trade Act of 1978 (7 U.S.C. 5651 et seq.) is amended by adding at the end the following:

“TITLE VIII—FOOD FOR PROGRESS AND EDUCATION PROGRAMS

SEC. 801. DEFINITIONS.
In this title:
(1) COOPERATIVE.—The term ‘cooperative’ means a private sector organization the members of which—
(A) own and control the organization;
(B) share in the profits of the organization; and
(C) are provided services (such as business services and assistance) in cooperative development by the organization.
(2) CORPORATION.—The term ‘Corporation’ means the Commodity Credit Corporation.
(3) Developing country.—The term ‘developing country’ means a foreign country that has—
(A) a shortage of foreign exchange earnings; and
(B) difficulty meeting all of the food needs of the country through commercial channels and domestic production;
(4) Eligible commodity.—The term ‘eligible commodity’ means an agricultural commodity (including vitamins and minerals) that is utilized by the Secretary for disposition in a program authorized under this title through—
(A) commercial purchases; or
(B) inventories of the Corporation.
(5) Eligible organization.—The term ‘eligible organization’ means a private voluntary organization, cooperative, or governmental organization, or foreign country, as determined by the Secretary.
(6) Emerging agricultural country.—The term ‘emerging agricultural country’ means a foreign country that—
(A) is an emerging democracy; and
(B) has made a commitment to introduce or expand free enterprise elements in the agricultural economy of the country.
(7) Food security.—The term ‘food security’ means access by all people at all times to sufficient food and nutrition for a healthy and productive life.
(8) Nongovernmental organization.—The term ‘nongovernmental organization’ does not include an organization that is primarily an agency or instrumentality of the government of a foreign country.
(9) Private voluntary organization.—The term ‘private voluntary organization’ means a nonprofit, nongovernmental organization that—
(A) receives—
(i) funds from private sources; and
(ii) voluntary contributions of funds, staff time, or in-kind support from the public;
(B) is engaged in or is planning to engage in nonreligious voluntary, charitable, or development assistance activities; and
(C) in the case of an organization that is organized under the laws of a State, is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code.
(10) Program.—The term ‘program’ means a food or nutrition assistance or development initiative proposed by an eligible organization and approved by the Secretary under this title.
(11) Recipient country.—The term ‘recipient country’ means an emerging agricultural country that receives assistance under a program.

SEC. 802. FOOD FOR PROGRESS AND EDUCATION PROGRAMS.
(a) IN GENERAL.—To provide agricultural commodities to support the introduction or transition of free market enterprises in national economies in recipient countries, and to provide food or nutrition assistance in recipient countries, the Secretary shall establish food for progress and education programs under which the Secretary may enter into agreements (including multiyear agreements and for programs in more than 1 country) with—
(1) the governments of emerging agricultural countries;
(2) private voluntary organizations;
(3) nonprofit agricultural organizations and cooperatives;
(4) nongovernmental organizations; and
(5) other private entities.
(b) Considerations.—In determining whether to enter into an agreement to establish a program under subsection (a), the Secretary shall take into consideration whether an eligible organization is committed to carrying out, or is carrying out, policies that promote—

(I) economic freedom;

(II) the level of food commodities for domestic consumption; and

(III) the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities.

(c) International Food for Education and Nutrition Program.—

(1) in general.—The Secretary may provide agricultural commodities under this title on—

(A) a grant basis; or

(B) subject to paragraph (2), credit terms.

(2) Credit terms.—Payment for agricultural commodities made available under this subsection that are purchased on credit terms shall be made on the same basis as payments made under section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

(3) No effect on domestic programs.—The Secretary shall not make an agricultural commodity available for disposition under this section in any amount that will reduce the amount of the commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the Secretary.

(d) Reports.—Each eligible organization that enters into an agreement under this title shall submit to the Secretary at such time as the Secretary may request, a report containing such information as the Secretary may request relating to the use of agricultural commodities provided by the United States, assistance under this section shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

(e) Quality Assurance.—

(1) in general.—The Secretary shall ensure, to the maximum extent practicable, that each eligible organization participating in 1 or more programs under this subsection—

(A) uses eligible commodities available under this title in an effective manner;

(B) in the areas of greatest need; and

(C) in a manner that promotes the purposes of the program of the eligible organization for which the eligible organization is determined by the Secretary, facilitate accurate and timely reporting;

(E) periodically evaluates the effectiveness of the organization or cooperative and the effectiveness of the program of the eligible organization, including, as applicable, an evaluation of whether the development of food and nutrition purposes of the program can be sustained in a recipient country if the assistance provided to the recipient country is reduced and eventually terminated; and

(F) considers means of improving the operation of the program of the eligible organization.

(2) Certified institutional partners.—

(A) in general.—The Secretary shall permit voluntary organizations and cooperatives to be certified as institutional partners.

(B) Requirements.—To become a certified institutional partner, a private voluntary organization or cooperative shall submit to the Secretary a certification of organizational capacity that describes—

(i) the financial, programmatic, commodity management, and auditing abilities of the organization or cooperative; and

(ii) the capacity of the organization or cooperative to carry out projects in particular countries or regions.

(C) Multicountry proposals.—A certified institutional partner shall be eligible to—

(i) submit a single proposal for 1 or more countries that are the same as, or similar to, those countries in which the certified institutional partner has already demonstrated organizational capacity;

(ii) receive expedited review and approval of the proposal; and

(iii) request commodities and assistance under this section in use in 1 or more countries.

(D) Multiyear agreements.—In carrying out this title, on request and subject to the availability of commodities, the Secretary is encouraged to approve agreements that provide for commodities to be made available for distribution on a multiyear basis, if the agreements otherwise meet the requirements of this title.

(E) Transshipment and resale.—

(1) in general.—The transshipment or resale of an eligible commodity by a country other than a recipient country shall be prohibited unless the transshipment or resale is approved by the Secretary.

(F) Monetization.—

(1) in general.—Subject to paragraphs (B) through (D), an eligible commodity provided under this section may be sold for foreign currency or United States dollars or bartered, with the approval of the Secretary.

(B) sale or barter of food assistance.—The sale or barter of eligible commodities under this title may be conducted only within (as determined by the Secretary) —

(i) a recipient country or country nearby to the recipient country; or

(ii) another country, if—

(I) the sale or barter within the recipient country or nearby country is not practicable; and

(II) the sale or barter within countries other than the recipient country or nearby country is not practicable; and

(III) the sale or barter within countries other than the recipient country or nearby country would not disrupt commercial markets for the agricultural commodity involved.

(C) Humanitarian or Development Purposes.—The Secretary may authorize the use of proceeds or exchanges to reimburse, within in a recipient country or other country in the same region, the costs incurred by an eligible organization for—

(i) programs targeted at hunger and malnutrition; or

(ii) development programs involving food security or education; and

(iii) transportation, storage, and distribution of eligible commodities provided under this title; and

(D) Exception.—The Secretary shall not approve the use of proceeds described in subparagraph (C) to fund any administrative expenses of a foreign government.

(E) Private Sector Enhancement.—As appropriate, the Secretary may provide eligible commodities under this title in a manner that uses commodity transactions as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing, and distribution of commodities.

(F) Considerations.—In determining whether to enter into an agreement to establish a program under subsection (a), the Secretary shall take into consideration whether an eligible organization is committed to carrying out, or is carrying out, policies that promote—

(I) economic freedom;
“(i) DISPLACEMENT OF COMMERCIAL SALES.—In carrying out this title, the Secretary shall, to the maximum extent practicable consistent with the purposes of this title, and in addition to the level of assistance provided under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.),

“(m) COMMODITY CREDIT CORPORATION.—

” (1) IN GENERAL.—Subject to paragraphs (6) through (8), the Secretary may use funds, facilities, and authorities of the Corporation to carry out this title,

” (2) MINIMUM TONNAGE.—Subject to paragraphs (5) and (7)(B), not less than 400,000 metric tons of commodities may be provided under this title for each of fiscal years 2002 through 2006.

” (3) AUTHORIZATION OF APPROPRIATIONS.—In addition to tonnage authorized under paragraph (2), there are authorized to be appropriated such sums as are necessary to carry out this title.

” (4) TITLE I FUNDS.—In addition to tonnage and funds authorized under paragraphs (2), (3), and (5)(B), the Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) in carrying out this section with respect to commodities made available under this title.

” (5) INTERNATIONAL FOOD FOR EDUCATION AND NUTRITION PROGRAM.—

” (A) IN GENERAL.—Of the funds that would be available to carry out paragraph (2), the Secretary may use not more than $300,000,000 for each fiscal year to carry out the initiative established under subsection (c).

” (B) REALLOCATION.—Tons not allocated under subsection (c) by June 30 of each fiscal year shall be reallocated for programs entered into in the previous fiscal year, and the Corporation may pay—

” (i) the costs of acquiring the eligible commodity; and

” (ii) the costs associated with packaging, enriching, preserving, and fortifying of the eligible commodity;

” (B) COSTS ASSOCIATED WITH TRANSPORTATION, HANDLING, AND OTHER INCIDENTAL COSTS.—In addition to the costs in subsection (a) and the costs incurred in making the disposition of the eligible commodity under this title, the Corporation may pay—

” (i) the costs associated with transporting the eligible commodity from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

” (ii) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

” (I) a recipient country is landlocked;

” (II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

” (III) carriers to a specific country are unavailable; or

” (IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

” (ii) the transportation and associated distribution of food for nutrition programs is made available in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

” (II) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

” (I) a recipient country is landlocked;

” (II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

” (III) carriers to a specific country are unavailable; or

” (IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

” (ii) the transportation and associated distribution of food for nutrition programs is made available in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

” (III) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

” (I) a recipient country is landlocked;

” (II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

” (III) carriers to a specific country are unavailable; or

” (IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

” (ii) the transportation and associated distribution of food for nutrition programs is made available in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

” (IV) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

” (I) a recipient country is landlocked;

” (II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

” (III) carriers to a specific country are unavailable; or

” (IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

” (ii) the transportation and associated distribution of food for nutrition programs is made available in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

” (V) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

” (I) a recipient country is landlocked;

” (II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

” (III) carriers to a specific country are unavailable; or

” (IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

” (ii) the transportation and associated distribution of food for nutrition programs is made available in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

” (VI) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

” (I) a recipient country is landlocked;

” (II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

” (III) carriers to a specific country are unavailable; or

” (IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

” (ii) the transportation and associated distribution of food for nutrition programs is made available in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;
Subtitle C—Miscellaneous Agricultural Trade Provisions

SEC. 331. BILL EMERSON HUMANITARIAN TRUST.

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1) is amended by striking each place it appears in subsection (b)(2)(B)(i) and (ii) and inserting “(I)”.

SEC. 332. EMERGING MARKETS.

Section 4 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101-624) is amended by striking “2002” each place it appears in subsections (a) and (d)(1)(A)(i) and inserting “2006”.

SEC. 333. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

Section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101-624) is amended by adding at the end the following:

“(g) BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.—

“(1) IN GENERAL.—The Secretary of Agriculture shall establish a program to enhance foreign acceptance of agricultural biotechnology and United States agricultural products developed through biotechnology.

“(2) FOCUS.—The program shall address the following:

“(i) the marketing of biotechnology products;

“(ii) the expansion of use, of highly perishable and semiperishable commodities in international food aid programs of the Department of Agriculture.

SA 2531. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 1023 and insert a period and the following:

“SEC. 1029. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

Section 2231 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a) is amended—

“(1) in subsection (a), by striking "$20,000,000" and inserting "$40,000,000"; and

“(2) by striking subsection (c) and inserting the following subsection (c):

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2002 through 2006.

SA 2532. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 886, strike line 5 and insert the following:

“Section 1021. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVE STOCK.

(a) In General.—Section 292 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

“(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

“(2) by inserting after subsection (e) the following:

“(f) OWN, FEED, OR CONTROL LIVE STOCK.

“(1) OWN, FEED, OR CONTROL live stock in the 3 to 9 month period prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer, so that the act is done in the course of the business of the packer or person and that such act is done in the course of the business of the packer or person for the purpose of reducing the cost of live stock so disintegrated.

“(2) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer, so that the act is done in the course of the business of the packer or person and that such act is done for the purpose of reducing the cost of live stock so disintegrated.

“(3) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(4) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(5) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(6) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(7) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(8) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(9) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(10) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(11) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(12) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(13) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(14) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(15) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(16) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(17) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(18) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(19) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(20) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(21) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(22) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(23) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(24) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(25) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(26) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(27) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(28) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(29) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(30) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(31) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(32) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(33) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(34) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(35) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(36) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(37) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(38) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(39) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(40) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(41) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(42) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(43) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(44) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(45) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(46) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughter.

“(47) OWN, FEED, OR CONTROL live stock for slaughter for human food in the 3 to 9 month period prior to slaughte
“(B) provide the livestock to the cooperative for slaughter; or
“(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or
“and
“(3) subsection (b) (as so redesignated), by striking ‘‘or’’ e and inserting ‘‘e,’’ or ‘‘f’’.

(b) EFFECTIVE DATE.—
“(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.
“(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—
“(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and
“(B) in the case of a packer of any other type of livestock, beginning as soon as practicable but not more than 180 days after the date of enactment of this Act, as determined by the Secretary of Agriculture.

SA 2535. Mr. TORRICElli submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, after line 24, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that all convicted felons wanted by the Federal Bureau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 743 and insert the following:
SEC. 743. PRECISION AGRICULTURE.

Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended—
“(1) in subsection (a)—
“(A) in subparagraph (A), inserting ‘‘or horticultural’’ following ‘‘agronicomic’’; and
“(B) in subparagraph (C), by striking ‘‘or’’ at the end;
“(ii) in subparagraph (D), by striking the period at the end and inserting ‘‘; or’’;
“(iv) by adding at the end the following:—
“(E) using such information to enable intelligent mechanized harvesting and sorting systems for horticultural crops.;”

SEC. 741. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) IN GENERAL.—Section 316(a)(1)(A)(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(i)) is amended in the last sentence by inserting ‘‘(other than the 2002 and 2003 crops)’’ after ‘‘crops’’.

(b) STUDY.—
“(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study of the effects of the prohibition provided under the last sentence of section 316(a)(1)(A)(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(i)).
“(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study.

SA 2539. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1731 to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 707, strike line 16 and all that follows through page 708, line 20, and insert the following:

SEC. 741. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) IN GENERAL.—Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended—
“(1) by striking subsection (b) and inserting the following:
“(b) FUNDING.—
“(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account to carry out this section.
“(2) RETENTION.—Not later than 30 days after the date of enactment of this subparagraph, $240,000,000; and
“(b) On October 1, 2002, and each October 1 thereafter, through October 1, 2005, $360,000,000.
“(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.”;
“and
“(2) in subsection (e), by adding at the end the following:
“(3) MINORITY-SERVING INSTITUTIONS.—The Secretary shall consider reserving, to the maximum extent practicable, 10 percent of the funds made available to carry out this section for a fiscal year for grants to minority-serving institutions.”;
“(b) OFFSET.—Section 158G of the Federal Agriculture Improvement and Reform Act of 1996 (as added by section 151(a)) shall have no effect.

SA 2540. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr.
SA 2542. Mr. SANTORUM (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. DEWINE, Mr. KOHL, Mr. HATCH, Mrs. CLINTON, and Mr. JEFFERDS) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 165. PAYMENT LIMITATIONS AND GROSS INCOME LIMITATION.

(a) PAYMENT LIMITATION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by inserting at the end the following:

"(1) LIMITATIONS ON PAYMENT UNDER CONTRACT COMMODITY CONTRACTS.—Subject to paragraph (3), the total amount of contract payments made under title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7101 et seq.) to a person under 1 or more contracts during any fiscal year may not exceed $100,000.

"(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—"(A) In general.—Subject to paragraph (3), the total amount of the payments and benefits specified in subparagraph (B) that a person shall be entitled to receive during any crop year may not exceed $150,000, with a separate limitation for—

"(i) all loan commodities (other than wool, mohair, and honey);

"(ii) wool and mohair;

"(iii) honey; and

"(iv) peanuts.

"(B) Payments.—The payments referred to in subparagraph (A) are the following:

"(i) Marketing loan gains.—Any gain realized from marketing assistance loan under sections 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity under sections 132 or 158G(d) of that Act, respectively.

"(ii) Loan deficiency payments.—Any loan deficiency payment received for a loan commodity under sections 135 or 158G(e) of that Act, respectively.

"(iii) Commodity certificates.—Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation determined by the Secretary, including the use of a certificate for the settlement of marketing assistance loan under section 124 or 158G(d), respectively, of that Act.

"(3) OVERALL LIMITATION.—The total amount of payments described in paragraph (1) and (2) made to a person during any fiscal year may not exceed $150,000.

SA 2543. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 178, strike line 22 and all that follows through page 182, line 24, and insert the following:

"(D) Certifying private providers of technical assistance.—"(1) In general.—The Secretary shall, to the maximum extent practicable, establish a more effective and more broadly functioning system for the delivery of technical assistance in support of the conservation programs administered by the Secretary by—

"(A) integrating the use of third party technical assistance providers (including farmers and ranchers) into the technical assistance delivery system; and

"(B) using, to the maximum extent practicable, private, third party providers.

"(2) Purpose.—To achieve the timely completion of conservation plans and other technical assistance functions, third party providers described in paragraph (1)(A) shall be used to—

"(A) prepare conservation plans, including agronomically sound nutrient management plans;

"(B) design, install and certify conservation practices;

"(C) train producers; and

"(D) carry out such other activities as the Secretary determines to be appropriate.

"(3) OUTSIDE ASSISTANCE.—"(A) In general.—The Secretary may contract directly with qualified persons not employed by the Department to provide conservation technical assistance.

"(B) Payment by Secretary.—
SEC. 137B. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

Subtitle C of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

"SEC. 137B. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

(a) In General.—For each of the 2002 through 2006 crops of wheat, grain sorghum, barley, and oats, in the case of the producers on a farm that would be eligible for a loan deficiency payment under section 135 for wheat, grain sorghum, barley, or oats, but that elects to use acreage planted to the wheat, grain sorghum, barley, or oats for the grazing of livestock, the Secretary shall not make a payment under section 135 in respect of such wheat, grain sorghum, barley, or oats planted to the wheat, grain sorghum, barley, or oats on the acreage.

(b) Payment Amount.—(1) The amount of a payment made to the producers on a farm under this section shall be equal to the amount obtained by multiplying—

(A) the quantity of the grazed acreage on the farm with respect to which the producers on the farm elect to forgo any other harvesting of the wheat, grain sorghum, barley, or oats, by

(B) the payment yield obtained by multiplying—

(i) the loan deficiency payment rate determined under subsection (d) by

(ii) the payment rate determined under subsection (c) for the loan commodity by

(c) Loan Payment Rate.—For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 132 for the loan commodity; exceeds

(2) the rate at which the producer would be paid for the same quantity of the loan commodity as of the earlier of—

(A) the date on which the producers on the farm elect to forgo any other harvesting of the wheat, grain sorghum, barley, or oats, or

(B) the date the producers on the farm request the payment.

(d) Exception for Extra Long Staple Cotton.—This section shall not apply with respect to extra long staple cotton.

(e) Time for Payment.—The Secretary shall make a payment under this section to the producers on a farm with respect to a quantity of a loan commodity as of the earlier of—

(1) the date on which the producers on the farm elect to forgo any other harvesting of the commodity, as determined by the Secretary; or
CH 3—CARBON SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 388J. RESEARCH.

"A) DISCUSS AND ESTABLISH BENCHMARK STANDARDS FOR MEASURING CARBON CONTENT.

"B) ELIGIBLE ENTITIES.—Under subparagraph (A), the Secretary may make a grant to—

"i) a Federal research agency;

"ii) a national laboratory;

"iii) a college or university or a research foundation maintained by a college or university;

"iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

"v) a State agricultural experiment station;

"vi) a State forestry agency that has developed or is developing a forest carbon sequestration program; or

"vii) an individual.

"C) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Education, and Extension Service shall consult with the Forestry Research Service and the Forest Service to ensure that proposed research areas are complementary with and do not duplicate other research projects funded by the Department or other Federal agencies.

"D) ADMINISTRATIVE EXPENSES.—The Secretary shall make a grant to carry out subsection (b) amount made available for each fiscal year to carry out this subsection to pay administrative expenses incurred in carrying out this subsection.

"E) APPLIED RESEARCH.—

"i) IN GENERAL.—The Secretary shall carry out applied research in the areas of—

"A) promote understanding of—

"i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in agricultural soils and plants (including trees) and net emissions of other greenhouse gases;

"ii) how changes in soil carbon pools in soils and plants (including trees) are cost-effectively measured, monitored, and verified; and

"iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

"B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and

"C) evaluate leakage and performance issues.

"F) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

"A) use existing technologies and methods;

"B) provide methodologies that are accessible to a nontechnical audience;

"C) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts;

"D) NATURAL RESOURCES AND THE ENVIRONMENT.—The Secretary, acting through the Natural Resources Conservation Service and the Forest Service, shall collaborate with other Federal agencies in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

"A) changes in carbon content in soils and plants (including trees); and

"B) net emissions of other greenhouse gases.

"E) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

"A) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by eligible entities.

"B) ELIGIBLE ENTITIES.—Under subparagraph (A), the Secretary may make a grant to—

"i) a Federal research agency;

"ii) a national laboratory;

"iii) a college or university or a research foundation maintained by a college or university;

"iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

"v) a State agricultural experiment station;

"vi) a State forestry agency that has developed or is developing a forest carbon sequestration program; or

"vii) an individual.

"C) STANDARDS FOR MEASURING CARBON AND OTHER GREENHOUSE GAS CONTENT.—

"i) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary shall convene a conference of key scientific experts on carbon sequestration from various sectors (including the government, academic, and private sectors) to—

"A) discuss and establish benchmark standards for measuring the carbon content of soils and plants (including trees) and net emissions of other greenhouse gases;

"B) propose techniques and modeling approaches for measuring carbon content with a level of precision that is agreed on by the participants in the conference; and

"C) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and

"D) evaluate leakage and performance issues.

"ii) ADMINISTRATIVE EXPENSES.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, may retain up to 4 percent of the amounts made available for each fiscal year to carry out this subsection to pay administrative expenses incurred in carrying out this subsection.

"iii) RESEARCH CONSORTIA.—

"A) IN GENERAL.—The Secretary may designate not more than 2 research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

"B) SELECTION.—The consortia shall be selected on a competitive basis by the Cooperative State Research, Education, and Extension Service.

"C) ELIGIBLE CONSORTIUM PARTICIPANTS.—Eligible entities to participate in a consortium include—

"A) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (7 U.S.C. 3013));

"B) a private research institution;

"C) a State agency;

"D) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Educa-

"E) an agency of the Department of Agriculture;

"F) a research center of the National Aeronautics and Space Administration, the Depart-

"G) an agricultural business or organization with demonstrated expertise in areas covered by this section; and

"H) a representative of the private sector with demonstrated expertise in the areas.

"iv) RESERVATION OF FUNDING.—If the Secretary designates 1 or 2 consortia, the Secre-

"v) ASSISTANCE TO STATES.—The Secretary shall reserve funds for States to carry out research projects under this section.
"(C) evaluate results of analyses on baseline, permanence, and leakage issues.

"(2) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the conference.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated in fiscal years 2002 through 2006, a total of $25,000,000 for each of fiscal years 2002 through 2006.

"(2) ALLOCATION.—

(A) IN GENERAL.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Education, and Extension Service.

(B) ADMINISTRATIVE EXPENSES.—The Secretary may retain up to 4 percent of the amounts made available for each fiscal year to carry out this section to pay administrative expenses incurred in carrying out this section.

"SEC. 386. DEMONSTRATION PROJECTS AND OUTREACH.

(a) DEMONSTRATION PROJECTS.—

"(A) DEVELOPMENT OF MONITORING PROGRAMS.—

"(1) IN GENERAL.—The Secretary, in cooperation with local extension agents, experts from land grant universities, and other appropriate State agencies in each State, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestration benefits of conservation practices and net changes in greenhouse gas emissions.

(b) BENCHMARK LEVELS OF PRECISION.—

The Secretary shall administer programs developed under subparagraph (A) in a manner that achieves, to the maximum extent practicable, benchmark levels of precision in the measurement, in a cost-effective manner, of benefits and changes described in subparagraph (A).

"(2) PROJECTS.—

"(A) IN GENERAL.—The Secretary shall establish a program under which the monitoring programs developed under paragraph (1) are used in projects to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in soils and plants (including trees); and

(ii) net changes in emissions of other greenhouse gases.

(b) EVALUATION OF IMPLICATIONS.—

The projects under subparagraph (A) shall include evaluation of the implications for reassessed timelines, carbon or other greenhouse gas leakage, and the permanence of sequestration.

"(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in consultation with interested local jurisdictions and State agricultural and conservation organizations.

"(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 388(a) until benchmark measurement and assessment standards are established under section 388(d).

"(b) OUTREACH.—

(A) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices that increase sequestration of carbon and reduce emission of other greenhouse gases.

(B) PROJECT RESULTS.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall provide for the dissemination to farmers, ranchers, private forest landowners, and appropriate State agencies in each State of information about the results of demonstration projects that might be applicable to the operations of the farmers and ranchers.

"(C) POLICY OUTREACH.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall disseminate information on the connection between climate change, carbon sequestration strategies and agriculture and forestry, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

"(d) USE OF FUNDS.—

"(1) GRANTS.—A recipient of a grant under subsection (a) may use the grant funds to pay up to 75 percent of the cost of an economic feasibility study or technological assistance for a renewable energy project.

"(2) LOANS.—If a renewable energy project is determined to be economically feasible, a recipient of a loan under subsection (a) may use the loan funds to pay a percentage of the cost of the project determined by the Secretary.

"(e) FUNDING.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, October 1, 2005, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary under this section $9,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall accept the funds transferred under paragraph (1), without further appropriation.

"(f) LOAN AND INTEREST SUBSIDIES.—In the case of a loan or loan guarantee under subsection (a), the Secretary shall use funds under paragraph (1) to pay the interest and loan subsidies necessary to carry out this section.

"SEC. 905. CARBON SEQUESTRATION DEMONSTRATION PROJECTS.

(a) FINDINGS.—Congress finds that—

(1) greenhouse gas emissions resulting from human activity present potential risks and potential opportunities for agricultural and forestry production;

(2) there is a need to identify cost-effective methods that can be used in the agricultural and forestry systems to reduce the threat of climate change;

(3) deforestation and other land use changes account for approximately 1,600,000,000 of the 7,900,000,000 metric tons of the average annual worldwide quantity of carbon emitted during the 1990s;

(4) ocean and terrestrial systems each sequestered approximately 2,300,000,000 metric tons of carbon annually, resulting in a sequestration of 60 percent of the annual human-induced emissions of carbon during the 1990s;

(5) there are opportunities for increasing the quantity of carbon that can be stored in terrestrial systems through improved, human-induced agricultural and forestry practices;

(6) increasing the carbon content of soil helps to reduce oxygen levels, minimize the effects of drought, prevent nutrients and pesticides from washing into water bodies, and contribute to water infiltration, air and water quality, and good seed germination and plant growth;

(7) tree planting and wetland restoration could play a major role in sequestering carbon and reducing greenhouse gas concentrations in the atmosphere;

(8) nitrogen management is a cost-effective method of addressing nutrient overenrichment in the estuaries of the United States and of reducing emissions of nitrous oxide;

(9) animal feed and waste management can be cost-effective methods to address water quality issues and reduce emissions of methane; and

(10) there is a need to—

(A) demonstrate that carbon sequestration in forests, plants, and other terrestrial systems in greenhouse gas emissions through nitrogen and animal feed and waste management can be measured and verified; and

(B) develop and implement quantification, verification, and auditing methodologies for carbon sequestration and greenhouse gas emissions.
emission reductions on a project by project basis.

(b) PROGRAM.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 2002 (7 U.S.C. 590 et seq.) is amended by adding at the end the following:

SEC. 409. CARBON SEQUESTRATION DEMONSTRATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project that is likely to result in—

"(A) demonstrable reductions in net emissions of greenhouse gases; or

"(B) demonstrable net increases in the quantity of carbon sequestered in soils and forests.

"(2) ENVIRONMENTAL TRADE.—The term ‘environmental trade’ means a transaction between an emitter of a greenhouse gas and an agricultural producer or farmer-owned cooperative under which the emitter pays to the agricultural producer or farmer-owned cooperative a fee to sequester carbon or otherwise reduce emissions of greenhouse gases.

"(3) PANEL.—The term ‘panel’ means the panel of experts established under subsection (b)(4)(A).

"(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting in consultation with the Secretary of the Interior and the Secretary of Commerce.

"(5) PAYMENT OF GRANT FUNDS.—The Secretary shall make payments of grant funds to the eligible recipient under subsection (b)(3) in an amount equal to 50 percent of the cost of the eligible project, to the extent that the eligible project meets such requirements as the Secretary determines.

"(b) ESTABLISHMENT.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary shall establish a program to provide grants, on a competitive, cost-shared basis, to agricultural producers, nonindustrial private forest owners, and farmer-owned cooperatives, to carry out the purpose described in paragraph (1) of this subsection. The program shall include grants to provide for—

"(I) experts from each of—

"(i) the Department;

"(ii) the Environmental Protection Agency;

"(iii) the Department of Energy;

"(iv) the Environmental Protection Agency; and

"(v) the United States Fish and Wildlife Service; and

"(B) C O M P O S I T I O N.—The panel shall be composed of—

"(1) members nominated by the Secretary with respect to the appropriate cost-share, monitoring, and enforcement requirements; and

"(2) representatives of the following:

"(i) the Department;

"(ii) the Environmental Protection Agency; and

"(iii) the Department of Energy.

"(c) METHODOLOGY GRANT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to provide grants to carry out the purpose described in paragraph (1) of this subsection. The Secretary shall establish the program on a competitive basis, to a college or university, or other research institution, that seeks to demonstrate the viability of a methodology described in paragraph (1).

"(d) DISSEMINATION OF INFORMATION.—As soon as practicable after the date of enactment of this section, the Secretary shall establish an Internet site through which agricultural and other Federal programs in the Klamath Basin in Oregon and California for the purposes of—

"(1) development of a coordinated Federal effort for the management of water resources throughout the Klamath Basin;

"(2) water conservation and improved agricultural practices;

"(3) cultural, nonindustrial private forest owners and farmer-owned cooperatives shall;

"(A) develop a program to provide grants, on a competitive, cost-shared basis, to agricultural producers, nonindustrial private forest owners, and farmer-owned cooperatives, to carry out the purpose described in paragraph (1) of this subsection;

"(B) become a member of the Interagency Task Force.

"(2) P A R T I C I P A T E N C Y.—The Secretary shall enter into a cooperative agreement to—

"(A) provide funding to the Task Force; and

"(B) use conservation programs administered by the Secretary of Agriculture and other Federal programs administered by the Secretary of the Interior and Secretary of Commerce in carrying out the purposes described in subsection (c)(1).

"(3) GRANT PROGRAM.—The Task Force shall establish a grant program (including appropriate cost-share, monitoring, and enforcement requirements) under which the Secretary of Agriculture, Secretary of the Interior, or Secretary of Commerce may enter into 1 or more agreements or contracts with non-Federal entities, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25
U.S.C. 450b)), environmental organizations, and water districts in the Klamath Basin to carry out the purposes described in subsection (b)(3).

(b) The Secretary may not obligate funds of the Commodity Credit Corporation under other provisions of this Act (including subsection (b)(3).

The Secretary shall consult with
(A) the Secretary of the Interior, the Secretary of the Army, and the Governor of the State of Oregon; and
(B) the Governor of the State of California.

The Secretary may enter into cooperative agreements under this section.

SA 2548. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PREVENTING AGROTERRORISM.

(a) ENHANCED PENALTIES FOR ANIMAL AND PLANT ENTERPRISE TERRORISM.—Section 43 of title 18, United States Code, is amended
(1) in subsection (a), by striking “one year” and inserting “5 years”; and
(2) in subsection (b)—
(A) by redesignating paragraph (2) as paragraph (3);
(B) by inserting after paragraph (1) the following new paragraph (2):
) and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SALE OF INVENTORY OWNED BY THE COMMODITY CREDIT CORPORATION.

Notwithstanding any other provisions of law the Commodity Credit Corporation, where practicable, shall utilize private sector entities to sell inventory to which the Corporation holds title.

SA 2549. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PREVENTING AGROTERRORISM.

(a) ENHANCED PENALTIES FOR ANIMAL AND PLANT ENTERPRISE TERRORISM.—Section 43 of title 18, United States Code, is amended
(1) in subsection (a), by striking “one year” and inserting “5 years”; and
(2) in subsection (b)—
(A) by redesignating paragraph (2) as paragraph (3);
(B) by inserting after paragraph (1) the following new paragraph (2):
) and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SALE OF INVENTORY OWNED BY THE COMMODITY CREDIT CORPORATION.

Notwithstanding any other provisions of law the Commodity Credit Corporation, where practicable, shall utilize private sector entities to sell inventory to which the Corporation holds title.

SA 2550. Mrs. LINCOLN submitted an amendment intended to be proposed by amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Title II add the following:

SEC. ___. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a grassroots source water protection program to more effectively use onsite and institutional capacity and other opportunities to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to...
carry out this section $5,000,000 for each fiscal year.''

**SA 2551.** Mr. **JOHNSON** submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. **DASCHLE** and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, strike lines 14 through 17 and insert the following:

"to forgo obtaining the loan for the loan commodity in return for payments under this section;"

(2) by striking subsection (c) and inserting the following:

"(c) **LOAN PAYMENT RATE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), for purposes of this section, the loan payment rate shall be the amount by which—

(A) the loan rate established under section 132 for the loan commodity, exceeds

(B) the rate at which a loan for the commodity may be repaid under section 134.

(2) **PRORATION.**—

(A) **IN GENERAL.**—During the period beginning on the first day of the applicable marketing year and ending prior to harvest of a loan commodity, the producer may elect to have the loan payment rate for the loan commodity on a farm under paragraph (1) established at the then-applicable rate for the loan commodity.

(B) **SINGLE ELECTION.**—The producers on a farm shall have 1 opportunity each marketing year for each loan commodity on a farm to make an irrevocable election under subparagraph (A).

(C) **LIMITATION.**—The election described in subparagraph (A) may be made shall apply to not more than 50 percent of the expected production of a loan commodity on a farm, as determined by the Secretary.

(D) **TIMING OF PAYMENT.**—Producers on a farm that make a pre-harvest election under this paragraph shall receive the loan payment applicable to the quantity of the loan commodity subject to the election only after—

(i) the quantity of the loan commodity on the farm is harvested; and

(ii) sufficient documentation regarding the quantities of loan commodity harvested on the farm has been provided to the Secretary.

E; and

(3) by striking subsections (e) and (f) and inserting the following:

**SA 2552.** Mr. **CRAPO** (for himself and Mr. **Craig** submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike lines 9 and all that follows through page 289 line 15 and insert the following:

"(b) **EXCEPTIONS.**—For states in which the Governor has elected not to participate in the program under this program shall be available for enrollment under the conditions of subchapter B of chapter 1.

"(c) **ENROLLMENT OF ELIGIBLE LAND.**—

(1) **CRP ACREAGE LIMIT.**—The Secretary shall enroll in the program not more than 1,000,000 acres, which shall count against the number of acres in the conservation reserve program under section 1231(d).

(2) **TIMING.**—To the maximum extent practicable, an enrollment under paragraph (1) shall occur during the enrollment period for the conservation reserve program.

(3) **PRIORITY IN ENROLLMENT.**—In enrolling eligible land in the program, the Secretary shall give priority to land with associated water or water rights that—

(A) could be used to significantly advance the goals of Federal, State, Tribal and local fish, wildlife, and plant conservation plans, including—

(i) plans that address multiple endangered species, sensitive species, or threatened species; or

(ii) agreements entered into, or conservation plans submitted, under section 6 or 10(a)(2)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1535, 1536a(a)(2)(A)), respectively; or

(B) would benefit fish, wildlife, or plants of 1 or more refuges within the National Wildlife Refuge System.

(4) **NONPARTICIPATING STATES.**—In the case of a State that elects not to participate in the program, the Secretary shall give priority that is equal to the priority given under paragraph (3) to applications from landowners in States participating in the program.

(5) **ENROLLMENT AUTHORITY.**—The priority.

**SA 2553.** Mr. **CRAPO** (for himself and Mr. **Craig**) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. **DASCHLE** and intended to be proposed to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 125.

**SA 2554.** Mr. **CRAPO** submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. **DASCHLE** and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 289, strike line 14 and insert the following:

"(4) **NONPARTICIPATING STATES.**—In the case of a State that elects not to participate in the program, the Secretary shall give, to applications from landowners in the State to enroll in the conservation reserve program under subchapter B of chapter 1, priority that is equal to the priority given under paragraph (3) to applications from landowners in States participating in the program;

(5) **ENROLLMENT AUTHORITY.**—The priority.

**SA 2555.** Mr. **CRAPO** submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 132 and insert the following:

**SEC. 132. DAIRY COUNTER-CYCLICAL SAVINGS ACCOUNTS.**

Subtitle B of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7211 et seq.) is amended by adding at the end the following:

"**SEC. 119. DAIRY COUNTER-CYCLICAL SAVINGS ACCOUNTS.**

(a) **DEFINITIONS.**—In this section:

(1) **ADJUSTED GROSS REVENUE.**—The term ‘‘adjusted gross revenue’’ means—

(i) the average adjusted gross revenue from the sale of crops and livestock on all agricultural enterprises of the producer, including livestock but excluding tobacco, as determined by the Secretary;

(ii) any comparable tax return related to the agricultural enterprises of the producer, as approved by the Secretary;

(2) **AGRICULTURAL ENTERPRISE.**—The term ‘‘agricultural enterprise’’ means the production and marketing of—

(A) milk regardless of the utilization of the milk for the applicable year; or

(B)(i) milk regardless of the utilization of the milk for the applicable year; and

(ii) other agricultural commodities (including livestock but excluding tobacco) on a farm or ranch.

(3) **AVERAGE ADJUSTED GROSS RECEIPT.**—The term ‘‘average adjusted gross receipt’’ means—

(A) the average of the adjusted gross revenue of a producer for each of the preceding 5 taxable years; or

(B) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, the estimated income of the producer that will be earned from all agricultural enterprises for the applicable year, as determined by the Secretary.

(4) **PRODUCER.**—The term ‘‘producer’’ means an individual or entity, as determined by the Secretary for an applicable year, which—

(A) shares in the risk of producing, or provides a material contribution in producing—
“(i) milk regardless of the utilization of the milk for the applicable year; or
“(ii) milk regardless of the utilization of the milk for the applicable year and other agricultural commodities (including livestock but excluding tobacco) on a farm or ranch;
“(B) has a substantial beneficial interest in the production of the milk and other agricultural commodities on the farm of the producer;
“(C) during each of the preceding 5 taxable years, has filed—
“(1) a schedule F of the Federal income tax returns;
“(2) a comparable tax form related to the agricultural enterprises of the individual or entity, as approved by the Secretary; or
“(ii) a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, as determined by the Secretary;
“(D) has earned at least $20,000 in average adjusted gross revenue for each of the preceding 5 taxable years;
“(ii) is a limited resource farmer or rancher, as determined by the Secretary;
“(iii) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, has at least $50,000 in estimated income from all agricultural enterprises for the applicable year, as determined by the Secretary;
“(b) PUBLICATION.—A producer may establish a dairy counter-cyclical savings account in the name of the producer in a bank or financial institution selected by the producer and approved by the Secretary.
“(c) DAIRY ACCOUNT CAPITALIZATION PAYMENTS.—
“(1) IN GENERAL.—The Secretary shall in fiscal year 2002 provide a capitalization payment to the account of an eligible producer—
“(A) in the same manner as supplemental payments for dairy producers were administered by the Secretary pursuant to section 805 of Pub. L. 106-387;
“(B) for the average of the production of the producer for the years 1996, 1998, and 2000, not to exceed $39,000, cwt. for a year; and
“(C) at the same per unit rate as provided by the Secretary in section 805 of Pub. L. 106-387.
“(2) LIMITATION.—Capitalization payments under this subsection shall not exceed $500,000,000 in fiscal year 2002, and shall not be made with respect to subsequent fiscal years.
“(3) A capitalization payment under this subsection may only be provided to an account of a producer in a bank or savings institution approved by the Secretary.
“(d) CONTENT OF ACCOUNT.—A dairy counter-cyclical savings account shall consist of—
“(1) of contributions of the producer;
“(2) for fiscal year 2002, the amount of the capitalization fund for which the producer is eligible, as determined by the Secretary; and
“(3) of matching contributions of the Secretary.
“(e) PRODUCER CONTRIBUTIONS.
“(1) IN GENERAL.—Subject to paragraph (2), a producer may deposit such amounts in the account of the producer as the producer considers appropriate.
“(2) MATCHING ACCOUNT BALANCE.—The balance of an account of a producer may not exceed 150 percent of the average adjusted gross revenue of the producer.
“(f) CAPITALIZATION PAYMENTS.
“(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Secretary shall provide to the account of the producer a matching contribution to the account not exceeding the amount deposited by the producer into the account.
“(2) MAXIMUM CONTRIBUTIONS FOR ALL PRODUCERS.—The total amount of matching contributions that may be provided by the Secretary for all producers under this subsection in addition to the capitalization payments under subsection (c) shall not exceed $1,400,000,000 during the period covering fiscal years 2003 through 2005.
“(3) DETERMINATION OF ELIGIBILITY FOR PAYMENTS.—
“(A) To qualify for a capitalization payment under this section, a producer shall be an eligible dairy producer as determined by the Secretary.
“(B) The Secretary shall determine the eligibility of producers for purposes of paragraphs (2) and (3).
“(C) The Secretary shall give priority to eligible dairy producers who have been severely affected by the dairy market downturn.
“(4) DETERMINATION OF ELIGIBILITY FOR PAYMENTS.—
“(A) To qualify for a capitalization payment under this section, a producer shall be an eligible dairy producer as determined by the Secretary.
“(B) The Secretary shall determine the eligibility of producers for purposes of paragraphs (2) and (3).
“(C) The Secretary shall give priority to eligible dairy producers who have been severely affected by the dairy market downturn.
“(2) A producer may establish a dairy counter-cyclical savings account in the name of the producer in a bank or financial institution selected by the producer and approved by the Secretary.
“(3) A capitalization payment under this subsection shall not exceed 150 percent of the average adjusted gross revenue of the producer for the applicable year, as determined by the Secretary;
“(A) in the same manner as supplemental payments for dairy producers were administered by the Secretary pursuant to section 805 of Pub. L. 106-387;
“(B) for fiscal year 2002, the amount of the capitalization payments in fiscal year 2002; and
“(2) Retirement.—A producer that ceases to be actively engaged in farming, as determined by the Secretary—
“(A) may withdraw the full balance from, and close, the account; and
“(B) may not establish another account.
“(j) FUNDING.—From the proceeds of the Commodity Credit Corporation, the Secretary shall make available—
“(1) $500,000,000 under subsection (c) for the capitalization payments in fiscal year 2002; and
“(2) $1,400,000,000 for matching contributions under subsection (i)(2)(A) for the period covering fiscal years 2003 through 2005.

SA 2556. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and consumer food and fiber, and for other purposes which was ordered reported by the Committee.

SEC. 2. ANIMAL DRUGS.

(a) Short Title.—This section may be cited as the ‘Minor Use and Minor Species Animal Health Act of 2001’.

(b) Funding.—Congress makes the following findings:

(1) There is a severe shortage of approved new animal drugs for use in minor species.

(2) There is a severe shortage of approved new animal drugs for treating animal diseases and conditions that occur infrequently or in limited geographic areas.

(3) Because of the low market shares, low profit margins involved, and capital investment required, it is generally not economically feasible for animal drug sponsors to pursue approvals for these species, diseases, and conditions.

(4) Because the populations for which such new animal drugs are intended may be small and their geographic distribution may vary widely, it is often difficult to design and conduct studies to establish drug safety and effectiveness under traditional new animal drug approval processes.

(5) It is in the public interest and in the interest of animal welfare to provide for special incentives to allow the development and marketing of certain new animal drugs for minor species and minor uses that take into account these special circumstances and the need that such drugs do not endanger animal or public health.

(6) Exclusive marketing rights and tax credits for clinical testing expenses have encouraged the development of so-called ‘orphan’ drugs for human use, and comparable incentives should encourage the development of new animal drugs for minor species and minor uses.

(c) Definitions.—Section 201 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

‘‘(kk) The term ‘minor species’ means cattle, horses, swine, chickens, turkeys, dogs, and cats, except that the Secretary may revise this definition by regulation.

‘‘(ll) The term ‘minor species’ means animals other than humans that are not major species.

‘‘(mm) The term ‘minor use’ means the intended use of a drug in a major species for an indication that occurs infrequently or in limited geographical areas.

(d) Three-Year Exclusivity for Minor Use and Minor Species Applications.—Section 512(d) of the Federal, Food, Drug, and Cosmetic Act is amended by striking ‘‘other than bioequivalence studies or residue studies’’ and inserting ‘‘other than bioequivalence studies or residue depletion studies, except final residue depletion studies for minor uses or minor species’’ every place it appears.

SEC. 5. Scope of Review of Minor Use and Minor Species Applications.—Section 512(d) of the Federal, Food, Drug, and Cosmetic Act is amended by adding at the end the following paragraph:

‘‘(c) In reviewing an application that proposes a change to add an intended use for a minor use or a minor species to an approved new animal drug application, the Secretary shall reevaluate only the relevant information in the approved application to determine whether the application for the minor use or minor species can be approved. A decision to approve the application for the minor use or minor species is not, implicitly or explicitly, a reaffirmation of the approval of the original application.

(f) Minor Use and Minor Species New Animal Drugs.—Chapter V of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

‘‘Subchapter F—New Animal Drugs For Minor Use And Minor Species

SEC. 571. Conditional Approval of New Animal Drugs for Minor Use and Minor Species.

(a) Except as provided in paragraph (3) of this section, any person may file with the Secretary an application for conditional approval of a new animal drug intended for a minor use or a minor species. Such an application may not be a supplement to an application approved under section 512. Such application must comply in all respects with the provisions of section 512 of this Act except sections 512(b)(2), 512(c)(1), 512(c)(2), 512(c)(3), 512(d)(1), 512(e), 512(h), and 512(n) unless otherwise stated in this section, and any conditional approval is subject to such conditions as the Secretary determines.

(2) The applicant shall submit to the Secretary as part of an application for the conditional approval of a new animal drug—

(3) The applicant must comply with the requirements of section 512(b)(1) except section 512(b)(1)(A).
“(B) full reports of investigations which have been made to show whether or not such drug is safe and there is a reasonable expectation of effectiveness for use;

“(C) data for establishing a conditional dose;

“(D) projections of expected need and the justification for that expectation based on the availability;

“(E) information regarding the quantity of drug expected to be distributed on an annual basis to meet the expected need; and

“(F) that the applicant will conduct additional investigations to meet the requirements for the full demonstration of effectiveness under section 512(d)(1)(E) within 5 years.

“(3) A person may not file an application under paragraph (1) if without adequate justification—

“(A) the person has previously filed an application for conditional approval under paragraph (1) for the same drug, conditions of use, and dosage form whether or not subsequently conditionally approved by the Secretary under subsection (b), or

“(B) the person obtained the application, or data or other information contained therein, directly or indirectly from the person who filed for conditional approval under paragraph (1) for the same drug and conditions of use whether or not subsequently conditionally approved by the Secretary under subsection (b).

“(b) Within 180 days after the filing of an application pursuant to subsection (a), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

“(1) issue an order, effective for one year, conditionally approving the application if the Secretary finds that none of the grounds for denying conditional approval, specified in subsection (c) of this section, applies, or

“(2) give notice of an opportunity for an informal hearing on the question whether such application can be conditionally approved.

“(c) If the Secretary finds, after giving the applicant notice and an opportunity for an informal hearing, that—

“(1) any of the provisions of section 512(e)(1) through (D) or (F) through (I) are applicable;

“(2) the information submitted to the Secretary is part of the application and any other information the Secretary with respect to such drug, is insufficient to show that there is a reasonable expectation that the drug will have the effect it purports to or is represented as having, that the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

“(3) another person has received approval under section 512 for a drug with the same active ingredient or ingredients, the same conditions of use, and the same dosage form and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended;

the Secretary shall issue an order refusing to conditionally approve the application.

If, after such notice and opportunity for an informal hearing, the Secretary finds that paragraphs (1) through (3) do not apply, the Secretary shall conditionally approve the application effective for one year.

Any order issued under this subsection refusing to conditionally approve an application shall state the findings upon which it is based.

“(d) A conditional approval under this section is effective for a 1-year period and is thereafter renewable by the Secretary annually for up to 4 additional 1-year terms. A conditional approval shall be in effect for no more than 5 years from the date of approval under subsection (b)(1) or (c) of this section unless extended as provided for in subsection (h) of this section. The following shall also apply:

“(1) No later than 90 days from the end of the 1-year period for which the original or renewed conditional approval is effective, the applicant has the opportunity to renew a conditional approval for an additional 1-year term.

“(2) If the renewal request is submitted no later than 90 days before the end of the 1-year period, the conditional approval shall be deemed renewed at the end of the 1-year period, or at the end of an additional 90-day extension, whichever is necessary to complete review of an application, unless the Secretary makes a written determination before the expiration of the 1-year period or the 90-day extension that—

“(A) the request fails to contain sufficient information to show that—

“(i) the applicant is making sufficient progress toward meeting approval requirements under section 512(d)(1)(E), and is likely to be able to fulfill those requirements and obtain an approval under section 512 before the expiration of the 1-year period, or the maximum term of the conditional approval;

“(ii) the quantity of the drug that has been distributed is consistent with the intended purpose of the drug, and that the information that ensures that the drug is only used for its intended purpose; or

“(iii) no other drug with the same active ingredient or ingredients, for the same conditions of use, and dosage form has received approval under section 512, or if such a drug has been approved, that the holder of the approved drug is no longer planning to make the drug available.

“(B) or more of the conditions of section 512(e)(1) through (B) and (D) through (F) are met.

“(3) If the Secretary makes a timely written determination that a conditional approval should not be renewed, or the applicant fails to submit a timely renewal request, the Secretary shall issue an order refusing to renew the conditional approval, and such conditional approval shall be deemed withdrawn and no longer in effect.

The Secretary shall thereafter provide an opportunity for an informal hearing to the applicant on the issue whether the conditional approval shall be reinstated.

“(e)(1) The Secretary shall issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that another person has received approval under section 512 for a drug with the same active ingredient or ingredients, the same conditions of use, and dosage form, and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended.

“(2) The Secretary shall, after notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that—

“(A) any of the provisions of section 512(e)(1) through (B) or (D) through (F) are applicable; or

“(B) on the basis of new information before the Secretary evaluated together with the evidence available to the Secretary when the application was conditionally approved, that there is not a reasonable assurance that the drug will have the effect it purports or is represented to have under the conditions of use previously, recommended, or suggested in the labeling thereof.

“(3) The Secretary may also, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that any of the provisions of section 512(e)(2) are applicable.

“(f) The labeling and labeling of a new animal drug with a conditional approval under this section shall—

“(A) bear the statement, ‘conditionally approved by the PDA pending a full demonstration of effectiveness under application number:’ and

“(B) contain such other information as prescribed by the Secretary.

“(g) A conditionally-approved new animal drug application may not be amended or supplemented to add indications for use.

“(h) 180 days prior to the termination date established under subsection (d) of this section, a sponsor shall have submitted all the information necessary to support a complete new animal drug application in accordance with section 512.

“(i) Any conditional approval issued under this section is no longer in effect upon receipt of this information, the Secretary shall either—

“(1) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in section 512(d)(1) applies, or

“(2) give the sponsor an opportunity for a hearing before the Secretary under section 512(d) on the question whether such application can be approved.

Upon issuance of an order approving the application, product labeling and administrative records of approval shall be modified accordingly. If the Secretary has not issued an order under section 512(c) approving such application prior to the termination date established under subsection (d) of this section, the conditional approval issued under this section is no longer in effect unless the Secretary grants an additional 180-day period so that the Secretary can complete review of the application. The decision to grant an extension is committed to agency discretion and not subject to judicial review.

“(j) The decision of the Secretary under subsection (c), (d), (e), or (g) of this section, refusing or withdrawing conditional approval of an application shall constitute final agency action subject to judicial review.

“SEC. 572. INDEX OF LEGALLY-MARKETED UNAPPROVED NEW ANIMAL DRUGS FOR MINOR SPECIES.

“(a) The Secretary shall establish an index of unapproved minor species new animal drugs that may be lawfully marketed for use in minor species. The index shall be limited to—

“(1) new animal drugs intended for use in a minor species for which there is a reasonable certainty that the animal or edible products associated with the animal will not be consumed by humans; and

“(2) new animal drugs intended for use in an early life stage of a food-producing minor species where human food safety can be demonstrated in accordance with the standard of section 512(d) by showing that—

“(A) there is no significant likelihood that hazardous residues will be present in the animal presented as food for humans as a result of treatment at the early life stage;
The request for addition to the index shall be entitled to one or more conferences to discuss the requirements for indexing a new animal drug. The request shall include:

(A) the name and address of the person who holds the index listing;

(B) the name of the drug and the intended use and conditions of use for which it is being indexed; and

(C) product labeling; and

(A) a copy of the Secretary’s determination of eligibility issued under subsection (b);

(B) a written report that meets the requirements in subsection (d)(2) of this section;

(C) a proposed index entry;

(D) facsimile labeling;

(E) anticipated annual distribution of the new animal drug;

(F) a written commitment to manufacture the new animal drug according to current good manufacturing practices;

(G) a written commitment to label, distribute, and promote the new animal drug only in accordance with the index entry;

(H) upon specific request of the Secretary, information submitted to the expert panel described in paragraph (3); and

(I) any additional requirements that the Secretary may prescribe by general regulation or specific order.

(2) The Secretary shall grant or deny the request, based on subsection (a)(2) of this section, or 180 days for a request submitted for indexing based on subsection (a)(1) of this section.

(3) The Secretary may establish by regulation criteria for the eligibility determination.

The Secretary may deem necessary to make this eligibility determination.

(2) Within 90 days after the submission of a request for a determination of eligibility for indexing based on subsection (a)(1) of this section, or 180 days for a request submitted based on subsection (a)(2) of this section, the Secretary shall grant or deny the request, and notify the person who requested such determination of the Secretary’s decision. The Secretary shall grant the request if the Secretary finds that:

(A) the new animal drug, including the same active ingredient or any salt or ester thereof is approved or conditionally approved in the same dosage form for the same intended use;

(B) the proposed use does not raise concerns related to safety; and

(C) the person requesting the determination has established appropriate specifications for the manufacture and control of the new animal drug and has demonstrated an understanding of the requirements of current good manufacturing practices.

If the Secretary denies the request, the Secretary shall thereafter provide due notice and an opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

(1) Within 90 days after the receipt of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks, taking into account the harm being caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question.

(2) Within 180 days after the submission of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks, taking into account the harm being caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question. If the Secretary denies the request, the Secretary shall thereafter provide due notice and the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

(1) The index established under subsection (a) shall include the following information for each listed drug:

(A) the name and address of the person who holds the index listing;

(B) the name of the drug and the intended use and conditions of use for which it is being indexed; and

(C) product labeling; and

(D) conditions and any limitations that the Secretary deems necessary regarding use of the drug.

(2) The Secretary shall publish the index, and revise it periodically.

(3) The Secretary may establish by regulation a process for reporting changes in the conditions of manufacturing or labeling of indexed products.

(1) If the Secretary finds, after due notice to the person who requested the index listing an opportunity for an informal conference, that:

(A) the expert panel failed to meet the requirements as set forth by the Secretary by regulation;

(B) on the basis of new information before the Secretary, evaluated together with the evidence available to the Secretary when the new animal drug was listed in the index, the benefits of using the new animal drug for the indexed use do not outweigh its risks;

(C) the conditions of subsection (c)(2) of this section are no longer satisfied;

(D) the manufacture of the new animal drug is not in accordance with current good manufacturing practices;

(E) the labeling, distribution, or promotion of the new animal drug is not in accordance with the index entry;

(F) the conditions and limitations of use associated with the index listing have not been followed; or

(G) the request for indexing contains any untrue statement of material fact.

The Secretary shall remove the new animal drug from the index. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

(2) If the Secretary finds that there is a reasonable probability that the use of the drug would adversely affect the health of human beings or other animals, the Secretary may—

(A) suspend the listing of such drug immediately;

(B) give the person listed in the index prompt notice of the Secretary’s action; and

(C) afford that person the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

(3) For purposes of indexing new animal drugs under this section, the Secretary shall promulgate regulations for exempting from the operation of section 512 minor species animal drugs used for bearing or containing new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of minor species animal drugs. Such regulations may, at the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such article, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of such article, as the Secretary finds will enable the Secretary to evaluate the safety and effectiveness of such animal drugs. In the event of the filing of a request for an index listing pursuant to this section,

(1) the labeling of a new animal drug that is the subject of an index listing shall state, prominently and conspicuously—

‘‘(1) NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra lable use is prohibited.’’

(2) except in the case of new animal drugs indexed for use in an early life stage of a target animal, the animal may be eligible for inclusion in the index.

(1) Any person may submit a request to the Secretary for a determination whether a new animal drug may be eligible for inclusion in the index. Such a request shall include—

(A) information regarding the need for the new animal drug, the species for which the new animal drug is intended, the proposed intended use and conditions of use, and anticipated annual distribution;

(B) information to support the conclusion that the proposed use meets the conditions of subsection (a)(1) or (a)(2) of this section;

(C) information regarding the components and composition of the new animal drug;

(D) a description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug;

(E) an environmental assessment or information to support a categorical exclusion from the requirement to prepare an environmental assessment;

(F) information sufficient to support the conclusion that the proposed use of the new animal drug may represent a threat to the safety of individuals exposed to the new animal drug through its manufacture or use; and

(G) such other information as the Secretary may deem necessary to make this eligibility determination.
(B) approves or conditionally approves an application for a designated new animal drug, and an active ingredient (including an ester or salt of the active ingredient) of that designated new animal drug has been approved or conditionally approved previously, the Secretary may not approve or conditionally approve another application submitted after the date of approval of such application, or under which the designated new animal drug has been approved or conditionally approved previously.

(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

(1) There is authorized to be appropriated $10,000,000 for the fiscal year following publication of final implementing regulations, $2,000,000 for the subsequent fiscal year and such sums as may be necessary from time to time.

(2) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

(a) Designation.—

(1) The manufacturer or the sponsor of a new animal drug for a minor use or use in a minor species may request that the Secretary declare that drug a ‘designated new animal drug’. A request for designation of a new animal drug shall be made before the submission of an application under section 512(b) or section 571 for the new animal drug.

(2) The Secretary may declare a new animal drug a ‘designated new animal drug’ for an application for a minor use or use in a minor species; and

(3) such other information as may be prescribed in the index listing pursuant to subsection (a) is in effect, the person who has an index listing shall establish and maintain such records, and make such reports to the Secretary, of data relating to experience, and other data or information, received or otherwise obtained by such person with respect to such drug, or with respect to animal feeds containing such drug, as the Secretary may require, in such form and manner as the Secretary determines, whether there is or may be ground for invoking subsection (f).

(4) Every person required under this section to maintain records, and every person having custody of similar information received or otherwise obtained by such person, shall furnish such information at the request of the Secretary.

(H) The Secretary may also terminate designation if the Secretary independently determines that the sponsor is not actively pursuing approval under section 512 or 571 with due diligence.

(I) The sponsor of an approved designated new animal drug shall notify the Secretary of any discontinuance of the manufacture of such new animal drug at least one year before discontinuance. The Secretary shall terminate the designation upon such notification.

(2) The Secretary may also terminate designation upon the expiration of any applicable exclusivity period under subsection (c).

(3) The Secretary may not approve another application under section 512 or 571 for a new animal drug designated under this section, unless the Secretary finds, after providing notice to the applicant, that a new animal drug, whether or not designated under this section, is not approved under section 512 or 571.

(a) The term ‘designated new animal drug’ means expenses incurred in developing testing, and manufacturing expenses incurred in connection with the development of designated new animal drugs.

(b) The term ‘manufacturing expenses’ means expenses incurred in developing processes and procedures associated with manufacture of the new animal drug which occur after the new animal drug is designated under section 512 or 571 and before the date on which an application with respect to such new animal drug is submitted under section 512 or 571.

(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

(1) Except as provided in subsection (c)(2), if the Secretary

(2) that is indexed under section 572 and

(3) that is conditionally approved under section 512(a)(4)(C), 512(j), (l) or (m) and inserting ‘412(b)’

(4) that is approved or conditionally approved under section 512(b) or section 571 is approved for a new animal drug with the same active ingredient and intended use as the designated new animal drug for another applicant before the expiration of seven years from the date of approval or conditional approval of the application.

(b) If an application filed pursuant to section 512 or 571 for a des-

(i) a new animal drug, the Secretary may, during the 10-year or 7-year exclusivity period beginning on the date of the application approval or conditional approval, approve or conditionally approve another application under section 512 or section 571 for such drug for such minor use or minor species for another applicant if—

(1) the Secretary finds, after providing the holder of such approved application notice and opportunity for the submission of information in the grace period after the date on which the holder of the approved application cannot assure the availability of sufficient quantities of the drug to meet the needs for which the drug was designated, that the drug is not available for minor use or minor species that is not the subject of a final regulation published by the Secretary through notice and comment rule-making finding that the criteria of paragraphs (1) and (2) or of section 108 of Public Law 90–359 have been met is a new animal drug; —

(2) That section 512(a)(4)(C) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(3) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(4) Section 201(v) of the Federal Food, Drug, and Cosmetic Act is amended by deleting ‘512(j), (l)’ and inserting ‘512(j), (l)’.

(5) Section 502 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following subsection:

(6) Section 503(f) of the Federal Food, Drug, and Cosmetic Act is amended by—

(a) In paragraph (1)(A)(i) by striking ‘512’ and inserting ‘512(a)(4)(C), 512(j), (l)’;

(b) In paragraph (1)(A)(ii) by striking ‘512’ and inserting ‘512(a)(4)(C), 512(j), (l)’.

(c) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(d) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(e) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(f) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(g) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(h) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ‘512(a)(4)(C), 512(j), (l) or (m)’ and inserting ‘(4)(C), 512(j), (l)’.

(i) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(j) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(k) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(l) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(m) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(n) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(o) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.

(p) That is conditionally approved under section 571 and its labeling does not conform with the approved application or section 512, or that is not conditionally approved under section 512 or 571.
SA 2557. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 87, strike line 15 and all that follows through page 113 and insert the following:

CHAP~T~~R 3—PEANUTS

SEC. 151. PEANUT PROGRAM.

(a) IN GENERAL.—Subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251 et seq.) is amended by adding at the end the following:

"CHAPTER 3—PEANUTS

SEC. 153A. DEFINITIONS.

In this chapter:

"COUNTER-CYCLICAL PAYMENT.—The term 'counter-cyclical payment' means a payment made to peanut producers on a farm under section 158D.

'DIRECT PAYMENT.—The term 'direct payment' means a payment made to peanut producers on a farm under section 158C.

'EFFECTIVE PRICE.—The term 'effective price' means the price per ton of peanuts used to determine the payment rates for counter-cyclical payments.

'PAYMENT ACRES.—The term 'payment acres' means 85 percent of the peanut acres on a farm, as established under section 158B, on which direct payments and counter-cyclical payments are made.

'PEANUT PRODUCER.—The term 'peanut producer' means an owner, operator, landlord, tenant, or sharecropper who produces peanuts.

'PEANUT ACRES.—The term 'peanut acres' means the number of acres assigned to a peanut farm under the peanut program producers on a farm pursuant to section 158B(b).

'PAYMENT YIELD.—The term 'payment yield' means the yield assigned to farm by historical peanut producers on the farm pursuant to section 158B(b).

'PEANUT PROGRAM.—The term 'peanut program' means an operator, landlord, tenant, or sharecropper who produces peanuts.

'PEANUTS.—The term 'peanuts' means the peanuts planted on a farm by the

SEC. 155B. PAYMENT YIELDS, PEANUT ACRES, AND PAYMENT ACRES FOR FARMS.

"(a) PAYMENT YIELDS AND PAYMENT ACRES.—

'(1) AVERAGE YIELD.—

'(A) IN GENERAL.—The Secretary shall determine, for each historical peanut producer, the average yield for peanuts on all farms of the historical peanut producer for the 1996 through 2001 crop years, excluding any crop year during which the producers did not produce peanuts.

'(B) DESIGNATED YIELDS.—If for any of the crop years referred to in subparagraph (A) in which peanuts were planted on a farm by the
historical peanut producer, the historical peanut producer has satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277), the Secretary shall assign to the historical peanut producer a farm for the crop year equal to 65 percent of the average yield for peanuts for the previous 5 crop years.

(2) AVERAGE AVERAGE.—Except as provided in subsection (b), the Secretary shall determine, for the historical peanut producer, the 4-year average of—

(A) acreage planted to peanuts on all farms owned or managed by the historical peanut producer during the crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

(3) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster county for 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the 4-year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute for not more than 1 of the crop years during which a disaster is declared—

(A) the State average of average acreage actually planted to peanuts; or

(B) the average of average for the historical peanut producer determined by the Secretary under paragraph (2).

(4) TIME FOR DETERMINATIONS; FACTORS.—

(A) TIMING.—The Secretary shall make the determinations required by this subsection not later than 30 days after the date of enactment of this section.

(B) FACTORS.—In making the determinations, the Secretary shall take into account changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

(5) ASSIGNMENT OF YIELD AND ACRES TO FARMS.—

(1) ASSIGNMENT BY HISTORICAL PEANUT PRODUCERS.—The Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm.

(2) PAYMENT YIELD.—The average of all of the yields assigned by historical peanut producers is considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

(3) PEANUT ACRES.—Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

(4) ELIMINATION.—Not later than 180 days after the date of enactment of this section, a historical peanut producer shall notify the Secretary of the assignments described in subsection (a) and the Secretary may make such adjustments to the assignments as the Secretary determines to be necessary so that the total of peanut acres and acreage described in paragraph (3) does not exceed the actual 4-year average acreage of the farm.

(5) SELECTION OF ACRES.—The Secretary shall make direct payments to peanut producers on the farm for the opportunity to select the peanut acres against which the reduction will be made.

(6) ORPHAN ACREAGE.—For purposes of paragraph (1), the Secretary shall—

(A) any contract acreage for the farm under subtitle B; or

(B) any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.); and

(7) PREVENTION OF EXCESS PEANUT ACRES.—Except as provided in subsection (b), the Secretary shall—

(A) include in the determination of the 4-year average acreage for the farm for the purpose of making direct payments under this chapter a contract acreage for the farm under section 158B in effect for the 12-month marketing year for peanuts under this chapter; and

(B) the national average loan rate for a marketing assistance loan to producers under section 158C in effect for the 12-month marketing year for peanuts under this chapter;

(8) the payment rate in effect for peanuts under subsection (b) for the purpose of making direct payments with respect to peanuts.

(9) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

(10) TIME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make counter-cyclical payments to peanut producers on a farm for the previous 5 crop years.

(2) the amount of the direct payment to be paid to the peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(11) PAYMENT AMOUNT.—The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between—

(A) the income protection price for peanuts; and

(B) the national average loan rate for a marketing assistance loan to the peanut producers on a farm for a crop year.

(12) PREVENTION OF EXCESS PEANUT ACRES.—If the total of peanut acres on a farm is below the amount, if any, by which the payment rate exceeds the counter-cyclical payment the producers on the farm are eligible for under this section, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for peanuts for the farm.

(13) REPEAL.—The provisions of this section shall be repealed at the end of the 12-month marketing year for peanuts under this chapter.

(14) NO PROHIBITION.—Nothing in this section shall be construed to prohibit the Secretary from making additional payments to the producers on a farm or contract acreage under this section.

SEC. 158C. DIRECT PAYMENTS FOR PEANUTS.

(a) IN GENERAL.—For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm for peanuts for a fiscal year equal to 65 percent of the payment yield for the farm for the crop of peanuts as soon as practicable after the date the direct payment would have been made by the Secretary under subsection (1) of paragraph (1) of section 158A, for the crop year.

(1) REQUIRED REDUCTION.—If the total of the peanut acres for a farm, together with the acreage described in paragraph (3), exceeds the actual 4-year average acreage of the farm, the effective price for peanuts for the farm and counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

(A) the greater of—

(i) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or

(ii) the national average loan rate for a marketing assistance loan to producers under section 158C in effect for the 12-month marketing year for peanuts under this chapter; and

(B) the payment rate in effect for peanuts under subsection (b) for the purpose of making direct payments with respect to peanuts.

(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

(d) TIME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make direct payments to peanut producers on a farm for peanuts under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(2) PARTIAL PAYMENT.—(A) In general.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between—

(A) the income protection price for peanuts; and

(B) the national average loan rate for a marketing assistance loan to the peanut producers on a farm for a crop year.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

(i) the greater of—

(A) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or

(B) the national average loan rate for a marketing assistance loan to producers under section 158C in effect for the 12-month marketing year for peanuts under this chapter; and

(ii) the payment rate in effect for peanuts under subsection (b) for the purpose of making direct payments with respect to peanuts.

(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

(d) TIME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(2) PARTIAL PAYMENT.—(A) In general.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the payment rate used to make counter-cyclical payments with respect to peanuts for a crop year.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

(i) the greater of—

(A) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or

(B) the national average loan rate for a marketing assistance loan to producers under section 158C in effect for the 12-month marketing year for peanuts under this chapter; and

(ii) the payment rate in effect for peanuts under subsection (b) for the purpose of making direct payments with respect to peanuts.

(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

(d) TIME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make direct payments to peanut producers on a farm for peanuts under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(2) PARTIAL PAYMENT.—(A) In general.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the payment rate used to make counter-cyclical payments with respect to peanuts for a crop year.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

(i) the greater of—

(A) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or

(B) the national average loan rate for a marketing assistance loan to producers under section 158C in effect for the 12-month marketing year for peanuts under this chapter; and

(ii) the payment rate in effect for peanuts under subsection (b) for the purpose of making direct payments with respect to peanuts.

(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

(d) TIME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make direct payments to peanut producers on a farm for peanuts under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(2) PARTIAL PAYMENT.—(A) In general.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the payment rate used to make counter-cyclical payments with respect to peanuts for a crop year.
(D) to use a quantity of the land on the farm equal to the peanut acres, for an agricultural commodity not and not for a non-agricultural commercial or industrial use, as determined by the Secretary.

(2) COMPLIANCE.—The Secretary may progressively modify the requirements and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

(3) TRANSFER OF PAYMENT BASE AND YIELD.—The Secretary shall not impose any restriction on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

(4) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of this section, as determined by the Secretary.

(5) EXCEPTION.—If a peanut producer entitled to a direct payment or counter-cyclical payment does not receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

(6) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

(e) TENANTS AND SHARECROPPERS.—In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(f) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payment and counter-cyclical payments among the peanut producers on a fair and equitable basis.

SEC. 158F. PLANTING FLEXIBILITY

(a) PERMITTING CROPS.—Subject to subsection (b), any commodity or crop may be planted on peanut acres on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES.—(1) The Secretary shall determine that the planting of the following agricultural commodities shall be prohibited on peanut acres:

(A) Fruits.
(B) Vegetables (other than lentils, mung beans, and dry peas).
(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted:

(B) on a farm that the Secretary determines has a high agricultural commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

(C) by the planters on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

(i) the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through 2000 crop years in which no plantings were made), as determined by the Secretary; and

(ii) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity.

(b) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a), shall be equal to 480 per ton.

(c) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a), shall be equal to 480 per ton.
"(2) OPTIONAL INSPECTION.—Peanuts not placed under a marketing assistance loan may be graded at the option of the peanut producers on a farm.
...(b) BY REVISION OF PEANUT ADMINISTRATIVE COMMITTEE.—The Peanut Administrative Committee established under Marketing Agreement No. 1436, which regulates the quality of domestically produced peanuts under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement No. 1436, is amended to read as follows:

"(c) ESTABLISHMENT OF PEANUT STANDARDS BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards with respect to peanuts.
...(2) COMPOSITION.—The Secretary shall ap- point members to the Board that, to the maximum extent practicable, reflect all re- gions and segments of the peanut industry.

...(3) DUTIES.—The Board shall assist the Secretary in establishing quality standards for peanuts.
...(d) CROPS.—This section shall apply begin- ning with the 2002 crop of peanuts.

...(e) COMPENSATION.—The Secretary shall make payments to an eligible peanut quota holder under section 358(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "peanuts and.....

...(f) FOR PEANUTS AND COMPENSATION FOR PEANUT QUOTA HOLDERS.

"(a) REPEAL OF MARKETING QUOTAS FOR PEANUTS.—Effective beginning with the 2002 crop of peanuts, part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) is amended by striking "and peanuts", and peanuts,; and

...(b) COMPENSATION OF QUOTA HOLDERS.—

...(i) DEFINITIONS.—In this subsection:
...(A) PEANUT QUOTA HOLDER.—(i) IN GENERAL.—The term "peanut quota holder" means a person or entity that owns a farm that:
...(I) hides a peanut quota established for the farm for the 2001 crop of peanuts under part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) in effect before the amendment made by subsection (a);
...(II) if there was not such a quota estab- lished for the farm for the 2001 crop of peanuts, to have such a quota established for the farm for the 2002 crop of peanuts, in the absence of the amendment made by subsection (a); or
...(III) is otherwise a farm that was eligible for such a quota as of the effective date of the amendments made by this section.

...(ii) SEED OR EXPERIMENTAL PURPOSES.—The Secretary shall apply the definition of "pea- nut quota holder" without regard to temper- or seasonal quarantine, transfer, or quotas for seed or experimental purposes.

...(B) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

...(2) CONTRACTS.—The Secretary shall offer to enter into a contract with peanut quota holders for the purpose of providing com- pensation for the lost value of quota as a re- sult of the repeal of the marketing quota program for peanuts under the amendment made by subsection (a).

...(3) PAYMENT PERIOD.—Under a contract, the Secretary shall make payments to an eli- gible peanut quota holder for each of fiscal years 2002 through 2005.

...(4) TIME FOR PAYMENT.—The payments re- quired under the contracts shall be provided in 5 equal annual installments not later than Sep- tember 30 of each of fiscal years 2002 through 2005.

...(5) PAYMENT AMOUNT.—The amount of the payment for a fiscal year to a peanut quota holder under a contract shall be equal to the product obtained by multiplying—

...(A) $0.1625 by

...(B) the actual farm poundage quota (ex- cluding any quantity for seed and experi- mental peanuts) established for the farm of a peanut quota holder under section 358(b)(1)-(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)) in effect prior to the amendment made by subsection (a) for the 2001 marketing year.

...(6) ASSIGNMENT OF PAYMENTS.—(A) IN GENERAL.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (as in effect before the amendment made by subsection (a)) for the 2001 marketing year, is amended by striking "peanut quota holder making the assignment, or the assignee, shall provi- de the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

...(B) CONFORMING AMENDMENTS.—

...(1) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by adding after "peanuts"—

...(2) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

...(A) in the first sentence of subsection (a), by striking "peanuts;" and

...(B) in the second sentence of subsection (b), by striking "peanuts".

...(3) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

...(A) in the first sentence of subsection (a)—

...(i) by striking "peanuts," each place it ap- pears,

...(ii) by inserting "and" after from "produc- ers;" and

...(iii) by striking for producers, all and all that follows through the period at the end of the sentence and inserting for producers; and

...(B) in subsection (b), by striking "pea- nuts;".

...(4) EMERIT DOMEIN.—Section 378(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(c)) is amended in the first sentence—

...(A) by striking "cotton, and inserting "cotton and"

...(B) by striking "and peanuts;".

...(c) CROPS.—This section and the amend- ments made by this section apply beginning with the 2002 crop of peanuts.

Subtitle D—Administration

SEC. 161. ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.

Section 161 of the Federal Agriculture Im- provement and Reform Act of 1996 (7 U.S.C. 7281) is amended by adding at the end the fol- lowing:

"(c) ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.—If the Sec- retary determines that expenditures under subsections A through D that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)), as in effect on the date of enactment of this subsection, will exceed the allowable levels for any ap- plicable reporting period, the Secretary may make adjustments in the amount of the ex- penditures to ensure that the expenditures do not exceed, but are not less than, the al- lowable levels."
direct payments and counter-cyclical payments to a person during any fiscal year may not exceed $100,000, with a separate limitation for—
(A) all contract commodities; and
(B) peanuts.
(2) LIMITATION ON MARKETING LOAN GAINS AND DIRECT PAYMENTS.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.) for 1 or more loan commodities during any crop year may not exceed $150,000 with a separate limitation for—
(A) all contract commodities;
(B) wool and mohair;
(C) honey; and
(D) peanuts.
(3) DISCRIMINATION OF PAYMENTS SUBJECT TO LIMITATION.—The payments referred to in paragraph (2) are the following:
(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 156G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity under section 152 or 156G(d) of that Act, respectively.
(B) Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.
(4) DEFINITIONS.—In paragraphs (1) through (3):
(A) CONTRACT COMMODITY.—The term ‘contract commodity’ has the meaning given the term in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202).
(B) COUNTER-CYClical PAYMENT.—The term ‘counter-cyclical payment’ means a payment made under section 114 or 156G of that Act.
(C) DIRECT PAYMENT.—The term ‘direct payment’ means a payment made under section 113 or 156G of that Act.
(D) LOAN COMMODITY.—The term ‘loan commodity’ has the meaning given the term in section 102 of that Act."

SEC. 509. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and environment friendly development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

SA 2559.

Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and environment friendly development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

(b) Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.
(4) PERIOD OF EFFECTIVENESS.—Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(k)(3)) is amended—
(A) in subparagraph (A), by striking ‘‘$50,000’’ and inserting ‘‘$60,000’’; and
(B) in subparagraph (B), by striking ‘‘$1,000,000’’ and inserting ‘‘$60,000,000’’.

SEC. 510. FEES FOR PESTICIDES.—(a) MAINTENANCE FEE.—

(1) AMENDMENTS.—Section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended—

(2) TOTAL AMOUNT OF FEES.—Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended—

(c) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—Section 4(k)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(k)(3)) is amended—

(d) PESTICIDE TOLERANCE PROCESSING FEES.—Section 408(m)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(m)(1)) is amended—

(e) PERIOD OF EFFECTIVENESS.—This paragraph shall be in effect during the period beginning on January 1, 2002, and ending on January 31, 2002.

SA 2560. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed to the bill (S. 1731) to strengthen the...
the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and related purposes; which was ordered to lie on the table; as follows:

Beginning on page 226, strike line 1 and all that follows through page 235, line 6, and insert the following:

(4) DEFINITION OF LARGE CONFINED LIVESTOCK FEEDING OPERATIONS.—

(A) DEFINITION OF LARGE CONFINED LIVESTOCK FEEDING OPERATION.—In this paragraph—

(i) in general.—The term ‘large confined livestock feeding operation’ means a confined livestock feeding operation designed to confine 1,000 or more animal equivalent units (as defined by the Secretary).

(ii) multiple locations.—In determining the number of animal unit equivalents of operation of a producer under clause (i), the animals confined by the producer in confinement facilities at all locations (including the producer’s share in any jointly owned facility) shall be counted.

(B) NEW OR EXPANDED OPERATIONS.—If a producer shall not be eligible for cost-share payments under a storage or treatment facility, or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by a large confined livestock feeding operation, if the operation is a confined livestock operation that—

(i) is established after the date of enactment of this paragraph or

(ii) is expanded after the date of enactment of this paragraph so as to become a large confined livestock operation.

(C) SITING.—A producer that has an interest in more than 1 large confined livestock operation shall not be eligible for more than 1 contract under this section for cost-share payments for a storage or treatment facility, or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by a large confined livestock feeding operation if—

(i) the structural practices are located in a 100-year floodplain; and

(ii) the large confined livestock operation is a confined livestock operation that—

(I) is established after the date of enactment; or

(II) is expanded after the date of enactment.

(e) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at rates to be determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

(f) SPECIAL PRIORITIES.—

(1) in general.—The Secretary shall allocate funding under the program for the provision of technical assistance according to the purposes and projected cost for which the technical assistance is provided for a fiscal year.

(2) amount.—The allocated amount may vary county to county.

(III) the extent and complexity of the technical assistance provided;

(IV) the costs incurred by the private provider in providing the technical assistance.

(g) MODIFICATION OR TERMINATION OF CONTRACTS.

(1) voluntary modification or termination.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

(A) the producer agrees to the modification or termination; and

(B) the Secretary determines that the modification or termination is in the public interest.

(2) involuntary termination.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

(a) in general.—In evaluating applications for technical assistance, cost-share payments, and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

(i) maximize environmental benefits per dollar expended; and

(ii) address national conservation priorities, including—

(A) meeting Federal, State, and local environmental purposes focused on protecting air and water quality;

(B) comprehensive nutrient management;

(C) water quality, particularly in impaired watersheds;

(D) soil erosion;

(E) air quality; or

(F) pesticide and herbicide management or reduction;

(g) applications provided in conservation priority areas established under section 1206(c); or

(h) applications provided in special projects under section 1206(c)(4) with respect to which State or local governments provide, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes; or

(i) applying new technology in connection with a structural practice or land management practice.

(b) ADDITIONAL PRIORITIES FOR LIVESTOCK PRODUCERS.—In evaluating applications for technical assistance, cost-share payments, and incentive payments for livestock producers, the Secretary shall accord priority to—

(i) applications for assistance and payments for systems and practices that avoid subjecting the livestock production operation to Federal, State, tribal, and local environmental regulatory systems while also assisting the operation to meet environmental quality criteria established by Federal, State, tribal, and local authorities; and

(ii) applications from livestock producers using managed grazing systems and other pasture- and forage-based systems.

SEC. 1240D. DUTIES OF PRODUCERS.

To receive technical assistance, cost-share payments, or incentive payments under the program, a producer shall agree—

(i) to implement an environmental quality incentives program plan that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

(ii) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of the program;

(iii) on the violation of a term or condition of the contract at any time the producer has control of the land—

(A) if the Secretary determines that the violation warrants termination of the contract—

(i) to forfeit all rights to receive payments under the contract; and

(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary all or a portion of the payments provided to the owner or operator, as the Secretary determines to be appropriate;
“(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract; to refund all cost-share payments and incentive payments received under the program, as determined by the Secretary; and

“(5) comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

“SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

“(a) In General.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the program, a producer of cattle or other animal waste generated by a confined animal feeding operation, the producer or owner of the operation shall submit to the Secretary for approval a plan of operations that specifies practices covered under the program, and is based on such terms and conditions, as the Secretary considers necessary to carry out the program, including a description of the practices to be implemented and the purposes to be met by the implementation of the plan.

“(b) Confined Animal Feeding Operations.—

“(1) IN GENERAL.—To be eligible to receive cost-share payments or incentive payments for a new facility, or for management practice or structural practice for a storage or treatment facility, or associated with the management of manure, process wastewater, or other animal waste generated by a confined animal feeding operation, the producer or owner of the operation shall submit a comprehensive nutrient management plan for the confined animal feeding operation as part of the list of operations submitted under subsection (a).

“(2) CONTRACT CONDITION.—Implementation of the comprehensive nutrient management plan submitted under paragraph (1) shall be a condition of the environmental quality incentives program contract.

“(c) Avoidance of Duplication.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program and comparable conservation programs.

“SEC. 1240F. DUTIES OF THE SECRETARY.

“To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program, including:

“(1) providing technical assistance in developing and implementing the plan;

“(2) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

“(3) including the producer with information, education, and training to aid in implementation of the plan; and

“(4) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

“SEC. 1240G. LIMITATION ON PAYMENTS.

“(a) In General.—Subject to subsection (b), the total amount of cost-share and incentive payments paid to a producer under this chapter shall not exceed:

“(1) $30,000 for any fiscal year, regardless of whether the producer has more than 1 contract under this chapter for the fiscal year;

“(2) $60,000 for a contract with a term of 3 years;

“(3) $80,000 for a contract with a term of 4 years; or

“(4) $100,000 for a contract with a term of more than 4 years;

“(b) Attribution.—An individual or entity shall not receive, directly or indirectly, total payments from a single or multiple contracts this chapter that exceed $20,000 for any fiscal year.

“(c) Exception to Annual Limit.—The Secretary may exceed the limitation on the annual amount of a payment to a producer under subsection (a)(1) if the Secretary determines that a larger payment is necessary to carry out the land management practice or structural practice for which the payment is made to the producer; and

“(d) Consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter.

“(e) Verification.—The Secretary shall verify that the conditions of award are met, that the plan submitted under this section is consistent with the purposes of this chapter, and that the plan submitted under this section is consistent with the purposes of this chapter.

“SEC. 1240H. ADMINISTRATION.

“(a) In General.—The Secretary may make the assistance available through the provisions of section 161 of the Federal Crop Insurance Act of 1980 (7 U.S.C. 1701i) and may, after May 21, 1981, make the assistance available through the provisions of section 161 of the Federal Crop Insurance Act of 1980 (7 U.S.C. 1701i) and Section 528 of the Agricultural Credit Act of 1987 (12 U.S.C. 1431 note) for any program authorized under this chapter.

“(b) Time for Determination of Eligibility.—The Secretary shall make the determinations required by this section not later than 90 days after the date of enactment of this Act.

“(c) Action on Applications.—The Secretary shall promptly notify the applicant of the determination made by the Secretary under subsection (a).
changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assessment of acreage and yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

(b) Assignment of yield and acres to farms.—

(1) Assignment by historical peanut producer.—For each of the 2002 and 2003 crop years, the Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and an acreage determined under chapter 2 of section 158B and a payment yield for peanuts under section 158B.

(2) Payment yield.—The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

(3) Peanut acres.—Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

(c) Election.—

(1) Required reduction.—

(A) In general.—For each of the 2002 and 2006 fiscal years, not later than September 30 of the fiscal year specified for the crop of peanuts as soon as practicable after the date of enactment of this section, the Secretary shall provide each historical peanut producer on a farm for a fiscal year equal to the peanut acres, for an agricultural, cooperative, or conservation organization to which the historical peanut producers on a farm may transfer peanut acres, in exchange for the payment received by the historical peanut producers on a farm under this section for peanuts.

(B) In the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

(2) Advance payments.—At the option of the peanut producer on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm.

(d) Payment acres.—The payment acres on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

(e) Prevention of excess peanut acres.—

(1) Required reduction.—If the total of the peanut acres for a farm, together with the acreage described in paragraph (3), exceeds the actual cropland acres of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for 1 or more covered commodities for that year so that the total of the peanut acres and acreage described in paragraph (3) does not exceed the actual cropland acres of the farm.

(2) Selection.—Not later than 180 days after the date of enactment of this section for the 2002 crop, and not later than 180 days after January 1, 2003, for the 2006 crop, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

(3) Payment acres.—The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

(f) Election.

(1) Required reduction.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

(2) Effective price.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

(A) the greater of—

(i) the payment rate for peanuts under section 158G in effect for the marketing season for peanuts, as determined by the Secretary; or

(ii) the national average loan rate for a marketing assistance loan for peanuts under section 158G in effect for the marketing season for peanuts under this chapter; and

(B) the payment rate in effect for peanuts under section 158C for the purpose of making direct payments with respect to peanuts.

(c) Income protection price.—For purposes of subsection (b), the income protection price for peanuts shall be equal to $520 per ton.

(d) Payment amount.—The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying—

(1) the payment rate specified in subsection (b); and

(2) the peanut acres on the farm; by

(3) the payment yield for the farm.

(e) Payment rate.—The payment rate used to make direct payments with respect to peanuts for a fiscal year shall equal to $0.018 per pound.

(f) Payment amount.—The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying—

(1) the payment rate specified in subsection (b); and

(2) the peanut acres on the farm; by

(3) the payment yield for the farm.

(g) Time for payment.—

(1) In general.—The Secretary shall make counter-cyclical payments to peanut producers on a farm in the form of a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(2) Partial payment.—The Secretary may make partial payments to peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including any partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section.

(h) Producer agreements.—

(1) Compliance with certain requirements.—

(A) In general.—Before the peanut producers on a farm may receive direct payments or counter-cyclical payments under this section, the peanut producers on a farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for the payments—

(i) to comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.); and

(ii) to comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

(B) Compliance with applicable highly erodible land conservation requirements under this section shall be determined by the Secretary.

(2) Compliance.—The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producers’ compliance with paragraph (1).

(i) Forfeiture.—

(A) In general.—The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure occurs with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

(B) Forfeiture.—

(1) In general.—The Secretary shall not have the responsibilities of the peanut producers on a farm for a crop year under this section if the peanut producers on a farm continue to make payments under this section.

(i) The Secretary shall, in establishing regulations under this section, provide that the Secretary shall make direct payments and counter-cyclical payments under this section, as applicable to the peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(2) The effective price determined under subsection (b) for peanuts.
ments and counter-cyclical payments among
December 13, 2001
SA 2564. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1. RESERVE STOCK LEVEL.
Section 301(b)(14)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(14)(C)) is amended—
(1) in clause (i), by striking "$100,000,000" and inserting "$75,000,000"; and
(2) in clause (ii), by striking "15 percent" and inserting "10 percent".

SA 2565. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

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“(2) EFFECTIVE DATE.—The termination takes effect on the date of the transfer or change.

“(3) TRANSFER OF PAYMENT BASE AND YIELD LIMITS.—The Secretary shall not impose any restriction on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

“(4) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

“(5) EXCEPTION.—If a peanut producer entitled to a farm marketing assistance loan dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

“(d) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

“(e) TENANTS AND SHARECROPPERS.—In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

“(f) TRANSFERS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis.

“SEC. 158F. PLANTING FLEXIBILITY.
“(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on peanut acres on a farm

“(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES.—(1) STATUTORY LIMITATIONS.—The planting of the following agricultural commodities shall be prohibited on peanut acres:

“(A) Fruits,

“(B) Vinalables (other than lentils, mung beans, and dry peas).

“(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice.

“(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

“(B) on a farm that the Secretary determines has a history of double-cropping of peanuts with agricultural commodities specified in paragraph (1), as determined by the Secretary, in which case the prohibition shall be ignored;

“(C) on a farm that the Secretary determines has a history of planting agricultural commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

“(D) by the peanut producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

“(1) the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers for the period from 1991 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

“(2) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity.

“SEC. 158G. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

“(a) NONRECIPE LOANS AVAILABLE.—

“(1) AVAILABILITY.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

“(2) TERMS AND CONDITIONS.—The loans shall be available only if conditions prescribed by the Secretary and at the loan rate established under subsection (b). 

“(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

“(4) APPLICABLE COMMODITIES.—In carrying out this section, the Secretary shall make loans to peanut producers on a farm only if the loan is eligible to obtain a marketing assistance loan but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

“(5) OPTIONS FOR OBTAINING LOANS.—(A) the Farm Service Agency; or

“(B) a loan servicing agent approved by the Secretary.

“(b) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $400 per ton.

“(c) TERM OF LOAN.—(1) In general.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

“(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

“(d) REPAYMENT.—(1) On a farm that the Secretary determines will—

“(A) minimize potential loan forfeitures;

“(B) minimize the accumulation of stocks of peanuts by the Federal Government;

“(C) minimize the cost incurred by the Federal Government for peanuts; and

“(D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

“(2) Loan Deficiency Payments.—

“(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts produced on return for payments under this subsection.

“(2) AMOUNT.—A loan deficiency payment under this subsection shall be obtained by multiplying—

“(A) the loan rate determined under paragraph (3) for peanuts; by

“(B) the quantity of the peanuts produced by the peanut producers on a farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a),
SA 2566. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 765, strike line 21 and insert the following:

SEC. 784. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

Section 606 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2002 through 2006.

SA 2567. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 977, strike the period at the end of line 15 and insert a period and the following:

SEC. 10. STUDY OF NONAMBULATORY LIVE- STOCK.

The Secretary—

(1) shall investigate and submit to Congress a report on—

(A) the scope and cause of nonambulatory livestock; and

(B) the extent to which nonambulatory livestock may present handling and disposition problems during marketing; and

(2) based on the findings in the report, may promulgate regulations for the appropriate treatment, handling, and disposition of nonambulatory livestock at market agencies and dealers.

SA 2568. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 984, line 2, strike the period at the end and insert the following:

SEC. 1024. DEFINITION OF ANIMAL UNDER THE ANIMAL WELFARE ACT.

Section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)) is amended by striking—

‘‘(c) the definition of nonambulatory livestock; and

(b) the definition of ambulatory livestock at market agencies and dealers."

SA 2569. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 945, strike lines 6 and 7 and insert the following:

SEC. 1025. PENALTIES AND FOREIGN COMMERCE.

The Secretary—

(a) may—

(1) in consultation with the appropriate Federal agencies, promulgate regulations to prevent the introduction into the United States of—

(A) livestock;

(B) loan commodities; and

(C) agricultural commodities other than loan commodities; and

(b) may assess each such penalty as—

(1) the Secretary determines is necessary to prevent the introduction of—

(A) livestock;

(B) loan commodities; and

(C) agricultural commodities other than loan commodities; and

(2) the definition of ‘‘commercial producer’’ used by the Secretary in making estimates under this section.

SEC. 166. PAYMENT LIMITATIONS.

SA 2570. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 10 and 11, insert the following:

(‘‘C) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in subparagraph (A) is located was declared a disaster area during any of the 4 crop years described in subparagraph (A), for purposes of determining the 4-year average yield for the historical peanut producer, the historical peanut producer may elect to substitute the yield for peanuts on all farms of the peanut producer for the 1996 or 1997 crop, for not more than 1 of the crop years during which a disaster is declared.

On page 99, line 6, strike ‘‘The’’ and insert—

‘‘For each of the 2002 and 2003 crop years, the’’.

On page 99, line 24, insert after ‘‘section’’ the following:—‘‘for the 2002 crop, and not later than 180 days after January 1, 2003, for the 2003 crop’’.

Beginning on page 103, line 24, through page 104, line 1, strike ‘‘12-month marketing year’’ and insert ‘‘18-month marketing year’’.

On page 104, lines 5 and 6, strike ‘‘12-month marketing year’’ and insert ‘‘marketing season’’.

On page 105, lines 16 and 17, strike ‘‘6 months of the marketing year’’ and insert ‘‘2 months of the marketing season’’.

On page 112, strike lines 20 through 22 and insert the following:

‘‘(A) a designated marketing association of peanut producers that is approved by the Secretary, which may own or construct nec-

essaries for other purposes; which was ordered to lie on the table; as follows:

On page 119, strike line 1 and insert the following:

SEC. 165. ESTIMATES OF NET FARM INCOME.

Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933) is amended to read as follows:

‘‘SEC. 194. ESTIMATES OF NET FARM INCOME. —In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary) the following:—

(1) an estimate of the net farm income earned by commercial producers in the United States;

(2) an estimate of the net farm income attributable to commercial producers of each of—

(A) livestock;

(B) loan commodities; and

(C) agricultural commodities other than loan commodities;

(b) the definition of ‘‘commercial producer’’ used by the Secretary in making estimates under this section.’’.

SEC. 166. PAYMENT LIMITATIONS.

SA 2571. Mr. CONRAD submitted an amendment intended to be proposed to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, strike line 1 and insert the following:

SEC. 165. ESTIMATES OF NET FARM INCOME.

On page 99, line 24, insert after ‘‘section’’ the following:—for the 2002 crop, and not later than 180 days after January 1, 2003, for the 2003 crop.

On page 104, lines 5 and 6, strike ‘‘12-month marketing year’’ and insert ‘‘marketing season’’.

On page 105, lines 16 and 17, strike ‘‘6 months of the marketing year’’ and insert ‘‘2 months of the marketing season’’.

On page 112, strike lines 20 through 22 and insert the following:

‘‘(A) a designated marketing association of peanut producers that is approved by the Secretary, which may own or construct nec-

essaries for other purposes; which was ordered to lie on the table; as follows:

On page 119, strike line 1 and insert the following:

SEC. 165. ESTIMATES OF NET FARM INCOME.

Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933) is amended to read as follows:

‘‘SEC. 194. ESTIMATES OF NET FARM INCOME. —In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary) the following:—

(1) an estimate of the net farm income earned by commercial producers in the United States;

(2) an estimate of the net farm income attributable to commercial producers of each of—

(A) livestock;

(B) loan commodities; and

(C) agricultural commodities other than loan commodities; and

(b) the definition of ‘‘commercial producer’’ used by the Secretary in making estimates under this section.’’.

SEC. 166. PAYMENT LIMITATIONS.

SA 2572. Mr. CONRAD submitted an amendment intended to be proposed to him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:—
and Reform Act of 1996 (7 U.S.C. 7251) is amended—

(1) by redesigning subsection (i) as subsection (j); and

(2) by inserting after subsection (b) the following:

,""(i) SUBSTITUTION OF REFINED SUGAR.—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Foreign Agricultural Service of the Department of Agriculture, all refined sugars (whether derived from sugar beets or sugar-cane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for sugar in refined form or in sugar containing products.

(b) LOAN PAYMENT RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to a national average loan rate of $400 per ton adjusted for differences in grade, type, quality, location, and other factors, as determined by the Secretary.

(c) TERM OF LOAN.—(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month in which the loan is made except that no peanuts may be forfeited to the Secretary in satisfaction of a loan amount that remain in storage beyond June 30 of the applicable year.

(2) EXTENSION PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) INTEREST RATE.—The Secretary shall permit peanut producers on a farm or area marketing association as agents of producers to repay a marketing assistance loan under this subsection, at the option of the association, at an interest rate of:

(A) the loan payment rate determined under paragraph (b) of this subsection; or

(B) a rate that the Secretary determines will:

(1) minimize potential loan forfeitures;

(2) minimize the accumulation of stocks of peanuts by the Federal Government;

(3) minimize losses incurred by the Federal Government in storing peanuts; and

(4) allow peanuts produced in the United States to be marketed competitively, both domestically and internationally.

(e) LOAN DEFICIENCY PAYMENTS.—(1) IN GENERAL.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

(2) AMOUNT.—A loan deficiency payment under this subsection shall be obtained by multiplying:

(A) the loan payment rate determined under paragraph (f) for peanuts; by

(B) the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a).

(f) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount determined by the Secretary.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of any reimbursable agreements or provide for the payment of expenses for other commodities.

(h) SPECIAL COMPETITIVE DETERMINATION.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether the ownership or control of peanut buying points throughout the historical peanut growing area promotes noncompetitive marketing of peanuts in marketing areas.

(2) NONCOMPETITIVE MARKETING.—For the purpose of paragraph (1) and subsection (g), noncompetitive marketing of peanuts exists if—

(A) peanut producers must haul peanuts produced by an unreasonable distance to the market peanuts, as determined by the Secretary;

(B) handlers of peanuts fail to provide reasonable warehouse storage space to area marketing associations that would allow handlers to provide peanuts on a farm directly to the marketing associations that would allow peanuts on a farm directly to the marketing associations of communities designated as noncompetitive in a marketing area;

(C) peanuts on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

(d) by striking "(2) applicable wetland conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and"

(3) by inserting after subsection (e) the following:

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of any reimbursable agreements or provide for the payment of expenses for other commodities.

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(C) peanuts on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

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(3) by inserting after subsection (e) the following:

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(C) peanuts on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

(d) by striking "(2) applicable wetland conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and"

(3) by inserting after subsection (e) the following:

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of any reimbursable agreements or provide for the payment of expenses for other commodities.

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(2) NONCOMPETITIVE MARKETING.—For the purpose of paragraph (1) and subsection (g), noncompetitive marketing of peanuts exists if—

(A) peanut producers must haul peanuts produced by an unreasonable distance to the market peanuts, as determined by the Secretary;

(B) handlers of peanuts fail to provide reasonable warehouse storage space to area marketing associations that would allow handlers to provide peanuts on a farm directly to the marketing associations of communities designated as noncompetitive in a marketing area;

(C) peanuts on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

(d) by striking "(2) applicable wetland conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and"

(3) by inserting after subsection (e) the following:

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of any reimbursable agreements or provide for the payment of expenses for other commodities.

(h) SPECIAL COMPETITIVE DETERMINATION.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether the ownership or control of peanut buying points throughout the historical peanut growing area promotes noncompetitive marketing of peanuts in marketing areas.

(2) NONCOMPETITIVE MARKETING.—For the purpose of paragraph (1) and subsection (g), noncompetitive marketing of peanuts exists if—

(A) peanut producers must haul peanuts produced by an unreasonable distance to the market peanuts, as determined by the Secretary;

(B) handlers of peanuts fail to provide reasonable warehouse storage space to area marketing associations that would allow handlers to provide peanuts on a farm directly to the marketing associations of communities designated as noncompetitive in a marketing area;

(C) peanuts on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

(d) by striking "(2) applicable wetland conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and"

(3) by inserting after subsection (e) the following:

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of any reimbursable agreements or provide for the payment of expenses for other commodities.

(h) SPECIAL COMPETITIVE DETERMINATION.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether the ownership or control of peanut buying points throughout the historical peanut growing area promotes noncompetitive marketing of peanuts in marketing areas.

(2) NONCOMPETITIVE MARKETING.—For the purpose of paragraph (1) and subsection (g), noncompetitive marketing of peanuts exists if—

(A) peanut producers must haul peanuts produced by an unreasonable distance to the market peanuts, as determined by the Secretary;

(B) handlers of peanuts fail to provide reasonable warehouse storage space to area marketing associations that would allow handlers to provide peanuts on a farm directly to the marketing associations of communities designated as noncompetitive in a marketing area;

(C) peanuts on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.
the storage of the peanuts of the handler to the Secretary for the purpose of making marketing assistance loans available to peanut processors at all locations where peanuts are received and stored.

"(j) Definition of Commingled.—In this section and section 158H, the term 'commingled', with respect to peanuts, means—

(i) peanuts produced on different farms by the same or different producers; or

(ii) the mixing of peanuts pledged for marketing assistance loans with peanuts that are not pledged for marketing assistance loans, to facilitate storage.

"SEC. 158H. QUALITY IMPROVEMENT.

(a) Limitation. All peanuts commingled with peanuts covered by a marketing assistance loan shall be graded and exchanged on a dollar value basis, unless the Secretary determines that the beneficial interest in the peanuts covered by the marketing assistance loan have been transferred to other parties prior to demand for delivery.

SA 2574. Mr. DORGAN (for himself, Mr. grassley, Mr. hagel, Mr. lugar, Mr. Johnson, Mr. Nelson of Nebraska, Mr. lugar, Mr. wellstone) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 178 and insert the following:

"SEC. 178. PAYMENT LIMITATIONS, NUTRITION AND COMMODITY PROGRAMS. (a) Payment Limitations. —

(1) in general.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1901) is amended by striking paragraphs (1) through (6) and inserting the following:

"(1) LIMITATIONS ON DIRECT AND COUNTER-CYClical payments. — Any individual or entity subject to paragraph (5)(A), the total amount of direct payments and counter-cyclical payments made directly or indirectly to an individual or entity during any fiscal year may not exceed $25,000.

"(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATES TRANSACTIONS. —

(1) IN GENERAL.—Subject to paragraph (5)(A), the total amount of payments and benefits described in subparagraph (B) that an individual or entity may directly or indirectly receive during any fiscal year may not exceed $25,000.

"(B) PAYMENTS AND BENEFITS.—Subparagraph (A) shall apply to the following payments and benefits:

(i) MARKETING LOAN GAINS.—

(ii) REPAYMENT GAINS.—Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower loan rate than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

(iii) LOAN DEFICIENCY GAINS.—In the case of settlement of a marketing assistance loan under section 131 or 158G(a) of that Act for a crop of any loan commodity or peanuts, respectively, by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

(ii) Loan Deficiency Payments.—Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

(iii) Commodity Certificates.—Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under section 131 or 158G(a) of that Act.

(iii) Settlement of Certain Loans.—Notwithstanding title 11 and section 158G of the Federal Agriculture Improvement and Reform Act of 1996, if the amount of payments and benefits described in paragraph (2)(B) attributed directly or indirectly to an individual or entity shall be settled through the repayment of the total loan principal, plus applicable interest.

"(b) Direct Payment.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

"(c) Loan Commodity.—The term 'loan commodity' means any loan commodity established under this section as a tenant shall be considered a bona fide and substantive.

"(d) Appointment of Limitation. —

(1) IN GENERAL.—Any individual or entity that conducts a farming operation to produce a crop subject to the limitations established under this section shall be ineligible to receive any payment or benefit described in paragraph (1) or (2), or sub-Title D of title XII, with respect to the land unless the individual or entity makes a con-tribution of active personal labor to the opera-tion that is at least equal to the lesser of:

(i) 1000 hours; or

(ii) 40 percent of the minimum number of labor hours required to produce each com-modity by the operation (as described in clause (i)) to a particular farming operation an-imals or entities to which the limitations under this section apply are expected to increase the number of individuals or entities to which the limitations under this section apply, unless the Secretary determines that the change is bona fide and substantive.

(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member to a farming operation under the criteria established under subsection (b)(1)(B) shall be treated as a substantive change in the farming operation.

"(e) Active Members.—For the purpose of paragraph (1), the addition of a family member to a farming operation under the criteria established under subsection (b)(1)(B) shall be treated as a substantive change in the farming operation.

(i) share rents the land; or

(ii) makes a significant contribution of active personal management.

(3) Active Personal Management.—For an individual to be considered to be providing active personal management under this paragraph, the individual or a corporation or entity, the management provided by the individual shall be considered as provided on a substantially continuous basis through the direction supervision and direction of—

(i) activities and labor involved in the farming operation; and

(ii) on-site services that are directly related and necessary to the farming operation.

(4) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

"(A) Landowners.—An individual or entity that is a landowner contributing the owned land to the farming operation and that meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A), if the landowner—

(i) share rents the land; or

(ii) makes a significant contribution of active personal management.

(5) in paragraph (4)—

(i) by inserting "preceding paragraph (B)".
(I) in the subparagraph heading, by striking “PERSONS” and inserting “INDIVIDUALS AND ENTITIES”;

(II) by striking “person, or class of persons” and inserting “individual or entity, or class of individuals or entities”;

(E) by striking paragraph (5);

(F) in paragraph (6), by striking “a person” and inserting “an individual or entity”;

(G) by redesignating paragraph (6) as paragraph (5);

(4) ADMINISTRATION.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by adding at the end the following:

(c) ADMINISTRATION.—

“(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall review the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 6 States.

“(B) MINIMUM NUMBER OF COUNTIES.—Each State review described in subparagraph (A) shall cover at least 5 counties in the State.

“(C) REPORT.—Not later than 90 days after completing a review described in subparagraph (A), the Inspector General for the Department of Agriculture shall issue a final report to the Secretary of the findings of the Inspector General.

“(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements, in investigating potential violations of section 1001B of that title or the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements;

(n) IN THE SUBPARAGRAPHS HEADING, BY STRIKING “PERSONS” AND INSERTING “INDIVIDUALS AND ENTITIES”;

(II) BY STRIKING “PERSON, OR CLASS OF PERSONS” AND INSERTING “INDIVIDUAL OR ENTITY, OR CLASS OF INDIVIDUALS OR ENTITIES”;

(E) BY STRIKING PARAGRAPH (5);

(F) IN PARAGRAPH (6), BY STRIKING “A PERSON” AND INSERTING “AN INDIVIDUAL OR ENTITY”;

(G) BY REDESIGNATING PARAGRAPH (6) AS PARAGRAPH (5);

(4) ADMINISTRATION.—SECTION 1001A OF THE FOOD SECURITY ACT OF 1985 (7 U.S.C. 1308–1) IS AMENDED BY ADDING AT THE END THE FOLLOWING:

(c) ADMINISTRATION.—

“(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall review the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 6 States.

“(B) MINIMUM NUMBER OF COUNTIES.—Each State review described in subparagraph (A) shall cover at least 5 counties in the State.

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“(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements, in investigating potential violations of section 1001B of that title or the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements;

(n) IN THE SUBPARAGRAPHS HEADING, BY STRIKING “PERSONS” AND INSERTING “INDIVIDUALS AND ENTITIES”;

(II) BY STRIKING “PERSON, OR CLASS OF PERSONS” AND INSERTING “INDIVIDUAL OR ENTITY, OR CLASS OF INDIVIDUALS OR ENTITIES”;

(E) BY STRIKING PARAGRAPH (5);

(F) IN PARAGRAPH (6), BY STRIKING “A PERSON” AND INSERTING “AN INDIVIDUAL OR ENTITY”;

(G) BY REDESIGNATING PARAGRAPH (6) AS PARAGRAPH (5);

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(c) ADMINISTRATION.—

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“(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements, in investigating potential violations of section 1001B of that title or the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements;

(n) IN THE SUBPARAGRAPHS HEADING, BY STRIKING “PERSONS” AND INSERTING “INDIVIDUALS AND ENTITIES”;

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(E) BY STRIKING PARAGRAPH (5);

(F) IN PARAGRAPH (6), BY STRIKING “A PERSON” AND INSERTING “AN INDIVIDUAL OR ENTITY”;

(G) BY REDESIGNATING PARAGRAPH (6) AS PARAGRAPH (5);

(4) ADMINISTRATION.—SECTION 1001A OF THE FOOD SECURITY ACT OF 1985 (7 U.S.C. 1308–1) IS AMENDED BY ADDING AT THE END THE FOLLOWING:

(c) ADMINISTRATION.—

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“(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements, in investigating potential violations of section 1001B of that title or the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements;

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(G) BY REDESIGNATING PARAGRAPH (6) AS PARAGRAPH (5);

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(c) ADMINISTRATION.—

“(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall review the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 6 States.

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“(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements, in investigating potential violations of section 1001B of that title or the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements;

(n) IN THE SUBPARAGRAPHS HEADING, BY STRIKING “PERSONS” AND INSERTING “INDIVIDUALS AND ENTITIES”;

(II) BY STRIKING “PERSON, OR CLASS OF PERSONS” AND INSERTING “INDIVIDUAL OR ENTITY, OR CLASS OF INDIVIDUALS OR ENTITIES”;

(E) BY STRIKING PARAGRAPH (5);

(F) IN PARAGRAPH (6), BY STRIKING “A PERSON” AND INSERTING “AN INDIVIDUAL OR ENTITY”;

(G) BY REDESIGNATING PARAGRAPH (6) AS PARAGRAPH (5);
in subsection (a) as determined by this Corporation for producers that—

(i) are small or moderate in size; and

(ii) adopt innovative risk management strategies and increase the level of coverage; or

(iii) are producers of a specialty crop and increase the level of coverage; or

(iv) are located in an underserved area.

(8) POLICY.—A payment under this paragraph shall not exceed $850 per crop insurance policy.

(C) LIMITATION.—The amount of funds for the Corporation that may be used to carry out this paragraph may not exceed—

(i) $145,000,000 for fiscal year 2003; and

(ii) $61,000,000 for fiscal year 2004 and each subsequent fiscal year.

(D) RESERVE.—

(i) GENERAL.—Subject to clause (i), of the funds made available to carry out this paragraph, the Corporation shall reserve for payments to producers that obtain cost of production policies described in section 522(e) of—

(A) $10,400,000 for fiscal year 2003; and

(B) $36,000,000 for fiscal year 2004; and

(ii) unused funds.—Any funds made available under clause (i) that are not obligated by June 1 of the fiscal year shall be used to provide reimbursements to producers that obtain any type of crop insurance made available under this Act.

(E) RESEARCH AND DEVELOPMENT FUNDING.—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) by striking paragraph (1) and inserting the following:

(1) REIMBURSEMENTS.—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to provide reimbursements under this subsection in excess of more than—

(A) $32,000,000 for fiscal year 2002;

(B) $22,500,000 for each of fiscal years 2003 and 2004;

(C) $25,000,000 for fiscal year 2005; and

(D) $15,000,000 for fiscal year 2006 and each subsequent fiscal year.

4. EDUCATION AND INFORMATION FUNDING.—Section 522(a)(4) of the Federal Crop Insurance Act (7 U.S.C. 1522(a)(4)) is amended by striking subparagraph (A) and inserting the following:

(A) for the education and information program established under paragraph (2)—

(i) $10,000,000 for each of fiscal years 2002 through 2005; and

(ii) $5,000,000 for fiscal year 2006 and each subsequent fiscal year; and

(B) REPORTS.—

(A) PLAN.—Not later than September 30, 2002, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the implementation plan for this subsection and the amendments made by this subsection.

(B) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the implementation of this subsection and the amendments made by this subsection.

(C) INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.—Section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(b)(1)) as amended by section 401) is amended—

(i) in subparagraph (A), by striking "$120,000,000" and inserting "$130,000,000"; and

(ii) in subparagraph (B), by striking "$45,000,000" and inserting "$225,000,000".

SA 2575.—Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1670. RURAL ELECTRONIC COMMERCE EXTENSION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) electronic commerce sales in 1998 were approximately $100,000,000,000 and are expected to reach $1,300,000,000,000 by 2003; and

(2) electronic commerce presents an enormous opportunity and challenge for small businesses, especially businesses in rural areas;

(3) while infrastructure for electronic commerce is growing rapidly in rural areas, small businesses will not be able to take advantage of the new technology without assistance;

(4) while electronic commerce will give businesses new markets and new ways of doing business, many small businesses in rural areas will have difficulty adopting appropriate electronic commerce business practices and technologies;

(5) the United States has an interest in ensuring that small businesses in rural areas participate in electronic commerce, to encourage success of the businesses, and to promote productivity and economic growth throughout the economy of the United States; and

(6) an electronic commerce extension program should be established using the nationwide county-based infrastructure within the Cooperative Extension Service to help small businesses throughout the United States to identify, adopt, adapt, and use electronic commerce business practices and technologies.

(b) PURPOSE.—The purpose of this section is to establish a clearinghouse system for States, communities, and businesses to obtain information on best practices, technologies, and practices; and to help small businesses in rural areas with the adoption and use of electronic commerce technologies; and

(c) ADMINISTRATION.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall—

(A) provide leadership, support, and coordination for the extension programs;

(B) establish policies, practices, and procedures to assist rural communities in the adoption and use of electronic commerce techniques;

(C) identify and strengthen existing mechanisms to assist rural areas in the adoption and use of electronic commerce techniques;

(D) provide grants to fund projects and activities under the extension program; and

(E) establish a clearinghouse system for States, communities, and businesses to obtain information on best practices, technologies, and practices, and to provide leadership to assist rural communities in the adoption and use of electronic commerce in rural areas.

(2) OFFICE OF RURAL ELECTRONIC COMMERCE.—The Secretary shall establish in the Cooperative State Research, Education, and Extension Service, an Office of Rural Electronic Commerce to assist in carrying out this section.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall carry out a program under which—

(A) funds are distributed to each of the development centers to—

(i) assemble regional expertise, and develop innovative education programs, that may be adapted and refined by State extension programs;

(ii) train State-based cooperative extension agents to deliver rural electronic commerce education programs; and

(iii) establish the means among universities, local governments, and private industries to focus on regional economic issues; and

(B) competitive grants are made to cooperative extension service programs at land-grant colleges and universities (or consortia of land-grant colleges and universities)—

(i) to develop and facilitate nationally innovative rural electronic commerce business strategies; and

(ii) to provide leadership to support, and coordination for the extension programs; and

(iii) to establish policies, practices, and procedures to assist rural communities in the adoption and use of electronic commerce technologies;

(iv) to identify and strengthen existing mechanisms to assist rural areas in the adoption and use of electronic commerce techniques;

(v) to provide grants to fund projects and activities under the extension program; and

(vi) to establish a clearinghouse system for States, communities, and businesses to obtain information on best practices, technologies, and practices, and to provide leadership to assist rural communities in the adoption and use of electronic commerce in rural areas.
‘‘(ii) to assist small businesses and microenterprises in identifying, adapting, implementing, and using electronic commerce business practices and technologies.’’

(2) Establishment of program.-

(A) CRITERIA.—

(i) IN GENERAL.—The Secretary shall—

(1) establish criteria for the submission, evaluation, and prioritization of applications for grants to carry out projects and activities under the extension program; and

(2) evaluate, rank, and select grant applications based on the criteria established under clause (1) on the basis of the selection criteria.

(ii) FACTORS.—The selection criteria established under clause (i) shall include—

(I) the ability of an applicant to provide training and education on best practices, technology transfer, adoption, and use of electronic commerce in rural communities by small business and microenterprise;

(II) the quality of the service to be provided by a proposed project or activity under the extension program;

(III) the extent and geographic diversity of the area served by the proposed project or activity under the extension program;

(IV) the extent of participation of land-grant colleges and universities in the extension program (including any economic benefits that would result from that participation);

(V) the percentage of funding and in-kind commitments from non-Federal sources that would be needed by and available for a proposed project or activity under the extension program; and

(VI) the extent of participation of low-income and minority businesses or microenterprises in a proposed project or activity under the extension program.

(B) APPLICATION.—As a condition of being considered for receipt of funds under this section, an applicant shall submit to the Secretary an application that meets the criteria established under subparagraph (A)(i).

(C) NON-FEDERAL SHARE.—

(i) IN GENERAL.—As a condition of a receipt of funds under this section, an applicant shall agree to obtain from non-Federal sources (including State, local, nonprofit, or private sector sources) contributions of—

(I) except as provided in clause (iii), during each fiscal year in which the extension program receives funding under subsection (g), 50 percent of the estimated capital and annual operating and maintenance costs of the extension program; and

(II) after expiration of the initial funding period specified in clause (i), 100 percent of the estimated capital and annual operating and maintenance costs of the extension program.

(ii) FORM.—The non-Federal share required under clause (i)(I) may be provided in the form of in-kind contributions.

(iii) EXCEPTION.—The non-Federal share required under clause (i)(I) may be reduced to 25 percent in the case of a proposed project or activity under the extension program if the grant recipient serves low-income or minority-owned businesses or microenterprises, as determined by the Secretary.

(3) LIMITATION ON AMOUNT OF FUNDS AWARDED.—

(A) INDIVIDUAL LAND-GRANT COLLEGES AND UNIVERSITIES.—A land-grant college or university shall not receive funds under this section in an amount that exceeds $900,000.

(B) UNIFORM APPORTIONMENT.—(I) LIMITATION.—With respect to a consortium of land-grant colleges and universities that receives funds under this section—

(ii) the amount of funds awarded to the consortium shall not exceed the product obtained by multiplying—

(1) $900,000; by

(2) the number of land-grant colleges and universities comprising the consortium; and

(3) each land-grant college or university that makes a contribution to the consortium shall receive an equal percentage of the total amount of funds awarded.

(B) REPORT.—Not later than 30 days after the date of enactment of this section, the Secretary shall establish an evaluation panel to—

(i) establish criteria for evaluating projects and activities under the extension program;

(ii) using the criteria established under clause (i), evaluate the projects and activities;

(B) COMPOSITION.—The evaluation panel shall be composed of—

(i) appropriate Federal, State, local government, and land-grant college or university officials, as determined by the Secretary; and

(ii) private individuals with expertise in electronic commerce, technology, or small business, as determined by the Secretary.

(C) CRITERIA.—The evaluation panel shall evaluate projects and activities under the extension program using criteria established by the Secretary that, to the maximum extent practicable, assess the extent and geographic diversity and the quality of the service to be provided by the project or activity, and the extent of participation of low-income and minority businesses or microenterprises in the project or activity.

(4) ASSISTANCE FROM GRANT RECIPIENTS.—A recipient of a grant under this section shall, to the maximum extent practicable, provide to the evaluation panel such materials as the evaluation panel may request to assist in the evaluation of any project or activity carried out by the recipient under the extension program.

(D) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(i) the policies, practices, and procedures used to assist rural communities in efforts to adopt and use electronic commerce techniques;

(ii) the clearinghouse system for States, communities, small businesses, and individuals established to obtain information regarding best practices, technology transfer, training, education, adoption, and use of electronic commerce in rural areas; and

(iii) the criteria established for the submission, evaluation, and funding of projects and activities under the extension program.

(G) APPORTIONMENT.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $60,000,000 for each of fiscal years 2002 through 2006, of which $60,000,000 for each fiscal year shall be made available to carry out activities under subsection (d)(1)(A).

(2) ADMINISTRATIVE COSTS.—The Secretary may use not more than 1 percent of the funds made available under paragraph (1) to pay administrative costs incurred in carrying out this section.

SA 2576. Mr. DASCHLE (for himself and Mr. LUGAR) submitted an amend-
SA 2577. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 164 and insert a period and the following:

SEC. 165. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PRE-PLANTED LAND. 

(a) DEFINITION OF AGRICULTURAL COMMODITY.–In this section:

(I) In general.—The term ‘‘agricultural commodity’’ has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5662). 

(2) Exclusions.—The term ‘‘agricultural commodity’’ does not include forage, livestock, timber, forest or hay. 

(b) Commodities.—

(I) In general.—Notwithstanding any other provision of this title, except as provided in paragraph (2), the Secretary shall not provide a payment, loan, or other benefit under this title to an owner or producer, with respect to land or a loan commodity that was considered planted to an agricultural commodity planted or considered planted on land during at least 1 of the 20 crop years preceding the 2002 crop year; and 

(II) did not receive the payments or assistance because the Secretary failed to carry out Public Law 107-25 in a timely manner. 

(c) Limitation.—The amount of payments and benefits under Public Law 107-25 and this section to an eligible person described in subsection (a) shall not exceed the amount of payments or assistance the person would have been eligible to receive if Public Law 107-25 had been implemented in a timely manner.

SEC. 167. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PRE-PLANTED LAND. 

(a) IN GENERAL.—The Secretary of Agriculture may use such funds of the Commodity Credit Corporation as are necessary to provide payments and assistance under Public Law 107-25 (111 Stat. 201) to persons that (as determined by the Secretary): 

(1) are eligible to receive the payments or assistance; but

(2) did not receive the payments or assistance because the Secretary failed to carry out Public Law 107-25 in a timely manner. 

(b) Limitation.—The amount of payments under Public Law 107-25 and this section to an eligible person described in subsection (a) shall not exceed the amount of payments or assistance the person would have been eligible to receive if Public Law 107-25 had been implemented in a timely manner.

SA 2579. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 492, line 15 insert the following section:

(c) Livestock.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961a(a)) (as amended by section 637(a) of Public Law 107-25) is amended by adding at the end the following:

(14) Livestock.—The term ‘‘livestock’’ includes horses.

SA 2580. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 876, line 25, after the word ‘‘oils’’ insert the words ‘‘(including recycled fats and oils)’’.
the first sentence by striking “tobacco and potatoes,” and inserting “tobacco, potatoes, and sweet potatoes.”.

SEC. 1012. CONTINUOUS COVERAGE.

SA 2584. Mr. BREAX (for himself, Ms. LANDRIEU, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 39, strike line 18 and all that follows through page 40, line 8, and insert the following:

“(e) BENEFICIAL INTEREST.—For any of the 2001 through 2006 crops, if a producer eligible for a payment under subsection (a) loses beneficial interest in the loan commodities, he or his successor in interest, as provided in paragraph (3), the Secretary shall not be required to compute an adjustment of the payment determined as of the date on which the producer lost beneficial interest in the loan commodities, as determined by the Secretary.”

SA 2585. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 125, between lines 4 and 5, insert the following:

SEC. 1. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) In general.—Of the funds made available to carry out section 191 of the Federal Agricultural Improvement and Reform Act of 1996 (as amended by section 163), the Secretary of Agriculture shall use $25,000,000 for each of fiscal years 2002 through 2005 to make payments, as soon as practicable after the date of enactment of this Act, to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) Payment quantity.—

(1) In general.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) Maximum quantity.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) Limitations.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) Applicability.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

SA 2586. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 12, line 22, strike “mohair.”

On page 97, strike lines 1 through 12 and insert the following:

“(12) in the case of large chickpeas, $17.44 per hundredweight; and

(17) in the case of small chickpeas, $8.10 per hundredweight.

On page 59, line 2, strike “Promotion” and insert “Production.”

(b) Substitutability of Sugar.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231a) is amended—

(1) by redesignating subsection (j) as subsection (j)(1); and

(b) by inserting after subsection (j)(1) the following:

“(k) Use of Commodity Credit Corporation Loans.—In general.—Notwithstanding subsection (a), in the case of any fiscal year, the Secretary shall authorize the Commodity Credit Corporation to enter into agreements with the Secretary under section 359c(e)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231a) to ensure the availability to agricultural producers of credit provided under that section for the purchase of agricultural commodities, as determined by the Secretary, for purposes of providing assistance to agricultural producers for the purchase of agricultural commodities, through the Commodity Credit Corporation, after a disaster area during 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the disaster area under subsection (a), for purposes of determining the 4-year average yield for the agricultural commodities to which the provision to which such section applies applies, or for purposes of determining the availability of disaster assistance under section 359c(e)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231a) to producers that were located in a disaster area during that same period.”

On page 97, lines 11 and 12, strike “Except as provided in paragraph (3), the” and insert “The.”

On page 97, strike line 24 and all that follows through page 98, line 12, and insert the following:

“(c) Selection by producer.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster area during 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the 4-year average yield for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

“(A) the average yield for the purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the appropriate programs under the United States Free Trade Agreement, administered by the Foreign Agricultural Service of the Department of Agriculture, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refiners and beet sugar processors shall be fully substitutable for the export of sugar in refined form or in sugar containing products.”

(i) Crops.—Subsection (j) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231a) is redesignated by the Secretary of Agriculture.

(b)(2) by striking “2002” and inserting “2006.”

(j) Interest Rate.—Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231a) is amended—

(1) in the case of the first fiscal year of operation of the new processor, a payment equal to 95 percent of the average market price of peanuts produced under this section (other than subsection (h)(1)) is amended—

(2) by striking “other than subsection (h)(1)”;

(3) by striking “2002” and inserting “2006.”

(1) Allotments.—The allotment for a new processor under this clause shall not exceed—

(a) in the case of the first fiscal year of operation of a new processor, 50,000 short tons (raw value); and

(b) in the case of each subsequent fiscal year of operation of the new processor, a quantity established by the Secretary in accordance with subclause (I).

(iV) New Entrant States.—

(a)(aa) In general.—Notwithstanding subparagraphs (A) and (C) of section 359c(e)(3), to accommodate an allocation under subclause (I) to a new processor located in a new entrant mainland State, the Secretary may provide the new entrant mainland State with an allotment to accommodate the allocation of the new entrant processor.

(a)(aa)(9) In general.—The Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made to a processor under this section.

(d) Applicability.—This section applies only with respect to the 2000 crop of apples and processors of that crop.
On page 134, line 15, strike "(21)" and insert "(20)".
On page 134, line 19, strike "(22)" and insert "(21)".

On page 138, line 13, strike "to eligible" and insert "to all eligible".
On page 148, line 11, insert "management of" before "conservation".
On page 151, line 3, insert "for the entire agricultural operation" before the semicolon.
On page 151, line 11, insert "management of" before "collaboration".
On page 152, line 1, insert "and REQUIREMENTS" after "PRACTICES".
On page 152, line 2, insert "and requirements for" after "section (b)(2)"
On page 153, line 8, insert "as described in subsection (b)(2)(B)" before the period.
On page 154, line 2, insert "management of" before "conservation".

On page 155, strike lines 15 through 20 and insert the following:
"(A) determined by the State conservationist, in consultation with the State technical committee established under subtitle G and the local subcommittee of the State technical committee; and

"(B) approved by the Secretary.

On page 160, line 7, strike "the" and insert "applicable".
On page 166, line 9, strike "purposes" and insert "objectives".
On page 166, line 15, insert "local" before "conservation"
On page 177, line 13, insert "education and outreach, and monitoring and evaluation" after "assistance".
On page 220, lines 24 and 25, strike "facility," and insert "facility (including a methane recovery system)",
On page 230, line 17, strike "(a) in GENERAL" and insert "(a) in GENERAL".
On page 266, line 23, strike the quotation marks at the end.
On page 288, line 12, insert "(b) after "1923"
On page 288, line 17, strike "1946" and insert "1946"

On page 290, line 8, insert "that are located east of the 90th meridian" before the period.
On page 331, line 6, strike "a certification of" and insert "evidence of".
On page 331, strike lines 16 through 25 and insert the following:
"(A) submit a single proposal for 1 or more countries in which the certified institutional partner has already demonstrated organizational capacity; and

"(B) receive expedited review of the proposal.

On page 334, strike lines 9 through 17 and insert the following:

SECTION 305. FOOD AID CONSULTATIVE GROUP.

Section 206(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 172c(f)) is amended by striking "2002" and inserting "2006".

On page 335, line 22, add "and" at the end.
On page 335, strike lines 23 through 36.
On page 336, strike "(4)" and insert "(3)"
Beginning on page 337, strike line 11 and all that follows through page 338, line 5, and insert the following:

SECTION 309. SALES PROCEDURE.

Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) In subsection (b)—

(A) by striking "The Secretary" and inserting the following:
"In GENERAL.—In carrying out this Act, the Secretary"; and

(B) by adding at the end the following:
"(2) Eligible costs.—Subject to paragraphs (2) and (7), the Secretary shall pay all or part of—

(A) the costs and charges described in paragraphs (1) through (5) and (7) of section 406(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)) with respect to an eligible commodity,

(B) the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the Secretary determines that—

(i) payment of the costs is appropriate; and

(ii) the recipient country is a low income, net food-importing country that—

(i) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference;

and

(ii) has a national government that is committed to or is working toward, through an agreement under paragraph (2) (including an itemized budget), taking into consideration, as determined by the Secretary—

(i) the projected amount of such costs itemized by category; and

(ii) the projected amount of assistance to be received from other donors.

"(3) FUNDING.—

(A) Commodity Credit Corporation.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary may use the funds, facilities, and authorities of the Corporation to carry out this subsection.

(ii) Limitation.—Not more than $1,500,000 for each of fiscal years 2002 through 2005 shall be used to carry out this subsection.

(B) USE LIMITATIONS.—Of the funds made available under subparagraph (A), the Secretary may use to carry out paragraph (6)(C) not more than $20,000,000 for each of fiscal years 2002 through 2005.

"(4) REREALLOCATION.—Funds not allocated under this subsection by April 30 of a fiscal year shall be made available for proposals submitted under the Food for Progress Program submitted under subsection (b).

On page 352, line 20, strike "(6)" and insert "(8)"

On page 354, between lines 4 and 5, insert the following:

"(4) Multiyear Agreements.—In carrying out this title, on request and subject to the availability of commodities, the Secretary is encouraged to approve agreements that provide for commodities to be made available for distribution on a multiyear basis, if the agreements otherwise meet the requirements of this title.

On page 355, lines 13 and 14, strike "in subsection (h)(2)(C)(i)" and insert "under this title".

On page 356, line 14, strike "a certification of" and insert "evidence of".
On page 357, strike lines 1 through 18 and insert the following:

"(i) submit a single proposal for 1 or more countries in which the certified institutional partner has already demonstrated organizational capacity; and

"(ii) receive expedited review of the proposal.

On page 358, line 11, strike "nearby to" and insert "near".

Beginning on page 358, strike line 21 and all that follows through page 359, line 2, and insert the following:

"(C) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds or charges to pay the costs incurred by an eligible organization under this title for—

On page 363, lines 8 and 9, strike "paragraphs (6) through (8)" and insert "paragraphs (5) through (7)"

On page 363, strike lines 12 through 15 and insert the following:

"(2) Minimum tonnage.—Subject to paragraph (6)(B), not less than 400,000 metric tons of commodities may be provided under this title for the program established under subsection (b) for each of fiscal years 2002 through 2006.

"(3) Eligible costs.—Subject to paragraphs (2) and (7), the Secretary shall pay all or part of—

(A) the costs and charges described in paragraphs (1) through (5) and (7) of section 406(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)) with respect to an eligible commodity,

(B) the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the Secretary determines that—

(i) payment of the costs is appropriate; and

(ii) the recipient country is a low income, net food-importing country that—

(i) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

(ii) has a national government that is committed to or is working toward, through an agreement under paragraph (2) (including an itemized budget), taking into consideration, as determined by the Secretary—

(i) the projected amount of such costs itemized by category; and

(ii) the projected amount of assistance to be received from other donors.

"(4) Multiyear agreements.—In carrying out this title, on request and subject to the availability of commodities, the Secretary is encouraged to approve agreements that provide for commodities to be made available for distribution on a multiyear basis, if the agreements otherwise meet the requirements of this title.

On page 355, lines 13 and 14, strike "in subsection (h)(2)(C)(i)" and insert "under this title".

On page 356, line 14, strike "a certification of" and insert "evidence of".
On page 357, strike lines 1 through 18 and insert the following:

"(i) submit a single proposal for 1 or more countries in which the certified institutional partner has already demonstrated organizational capacity; and

"(ii) receive expedited review of the proposal.

On page 358, line 11, strike "nearby to" and insert "near".

Beginning on page 358, strike line 21 and all that follows through page 359, line 2, and insert the following:

"(C) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds or charges to pay the costs incurred by an eligible organization under this title for—

On page 363, lines 8 and 9, strike "paragraphs (6) through (8)" and insert "paragraphs (5) through (7)"

On page 363, strike lines 12 through 15 and insert the following:

"(2) Minimum tonnage.—Subject to paragraph (6)(B), not less than 400,000 metric tons of commodities may be provided under this title for the program established under subsection (b) for each of fiscal years 2002 through 2006.

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On page 363, line 19, strike “this title” and insert “the program established under subsection (b)”. On page 363, line 22, strike “(7)(B)” and insert “(7)(B)”.

On page 364, lines 1 and 2, strike “this section” and all that follows through the period and insert “the program established under subsection (A)”. On page 364, strike lines 3 through 14. On page 364, line 15, strike “(6)” and insert “(5)”.

On page 364, line 21, strike “(7)” and insert “(6)”. On page 364, line 24, strike “this title” and insert “the program established under subsection (b)”.

Beginning on page 366, strike line 6 and all that follows through page 367, line 6. On page 367, line 7, strike “(vii)” and insert “(vi)”. On page 367, line 10, strike “(ix)” and insert “(vii)”. On page 367, line 11, strike “(viii)” and insert “(vii)”. On page 367, strike lines 18 through 23 and insert the following:

(B) FUNDING.—Except for costs described in clauses (i) through (iii) of subparagraph (A), unless authorized in advance in an appropriation Act or reallocated under paragraph (7)(C),—

(i) not more than $55,000,000 of funds that would be available to carry out paragraph (2) may be used to cover costs under clauses (iv), (v), and (vi) of subparagraph (A); and

(ii) the amount provided under clause (1), not more than $12,000,000 shall be made available to cover costs under subparagraph (A)(vi).

On page 367, line 24, strike “(6)” and insert “(5)”. On page 368, line 5, strike “(7)(A)(x)(I)” and insert “(6)(A)(vii)(I)”).

On page 373, strike lines 24 and 25 and insert the following:

(B) by striking “other than the country of origin”— and all that follows and inserting “other than the country of origin, for the purpose of carrying out programs under this subsection.”

On page 375, lines 3 and 4, strike “a certification of” and insert “evidence of.”

On page 375, strike lines 14 through 23 and insert the following:

(A) submit a single proposal for 1 or more countries in which the certified institutional partner has already demonstrated organizational capacity; and

(B) receive expedited review of the proposal.

On page 404, between lines 7 and 8, insert the following:

SEC. 425. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by inserting after the first sentence the following: “Notwithstanding the preceding sentence, a center, organization, institution, shelter, group living arrangement, or establishment described in that sentence may be authorized to redeem coupons through a financial institution described in that sentence if the center, organization, institution, shelter, group living arrangement, or establishment is equipped with 1 or more point-of-sale devices and is operating in an area in which an electronic benefit transfer system described in section 7(1) has been implemented.”.

On page 404, line 8, strike “425” and insert “426”.

On page 404, line 21, strike “426” and insert “427”. On page 408, line 1, strike “427” and insert “426”.

On page 408, line 18, strike “428” and insert “429”.

On page 411, line 3, strike “429” and insert “430”. On page 411, line 12, strike “430” and insert “431”.

Beginning on page 416, strike line 11 and all that follows through page 418, line 11, and insert the following:

(10) ADJUSTMENTS OF PAYMENT ERROR RATE.

(A) IN GENERAL—

(i) ADJUSTMENT FOR HIGHER PERCENTAGE OF HOUSEHOLDS WITH EARNED INCOME.—With respect to fiscal year 2002 and each fiscal year thereafter, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to take into account any increase in errors that result from the State agency’s having a higher percentage of participating households that have earned income than the lesser of—

(A) the percentage of participating households in all States that have earned income; or

(B) the percentage of participating households in the State in fiscal year 1992 that had earned income.

(ii) ADJUSTMENT FOR HIGHER PERCENTAGE OF HOUSEHOLDS WITH NONCITIZEN MEMBERS.—With respect to fiscal year 2002 and each fiscal year thereafter, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to take into account any increase in errors that result from the State agency’s having a higher percentage of participating households that have 1 or more members who are not United States citizens than the lesser of—

(A) the percentage of participating households in all States that have 1 or more members who are not United States citizens; or

(B) the percentage of participating households in the State in fiscal year 1998 that in that year had 1 or more members who were not United States citizens.

(11) ADDITIONAL ADJUSTMENTS.—For purposes of clause (B),—

(c) EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2024(e)(4)(I)(i)(I)) is amended by striking “except that the State agency may limit such reimbursement to each participant to $25 per month” and inserting “except that, in the case of each of fiscal years 2002 through 2009, the State agency may limit such reimbursement to each participant to $50 per month”.

(d) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)(3)) is amended by striking “except that total amount shall not exceed an amount representing $5 per participant per month” and inserting “except that total amount shall not exceed an amount representing $10 per participant per month”.

(3) LIMITATION.

On page 419, line 12, strike “432” and insert “433”. On page 419, line 16, strike “430(a)(6)” and insert “431(a)(6)”).

On page 425, line 1, strike “433” and insert “434”.

Beginning on page 427, strike line 23 and all that follows through page 428, line 5, and insert the following:

(c) EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2024(e)(4)(I)(i)(I)) is amended by striking “except that the State agency may limit such reimbursement to each participant to $25 per month” and inserting “except that, in the case of each of fiscal years 2002 through 2009, the State agency may limit such reimbursement to each participant to $50 per month”. On page 428, line 9, strike “434” and insert “435”.

On page 429, line 7, strike “435” and insert “436”. On page 429, line 21, strike “436” and insert “437”.

On page 430, line 8, strike “437” and insert “438”. On page 436, line 9, strike “438” and insert “439”.

On page 438, after line 24, add the following:

(b) REPORT TO CONGRESS AND INCREASED AUTHORIZATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall develop and submit to Congress a report that—

(A) describes the similarities and differences (in terms of program administration, rules, benefits, and requirements) between—

(i) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), other than section 19 of that Act (7 U.S.C. 2038); and

(ii) the program to provide assistance to Puerto Rico under section 19 of that Act (as in effect on the day before the date of enactment of this Act);

(B) specifies the costs and savings associated with each similarity and difference; and

(C) states the recommendation of the Secretary as to whether additional funding should be provided to carry out section 19 of that Act.

(2) INCREASED AUTHORIZATION.—Effective on the date of submission of Congress to Congress of the report under paragraph (1), there is authorized to be appropriated to carry out section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2038) (in addition to amounts made available to carry out such section under other than this subsection) $50,000,000 for each fiscal year.

(3) LIMITATION.—No amounts may be made available to carry out this subsection unless specifically provided by an appropriation Act.

On page 439, line 1, strike “(b)” and insert “(c)”. On page 439, line 3, strike “(c)” and insert “(d)”. On page 439, line 11, strike “439” and insert “440”. On page 440, strike line 3 and insert the following:

(5) meet, as soon as practicable through the provision of grants of not to exceed $25,000 each, specific

On page 440, strike lines 6 and 7 and insert the following: “(A) infrastructure improvement and development (including the purchase of equipment necessary for the production, handling, or marketing of locally produced food);”.

On page 440, line 14, strike “440” and insert “441”. On page 442, line 1, strike “441” and insert “442”. On page 442, line 3, strike “The Food” and insert the following:

(a) IN GENERAL.—The Food

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

On page 444, line 17, strike “442” and insert “443”. On page 445, line 8, strike “443” and insert “444”.

On page 448, strike lines 8 through 22 and insert the following:

(2) AMOUNT OF GRANTS.—

(A) FISCAL YEAR 2003.—For fiscal year 2003, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—

(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

(ii) the value of that index for the 12-month period ending June 30, 2002.

(B) FISCAL YEARS 2004 THROUGH 2006.—For each of fiscal years 2004 through 2006, the amount of each grant per caseload slot shall
be equal to the amount of the grant per case
load slot for the preceding fiscal year, ad-
justed by the percentage change between
(i) the value of the State and local gov-
ernment price index published by the Bu-
reau of Economic Analysis of the Depart-
ment of Commerce, for the 12-month period
ending June 30 of the second preceding fiscal year;
(ii) the value of that index for the 12-
month period ending June 30 of the preceding fiscal year;

(2) in subsection (d)(2), by striking “2002”
each place it appears and inserting “2006”;

(3) by striking subsection (i).
On page 454, after line 22, add the follow-
ing:

SEC. 456. COMMODITY DONATIONS.
The Commodity Distribution Reform Act and
WIC Amendments of 1967 (7 U.S.C. 612c
note; Public Law 100-237) is amended—
(1) by redesignating sections 17 and 18 as
sections 18 and 19, respectively; and
(2) by inserting after section 16 the fol-
lowing:

"SEC. 17. COMMODITY DONATIONS.

"(a) IN GENERAL.—Notwithstanding any
other provision of law concerning com-
modity distribution companies authorized
in the conduct of the operations of the
Commodity Credit Corporation and any commod-
ities acquired under section 32 of the Act of
August 24, 1935 (7 U.S.C. 112), to the extent
that the commodities are in excess of the
quantities of commodities needed to carry
out other authorized activities of the Com-
modity Credit Corporation and the Secretary,
(including any quantity specifically reserved
for a specific purpose), may be used for any
purposes authorized to be carried out by the
Secretary that involves the acquisition of
commodities for use in a domestic feeding
program, including any program conducted
by the Secretary that provides commodities
to individuals in cases of hardship.

"(b) PROGRAMS.—A program described
in subsection (a) includes a program authorized by

"(1) the Emergency Food Assistance Act of
1993 (7 U.S.C. 7501 et seq.);

"(2) the Richard B. Russell National
School Lunch Act (42 U.S.C. 1751 et seq.);

"(3) the Child Nutrition Act of 1966 (42
U.S.C. 1771 et seq.);

"(4) the Older Americans Act of 1965 (42
U.S.C. 1320 et seq.);

"(5) such other laws as the Secretary
determines to be appropriate.

SEC. 457. PURCHASES OF LOCALLY PRODUCED
COMMODITIES.

(a) IN GENERAL.—The Secretary of Agri-
culture shall—
(1) encourage institutions participating in
the national school lunch program authorized
under the Richard B. Russell National
School Lunch Act (42 U.S.C. 1751 et seq.) and
the school breakfast program established by
section 9 of the Child Nutrition Act of 1966
(42 U.S.C. 1773) to purchase, in addition to
other food purchases, locally produced foods
for school meal programs to the maximum
extent practicable and appropriate;

(2) not less often than annually, advise in-
stitutions participating in a program de-
scribed in paragraph (1) of the policy
described in that paragraph;

(3) in accordance with requirements estab-
lished by the Secretary, provide start-up
grants to not more than 200 institutions to
defray the initial costs of equipment, mate-
rials, and storage facilities, and similar
costs, incurred in carrying out the policy de-
scribed in paragraph (1);

(b) APPROPIATIONS.—
(1) IN GENERAL.—There is authorized to be
appropriated to carry out this section
$400,000 for each of fiscal years 2002 through
2006.
(2) LIMITATION.—No amounts may be
made available to carry out this section unless
specified by an appropriation Act.
On page 455, line 1, strike "456" and insert
"458". On page 455, strike lines 6 through 20 and
insert the following:

(b) PROGRAM PURPOSE.—The purpose of
the seniors farmers’ market nutrition program is
to provide to low-income seniors resources
in the form of fresh, nutritious, unprepared,
locally grown fruits, vegetables, and herbs
from farmers’ market stands, community
programs.
On page 456, between lines 12 and 13, insert
the following:

(e) AUTHORITY.—The authority provided
by this section is in addition to, and not in lieu of,
the authority of the Secretary of Agri-
culture to carry out any similar program
under the Commodity Credit Corporation
On page 456, line 13, strike "457" and insert
"459".
On page 457, line 18, strike "458" and insert
"460".
On page 477, line 6, strike "459" and insert
"461".
On page 479, line 7, strike "460" and insert
"462".
On page 458, strike lines 5 through 8 and in-
sert the following:

(3) a description of how the company in-
tends to work with community-based organi-
sations and local entities (including local
economic development companies, local
lenders, and local investors) and to seek to
address the unmet equity capital needs of
community served.
Beginning on page 544, strike line 23 and
all that follows through page 547, line 8, and
insert the following:

"SEC. 384H. OPERATIONAL ASSISTANCE GRANTS.

"(a) IN GENERAL.—In accordance with
this section, the Secretary may make grants to
Rural Business Investment Companies and to
other entities, as authorized by this subtitle,
to provide operational assistance to smaller
enterprises financed, or expected to be
financed, by the entities.

"(b) TERMS.—Grants made under this sec-
tion shall be made over a multiyear period
(not to exceed 10 years) under such other
terms as the Secretary may require.

"(c) USE OF FUNDS.—The proceeds of a
grant made under this section may be used by
the Rural Business Investment Company
receiving the grant only to provide opera-
tional assistance in connection with an eq-
uity investment in a business located in a
rural area.

"(d) SUBMISSION OF PLANS.—A Rural Busi-
ness Investment Company may be eligible
for a grant under this section only if the
Rural Business Investment Company sub-
mits to the Secretary, in such form and man-
nner as the Secretary may require, a plan for
use of the grant.

"(e) GRANT AMOUNT.—
(1) RURAL BUSINESS INVESTMENT COM-
PANIES.—The amount of a grant made
under this section to a Rural Business
Investment Company shall be equal to the lesser of—

(A) 50 percent of the amount of resources
(in cash or in kind) raised by the Rural
Business Investment Company; or

(B) $1,000,000.

(2) OTHER ENTITIES.—The amount of a
grant made under this section to any entity
other than a Rural Business Investment
Company shall be equal to the resources
(in cash or in kind) raised by the entity in ac-

On page 551, lines 22 and 23, strike “30 per-
cent of the voting” and insert “15 percent of the”.

On page 552, line 6, strike "REQUIRE-
MENTS" and insert "(a) RURAL BUSI-
NESS INVESTMENT COMPANIES—" before
Each’.
On page 552, between lines 19 and 20, insert
the following:

(b) PUBLIC REPORTS.—
(1) IN GENERAL.—The Secretary shall pre-
pare and make available to the public an an-
nual report on the program established
under this subtitle, including detailed informa-
tion on—
(A) the number of Rural Business Invest-
ment Companies licensed by the Secretary
during the previous fiscal year;

(B) the aggregate amount of leverage that
Rural Business Investment Companies have
received from the Federal Government during
the previous fiscal year;

(C) the aggregate number of each type of
leveraged instruments used by Rural Busi-
ness Investment Companies during the pre-
vious fiscal year and how each number com-
pares to previous fiscal years;

(D) the number of Rural Business Invest-
ment Company licenses surrendered and the
number of Rural Business Investment Com-
panies placed in liquidation during the pre-
vious fiscal year, identifying the amount of
leverage each Rural Business Investment
Company has received from the Federal Gov-
ernment and the type of lever age instru-
m ents each Rural Business Investment
Company has used;

(E) the amount of losses sustained by the
Federal Government as a result of operations
under this subtitle during the previous fiscal
year and an estimate of the total losses that
the Federal Government can reasonably ex-
pect to incur as a result of the operations
during the current fiscal year;

(F) actions taken by the Secretary to
maximize recoupment of funds of the Federal
Government incurred to implement and ad-
minister the Rural Business Investment Pro-
gram under this subtitle during the previous
fiscal year and to ensure compliance with the
requirements of this subtitle (including requirements noted in

(G) the amount of Federal Government le-
verage that each licensee received in the pre-
vious fiscal year and the types of leverage in-
struments each licensee used; and

(H) for each type of financing instrument,
the sizes, types of geographic locations, and
other characteristics of the small business
investment companies using the instrument
during the previous fiscal year, including the
test to which the investment companies have
used the leverage from each instrument
to make loans or equity investments in rural
areas; and

(I) the actions of the Secretary to carry
out this subtitle.

(2) PROHIBITION.—In compiling the report
required under paragraph (1), the Secretary
may not—

(A) compile the report in a manner that
permits identification of any particular type
of investment by an individual Rural Busi-
ness Investment Company or small business
concern in which a Rural Business Invest-
ment Company invests; and

(B) may not release any information that
is prohibited under section 1905 of title 18,
United States Code.
On page 562, line 17, strike "grant" and
insert "grant, loan, or loan guarantee”.
On page 551, strike lines 18 through 20 and
insert the following:

(2) the Secretary to carry out this subtitle.

(3) PROHIBITION.—In compiling the report
required under paragraph (1), the Secretary
may not—

(A) compile the report in a manner that
permits identification of any particular type
of investment by an individual Rural Busi-
ness Investment Company or small business
concern in which a Rural Business Invest-
ment Company invests; and

(B) may not release any information that
is prohibited under section 1905 of title 18,
United States Code.
On page 630, line 7, strike “default” and insert “payment default, or the collateral has not been converted.”.

On page 638, strike lines 21 through 25 and insert the following:

“(F) RURAL ENTREPRENEURS AND MICRO-ENTERPRISE ASSISTANCE PROGRAM; NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND PROGRAM.—In section 378 and subtitles G and H, the term ‘rural area’ means an area that is located—

On page 664, line 4, strike “645” and insert “644”.

On page 665, line 1, strike “646” and insert “645”.

On page 675, lines 17, strike “647” and insert “646”.

On page 676, line 20, strike “646” and insert “645”.

On page 711, strike lines 17 through 25.

On page 712, line 1, strike “662” and insert “681”.

On page 716, strike lines 18 through 22.

On page 716, line 23, strike “(c)” and insert “(b)”.

On page 717, line 7, strike “663” and insert “662”.

On page 737, lines 17 and 18, strike “excluding that for the Beltsville Agricultural Research Center”.

Beginning on page 755, strike line 17 and all that follows through page 756, line 15, and insert the following:

(1) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively;

(2) by inserting after subsection (d) the following:

“(e) GRANT PRIORITY.—In selecting projects for which grants shall be made under this section, the Secretary shall give priority to public and private research or educational institutions and organizations that conduct research relating to production and marketing of organic agriculture.

(3) conduct of studies relating to bio-safety of genetically modified agricultural products;

(4) evaluation of the cost and benefit for development of an identity preservation system for genetically modified agricultural products;

(5) establishment of international partnerships for research and education on bio-safety issues; or

(6) formation of interdisciplinary teams to research and conduct research on the nutritional enhancement and environmental benefits of genetically modified agricultural products; and

(b) In subsection (b) (as redesignated by paragraph (1)), by striking paragraph (2) and inserting the following:

“(2) WITHHOLDING OF OUTLAYS FOR RESEARCH ON BIOTECHNOLOGY RISK ASSESSMENT.—Of the amounts of outlays made under this section or any other provision of law to carry out research on biotechnology (as defined and determined by the Secretary of Agriculture) for any fiscal year, the Secretary of Agriculture shall withhold at least 3 percent for grants for research on biotechnology risk assessment on all categories identified by the Secretary of Agriculture as biotechnology.

On page 758, strike lines 6 through 121 and insert the following:

“(B) PROGRAM TO COMBAT CHILDHOOD OBESITY.—Research and extension grants may be made under this section to institutions of higher education that demonstrated capacity in basic and clinical obesity research, nutrition research, and community health education research to develop and evaluate community-wide strategies that catalyze partnerships between families and health care, education, recreation, mass media, and other community institutions to reduce the incidence of childhood obesity.

On page 761, strike lines 12 through 26 and insert the following:

“(C) PRIORITY.—In paragraph (3), by striking the period at the end and inserting a semicolon and

“(D) by adding at the end the following:

“(4) determining desirable traits for organic crop production using advanced genomics, field trials, and other methods;

“(5) pursuing classical and marker-assisted breeding for publically held varieties of crops and animals optimized for organic systems;

“(6) identifying marketing and policy constraints on the expansion of organic agriculture; and

“(7) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic farms, including research relating to production and marketing and to socioeconomic conditions.”; and

On page 765, between lines 20 and 21, insert the following:

“SEC. 708. BOVINE JOHNS’ DISEASE CONTROL PROGRAM.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

“SEC. 409. BOVINE JOHNS’ DISEASE CONTROL PROGRAM.

“(a) ESTABLISHMENT.—The Secretary, in coordination with State veterinarians and other appropriate State animal health professionals, may establish a program to conduct research, testing, and evaluation of programs for the control and management of Johnes’s disease.

“(b) FUNDING.—Of the amounts authorized to carry out this Act, the Secretary may use such sums as are necessary to carry out this section for each of fiscal years 2003 through 2006.

On page 785, line 5, insert “(a) IN GENERAL.—” before “The”.

On page 785, between lines 15 and 16, insert the following:

“(b) SPECIAL GRANTS FOR RESEARCH ON DAIRY PIPELINE CLEANER.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 4501) is amended in subsection (c)(1) by—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “;” and “;”;

(C) by adding at the end the following:

“(C) to conduct research on means of preventing and eliminating the dangers of dairy pipeline cleaner, including—

(i) developing safer packaging mechanisms and a new transfer mechanism, including a new pumping mechanism for dairy pipeline cleaner, including—

(ii) outlining—

(I) the accident history for dairy pipeline cleaner;

(II) the causes of accidents involving dairy pipeline cleaner; and

(III) potential means of prevention of such accidents, including improved labeling and pump inlet controls.

The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 4501) is amended in subsection (c)(2) by—

(1) in subparagraph (A), by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (A);

and

(C) by inserting after subparagraph (A) the following:

“(B) $100,000 for each of fiscal years 2002 through 2006 may be used to carry out paragraph 1(C) and”;

Beginning on page 815, strike line 16 and all that follows through page 816, line 5, and insert the following:

“SEC. 798C. ORGANICALLY PRODUCED PRODUCT RESEARCH, EDUCATION, AND EMERGENCY.

Not later than December 1, 2004, the Secretary, acting through the Administrator of the Economic Research Service, shall prepare, in consultation with the Advisory Committee on Small Farms, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on—

(1) the impact on small farms of the implementation of the national organic program in part 205 of title 7, Code of Federal Regulations; and

(2) the production and marketing costs to producers and handlers associated with transitioning to organic production.

On page 816, lines 7 through 9, strike “Agriculture Library,” shall facilitate access by research and extension professionals in the United States to, and by those professionals of, and insert “Agriculture Library,” and the Economic Research Service, and enter access by extension professionals, farmers, and other interested persons in the United States to, and the use by those persons of”;

On page 837, strike line 15 and insert the following:

“SEC. 807. FOREST LEGACY PROGRAM.

Section 7(b) of the Cooperative Forestry Management Act of 1978 (16 U.S.C. 2163) is amended by adding at the end the following:

“(3) AUTHORIZATION.—Notwithstanding any other provision of this Act, the Secretary shall authorize any local government or any qualified organization that is defined in section 170(h)(3) of the Internal Revenue Code of 1986 and organized for at least 1 of the purposes described in clause (1), (ii), or (iii) of section 170(h)(4)(A) of that Code, to acquire in land in the State, in accordance with this section, 1 or more interests in conservation easements to carry out the Forest Legacy Program in the State.”

SEC. 808. FOREST FIRE RESEARCH CENTERS.

Beginning on page 840, strike line 23 and all that follows through page 841, line 2, and insert the following:

“(1) at least 1 center shall be located in California, Idaho, Montana, Oregon, or Washington; and

(2) at least 1 center shall be located in Arizona, Colorado, Nevada, New Mexico, or Wyoming.

Beginning on page 842, strike line 6 and all that follows through page 854, line 3, and insert the following:

“SEC. 809. WILDFIRE PREVENTION AND HAZARD MITIGATION.

(a) FINDINGS.—Congress finds that—

(1) the damage caused by wildfires has been equivalent in magnitude to the damage resulting from the Northridge earthquake, Hurricane Andrew, and the recent flooding of the Mississippi River and the Red River;

(2) more than 20,000 communities in the United States are at risk from wildfire and nearly 11,000 of those communities are located near federal land;

(3) the accumulation of heavy forest fuel loads continues to increase as a result of insect infestations, and drought, further increasing the risk of fire each year;

(4) modification of forest fuel load conditions through the removal of hazardous fuels will—

(A) minimize catastrophic damage from wildfires;
(B) reduce the need for emergency funding to respond to wildfires; and
(C) protect lives, communities, watersheds, and wildlife habitats;
(5) the hazardous fuels removed from forest land represent an abundant renewable resource, as well as a significant supply of biomass for biomass-to-energy facilities;
(6) the United States should invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities; and
(7) the United States should—
(A) develop and expand markets for traditionally underused wood and other biomass as an outlet for value-added excessive forest fuels; and
(B) commit resources to support planning, assessments, and project reviews to ensure that hazardous fuels management is accomplished expeditiously and in an environmentally sound manner.

(b) Definitions.—In this section:
(1) Biomass-to-energy facility.—The term ‘‘biomass-to-energy facility’’ means a facility that uses forest biomass or other biomass as a raw material to produce electric energy, useful heat, or a transportation fuel.
(2) Eligible community.—The term ‘‘eligible community’’ means—
(A) any town, city, village, municipality, or other unit of local government (as determined by the Secretary), or any area represented by a nonprofit corporation or institution organized under Federal or State law to promote broad-based economic development, that—
(i) has a population of not more than 10,000 individuals;
(ii) is located within a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forest-related industries, and forest-related products, wood products, and forest-related industries, such as recreation, forage production, and tourism; and
(iii) is located near forest land, the condition of which land the Secretary determines poses a substantial present or potential hazard to—
(I) the safety of a forest ecosystem;
(II) public health; and
(III) the case of a wildfire, the safety of firefighters, other individuals, and communities; and
(B) a county that is not contained within a metropolitan statistical area that meets the conditions described in clauses (ii) and (iii) of subparagraph (A).
(3) Forest biomass.—The term ‘‘forest biomass’’ means fuel and biomass accumulation from precommercial thinnings, slash, and brush on forest land.
(4) Hazardous fuel.—The term ‘‘hazardous fuel’’ means any excessive accumulation of forest biomass or other biomass on public or private forest land in the wildland-urban interface area determined by the Secretary that—
(A) is located near an eligible community;
(B) is designated as condition class 2 or 3 under the report of the Forest Service entitled ‘‘Protecting People and Sustainable Resources in Fire-Adapted Ecosystems’’, dated October 13, 2000 (including any related maps); and
(C) the Secretary determines poses a substantial present or potential hazard to—
(i) the safety of a forest ecosystem;
(ii) the safety of wildlife; or
(iii) the case of a wildfire, the safety of firefighters, other individuals, and communities.
(5) Indian tribe.—The term ‘‘Indian tribe’’ has the meaning given in the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) National fire plan.—The term ‘‘National Fire Plan’’ means the plan prepared by the Secretary of Agriculture and the Secretary of the Interior entitled ‘‘Managing the Impact of Wildfire on Communities and the Environment’’ and dated September 8, 2000.
(7) Person.—The term ‘‘person’’ includes—
(A) a corporation;
(B) an Indian tribe;
(C) a small business, microbusiness, or other business that is incorporated in the United States;
(D) a nonprofit organization.
(8) Secretary.—The term ‘‘Secretary’’ means—
(A) the Secretary of Agriculture (or a designee, with respect to National Forest System land and private land in the United States); and
(B) the Secretary of the Interior (or a designee, with respect to Federal land under the jurisdiction of the Secretary of the Interior or an Indian tribe).

(c) Wildfire prevention and hazardous fuel purchase pilot program.—

(1) Grants.—
(A) In general.—Subject to the availability of appropriations, the Secretary may make grants to—
(i) persons that operate existing or new biomass-to-energy facilities to offset the costs incurred by those persons in purchasing hazardous fuels derived from public and private forest land adjacent to eligible communities; and
(ii) persons in rural communities that are seeking ways to improve the use of, or add value to, hazardous fuels.

(B) Selection criteria.—The Secretary shall select recipients for grants under subparagraph (A)(i) based on—
(i) planned purchases by the recipients of hazardous fuels, as demonstrated by the recipient through the submission to the Secretary of such assurances as the Secretary may require;
(ii) the level of anticipated benefits of those purchases in reducing the risk of wildfires;
(iii) the extent to which the biomass-to-energy facility avoids adverse environmental impacts, including cumulative impacts, over the expected life of the biomass-to-energy facility; and
(iv) the demonstrable level of anticipated benefits for eligible communities, including the potential to develop thermal or electric energy resources or affordable energy for communities.

(2) Grant amounts.—
(A) In general.—A grant under subparagraph (A)(i) shall—
(i) be based on—
(I) the distance required to transport hazardous fuels to a biomass-to-energy facility; and
(II) the cost of removal of hazardous fuels; and
(ii) be in an amount that is at least equal to the product obtained by multiplying—
(I) the number of tons of hazardous fuels delivered to a grant recipient; by
(II) an amount that is at least $5 but not more than $10 per ton of hazardous fuels, as determined by the Secretary taking into consideration the factors described in clause (i)(I).

(B) Limitation on individual grants.—

(i) In general.—Except as provided in clause (ii), a grant under subparagraph (A) shall not exceed $500,000 for any biomass-to-energy facility for any fiscal year.

(ii) Small biomass-to-energy facilities.—A biomass-to-energy facility that has an annual generation of 5 megawatts or less shall not be subject to the limitation under clause (i).
any social or economic benefits of small-scale biomass energy units for rural communities.

(6) Grants to other persons.—

(A) In general.—In addition to biomass-to-energy facilities, the Secretary may make grants under this subsection to persons in rural communities that are seeking ways to improve the use of, or add value to, hazardous fuels.

(B) Selection.—The Secretary shall select recipients of grants under subparagraph (A) based on—

(i) the extent to which the grant recipient avoids environmental impacts; and

(ii) the level of anticipated benefits to rural communities, including opportunities for small businesses and microbusinesses and the potential for new job creation, that may result from the provision of the grant.

(C) Monitoring.—With respect to a grant made under this paragraph—

(i) the provisions described in paragraph (3) and applicable to biomass-to-energy facilities shall apply; and

(ii) the Secretary shall monitor the environmental impact and incorporated into the National Fire Protection System land recommended to

(2) Long-term forest stewardship contracts; and

(3) Hazardous fuels removal.

(1) Annual assessment of treatment acreage.—

(A) In general.—Subject to the availability of appropriations, the Secretary may enter into not more than 28 stewardship end result contracts to implement the National Wildfire Protection System and based on the treatment schedules provided in the annual assessments conducted under paragraph (1)(B)(i).

(B) Programs of contracts.—The contracting goals and authorities described in subsections (b) through (g) of section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999, as commonly known as the "Stewardship End Result Contracting Demonstration Project" (16 U.S.C. 2104 note; Public Law 105-277), shall apply to contracts entered into under paragraph (1), except that 14 of the 28 percent of the contracts entered into under subparagraph (A) shall be subject to the conditions that—

(i) funds from the contract, and any offset value of forest products that exceeds the value of the resource improvement treatments carried out under the contract, shall be deposited in the Treasury of the United States;

(ii) section 377(c)(3)(A) of the Department of the Interior and Related Agencies Appropriations Act, 1999, as commonly known as the "Stewardship End Result Contracting Demonstration Project" (16 U.S.C. 2104 note; Public Law 105-277) shall not apply to those contracts; and

(iii) the implementation shall be accomplished using separate contracts for the harvesting or collection, and sale, of merchantable material.

(C) Status report.—Beginning with the assessment required under paragraph (1) for fiscal year 2003, the Secretary shall include in the annual assessment under paragraph (1) a status report of the stewardship end result contracts entered into under this paragraph.

(D) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2002 through 2006.

(2) Components.—The assessment shall—

(i) be based on the treatment schedules contained in the report entitled "Protecting People and Sustaining Resources in Fire-Adapted Ecosystems", dated October 13, 2000, and incorporated into the National Fire Plan;

(ii) identify the acreage by condition class, type of treatment, and treatment year to achieve the restoration goals outlined in the report within 10-, 15-, and 20-year time periods;

(iii) give priority to condition class 3 areas (as described in subsection (b)(4)(B)), including modifications in the restoration goals based on the effects of—

(I) fire;

(II) hazardous fuel treatments under the National Fire Plan; or

(III) losses in data;

(iv) provide information relating to the type of material and estimated quantities and range of sizes of material that shall be included in the treatment projects funded by grants provided under this paragraph.

(E) Excluded areas.—In carrying out this section, the Secretary shall—

(i) because of sensitivity of natural, cultural, or historic values, designate areas to be excluded from any program under this section; and

(ii) carry out this section only in the wildland-urban interface, as defined by the Secretary.

(F) Termination of Authority.—The authority provided under this section shall terminate on September 30, 2006.

On page 854, strike line 4 and insert the following:

SEC. 810. ENHANCED COMMUNITY FIRE PROTECTION.

On page 858, strike line 8 and insert the following:

SEC. 811. WATERSHED FORESTRY ASSISTANCE PROGRAM.

On page 870, strike line 1 and insert the following:

SEC. 812. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE INITIATIVE.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 7 (16 U.S.C. 2105c) the following:

SEC. 7A. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE INITIATIVE.

"(a) Definitions.—In this section:

(1) Eligible entity.—The term "eligible entity" means a State (including a political subdivision) or nonprofit organization that the Secretary determines that the objectives of the National Forest Fire Plan would be accomplished through forest stewardship end result contracts including—

(A) projects and activities to—

(i) conserve or enhance forest resources;

(ii) improve the management of forested lands; and

(iii) protect human life and property; and

(2) Indian tribe.—The term "Indian tribe" has the meaning given in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) Private forest land.—The term "private forest land" means land that is—

(A) owned by—

(i) a private entity; or

(ii) an Indian tribe;

(B) program.—The term "program" means the Suburban and Community Forestry and Open Space Initiative established by subsection (b); and

(C) Secretary.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) Establishment.—

(1) In general.—There is established within the Forest Service a program to be known as the Suburban and Community Forestry and Open Space Initiative.

(2) Purpose.—The purpose of the program is to provide assistance to eligible entities to carry out projects and activities to—

(A) conserve private forest land and maintain working forests in suburban environments; and

(B) provide communities a means by which to address significant suburban sprawl.

(c) Grant program.—

(1) Identification of eligible private forest land.—

(A) In general.—The Secretary, in consultation with State foresters or equivalent State officials and State or county planning offices, shall establish criteria for—

(i) the identification, subject to subparagraph (B), of private forest land in each State that may be conserved under this section; and

(ii) the identification of eligible entities.

(B) Conditions for eligible private forest land.—Private forest land identified for conservation under subparagraph (A)(i) shall be land that is—

(I) located in an area that is affected, or threatened to be affected, by significant suburban sprawl, as determined by the Secretary;

(ii) the appropriate State forester or equivalent State official, and

(iii) threatened by present or future conversion to nonforest use.

(2) Grants.—

(A) Projects and activities.—

(i) In general.—In carrying out this section, the Secretary shall award grants to eligible entities to carry out a project or activity described in clause (ii).

(ii) Types.—A project or activity referred to in clause (i) is a project or activity that—

(I) is carried out to conserve private forest land and contain significant suburban sprawl; and

(ii) provides for guaranteed public access to land on which the project or activity is carried out, unless the appropriate State forester or equivalent State official and the State or county planning office request, and the Secretary determines, that the request be waived.

(B) Application; stewardship plan.—An eligible entity that seeks to receive a grant or approval under this section shall submit for approval—

(i) to the Secretary, in such form as the Secretary shall prescribe, an application for participation including a description of any private forest land to be conserved using funds from the grant; and
SEC. 814. STATE FOREST STEWARDSHIP COORDINATING COMMITTEE.

On page 871, between lines 22 and 23, insert the following:

SEC. 815. OFFICE OF TRIBAL RELATIONS.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 19 (16 U.S.C. 2718) the following: ‘‘SEC. 18A. OFFICE OF TRIBAL RELATIONS. ‘‘(a) DEFINITIONS.—In this section: ‘‘(1) IN GENERAL.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). ‘‘(2) OFFICE.—The term ‘Office’ means the Office of Tribal Relations established under subsection (b)(1). ‘‘(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Forest Service. ‘‘(b) ESTABLISHMENT.— ‘‘(1) IN GENERAL.—The Secretary shall establish within the Forest Service the Office of Tribal Relations. ‘‘(2) DIRECTOR.—The Office shall be headed by a Director, who shall— ‘‘(A) be appointed by the Secretary, in consultation with interested Indian tribes; and ‘‘(B) report directly to the Secretary. ‘‘(3) ADMINISTRATIVE SUPPORT.—The Secretary shall— ‘‘(A) ensure that the Office has personnel and facilities that are adequate and timely to meet the needs of Indian tribes, and ‘‘(B) ensure, to the maximum extent practicable, that adequate staffing and funds are available for the Director to carry out the duties described in subsection (c). ‘‘(c) DUTIES OF THE DIRECTOR.— ‘‘(1) IN GENERAL.—The Director shall— ‘‘(A) develop guidance to the Secretary on all issues, policies, actions, and programs of the Forest Service that affect Indian tribes, including— ‘‘(i) consultation with tribal governments; ‘‘(ii) programmatic review for equitable tribal participation; ‘‘(iii) monitoring and evaluation of relations between the Forest Service and Indian tribes; ‘‘(iv) the coordination and integration of programs of the Forest Service that affect, or are of interest to, Indian tribes; ‘‘(v) training of Forest Service personnel for competency in tribal relations; and ‘‘(vi) the development of legislation affecting Indian tribes; ‘‘(B) coordinate organizational responsibilities within the administrative units of the Forest Service to ensure that matters affecting the rights and interests of Indian tribes are handled in a manner that is— ‘‘(i) comprehensive; ‘‘(ii) responsive to tribal needs; and ‘‘(iii) consistent with policy guidelines of the Forest Service; ‘‘(C)(i) develop generally applicable policies and procedures of the Forest Service pertaining to the implementation of land management programs; and ‘‘(ii) monitor the application of those policies and procedures throughout the administrative regions of the Forest Service; ‘‘(D) provide forest resource information or guidance to personnel of the Forest Service that are responsible for tribal relations as is required, as determined by the Secretary. ‘‘(E) exercise such direct administrative authority pertaining to tribal relations programs as may be delegated by the Secretary; ‘‘(F) for the purpose of coordinating programs and activities of the Forest Service with programs and actions of other agencies or departments that affect Indian tribes, consult with— ‘‘(i) other agencies of the Department of Agriculture, including the Natural Resources Conservation Service; and ‘‘(ii) other Federal agencies, including— ‘‘(I) the Department of the Interior; and ‘‘(II) the Environmental Protection Agency; ‘‘(G) submit to the Secretary an annual report on the status of relations between the Forest Service and Indian tribes that includes, at a minimum— ‘‘(i) an examination of the participation of Indian tribes in programs administered by the Secretary; ‘‘(ii) a description of the status of initiatives being carried out to improve working relationships with Indian tribes; and ‘‘(iii) recommendations for improvements or other adjustments to operations of the Forest Service that would be beneficial in strengthening working relationships with Indian tribes; and ‘‘(H) carry out such other duties as the Secretary may assign. ‘‘(4) COORDINATION.—In carrying out this section, the Office and other offices within the Forest Service shall consult on matters involving the rights and interests of Indian tribes.”.

SEC. 816. ASSISTANCE TO TRIBAL GOVERNMENTS.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end the following:

SEC. 21. ASSISTANCE TO TRIBAL GOVERNMENTS. ‘‘(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). ‘‘(b) ESTABLISHMENT.—The Secretary may provide financial, technical, educational, and related assistance to Indian tribes for— ‘‘(1) tribal consultation and coordination with the Forest Service on issues relating to— ‘‘(A) tribal rights and interests on Forest Service land (including national forests and Indian national grasslands); ‘‘(B) coordinated or cooperative management of resources shared by the Forest Service and Indian tribes; and ‘‘(C) provision of tribal traditional, cultural, or other expertise or knowledge; ‘‘(2) projects and activities for conservation education and awareness with respect to forest land under the jurisdiction of Indian tribes; ‘‘(3) technical assistance for forest resource planning, management, and conservation on land under the jurisdiction of Indian tribes; and ‘‘(4) the acquisition by Indian tribes, from willing sellers, of conservation easements for forest land and resources on land under the jurisdiction of Indian tribes. ‘‘(c) IMPLEMENTATION.— ‘‘(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations to implement subsection (b) (including regulations for determining the distribution of assistance under that subsection). ‘‘(2) CONSULTATION.—In developing regulations under paragraph (1), the Secretary shall engage in full, open, and substantive consultation with Indian tribes and representatives of Indian tribes. ‘‘(3) COORDINATION WITH THE SECRETARY OF THE INTERIOR.—The Secretary shall coordinate with the Secretary of the Interior during the establishment, implementation, and administration of subsection (b) to ensure that programs under that subsection— ‘‘(i) do not conflict with tribal programs provided under the authority of the Department of the Interior; and ‘‘(ii) do not conflict with tribal programs provided under the authority of the Department of Agriculture. ‘‘(d) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated under this section— ‘‘(1) such sums as are necessary for fiscal year 2002 and each fiscal year thereafter.’’.

S13211
SEC. 817. SUDDEN OAK DEATH SYNDROME.

(a) FINDINGS.—Congress finds that—

(1) tan oak, coast live oak, Shreve’s oak, and black oak trees are among the most beloved features of the topography of California and the Pacific Northwest and efforts should be made to protect those trees from disease;

(2) the die-off of those trees, as a result of the exotic Phytophthora fungus, is approaching epidemic proportions;

(3) little is known about the new species of Phytophthora, and scientists are struggling to understand the causes of sudden oak death syndrome, the methods of transmission, and how sudden oak death syndrome can best be treated;

(4) the Phytophthora fungus has been found on—

(A) rhododendron plants in nurseries in California; and

(B) wild huckleberry plants, potentially endangering the commercial blueberry and cranberry industries;

(5) sudden oak death syndrome threatens to create major economic and environmental problems in California, the Pacific Northwest, and other regions, including—

(A) the increased threat of fire and fallen trees;

(B) the cost of tree removal and a reduction in property values; and

(C) loss of revenue due to—

(i) restrictions on imports of oak products and nursery stock; and

(ii) the impact on the commercial rhododendron, blueberry, and cranberry industries; and

(C) Oregon and Canada have imposed an emergency quarantine on the importation of oak trees, oak products, and certain nursery plants from California.

(b) RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.—

(1) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”) shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome in California and the Pacific Northwest, and other regions, including—

(A) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(B) conduct open space, roadside, and aerial surveys;

(C) provide monitoring technique workshops;

(D) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest; and

(D) maintain a geographic information system database;

(E) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, land-scape and rehabilitation, and epidemiology;

(F) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(G) develop and apply treatments.

(c) MANAGEMENT, REGULATION, AND FIRE PREVENTION.—

(1) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(2) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) conduct tree assessments;

(B) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(C) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(D) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily impacted with sudden oak death syndrome;

(E) conduct national surveys and inspections of—

(i) commercial rhododendron and huckleberry nurseries;

(ii) native rhododendron and huckleberry plants;

(F) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(G) provide diagnostic services.

(d) EDUCATION AND RESEARCH.—

(1) IN GENERAL.—In carrying out paragraph (1), the Secretary may—

(A) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landowners, hikers, firefighters, and other individuals, as the Secretary determines appropriate;

(B) design and maintain a website to provide information on sudden oak death syndrome; and

(C) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

(2) EDUCATION AND RESEARCH ACTIVITIES.—

(a) In carrying out paragraph (1), the Secretary may—

(A) establish a Sudden Oak Death Syndrome Advisory Committee;

(B) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome;

(c) SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Committee shall consist of—

(I) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(II) 1 representative of the Agricultural Research Service, to be appointed by the Administrator of the Agricultural Research Service;

(III) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(IV) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(V) any individuals appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(aa) has an interest or expertise in sudden oak death syndrome; and

(bb) would contribute to the Committee.

(ii) DATE OF APPOINTMENTS.—The appointments of a member of the Committee shall be made not later than 90 days after the date of enactment of this Act.

(iii) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(iv) DUTIES.—

(A) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(B) REPORTS.—

(i) REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under paragraph (1).

(ii) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(I) a summary of the activities of the Committee;

(II) an accounting of funds received and expended by the Committee; and

(III) findings and recommendations of the Committee.

(c) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated for each of fiscal years 2002 through 2006—

(1) to carry out subsection (b), $7,500,000, of which not more than $1,500,000 shall be used for treatment;

(2) to carry out subsection (c), $6,000,000;

(3) to carry out subsection (d), $500,000; and

(4) to carry out subsection (e), $250,000.

(d) CONGRESSIONAL RECORD

On page 877, strike lines 1 through 7 and insert the following:

"'On page 877, strike lines 1 through 7 and insert "K".'"

On page 902, between lines 16 and 17, insert "K.".

"On page 902, line 16, strike "L" and insert "K".".

On page 899, strike lines 1 through 15 and insert the following:

"On page 899, strike lines 1 through 15 and insert the following:"

"On page 899, strike lines 1 through 15 and insert "K".".

On page 886, strike lines 7 through 15 and insert the following:

"On page 886, strike lines 7 through 15 and insert the following:

(1) same projects selected based on the likelihood that the projects will demonstrate the commercial viability of a process for converting biomass into fuels or chemicals; and

(2) do not include—

(A) paper that is commonly recycled; or

(B) unsegregated garbage.

On page 898, strike line 10 and insert the following:

"On page 898, strike line 10 and insert the following:"

"On page 898, strike line 10 and insert the following:"
“(7) a consortium comprised of entities described in paragraphs (1) through (6).”

On page 902, strike line 23 and insert the following:

“(8) generate both usable electricity and heat;”

On page 911, strike lines 7 through 10 and insert the following:

“(A) a college or university or a research foundation maintained by a college or university;”

On page 912, line 17, strike “and establish”. On page 913, strike line 3 and insert the following:

“(2) DEVELOPMENT OF BENCHMARK STANDARDS.

“(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on:

“(i) information from the conference under paragraph (1);

“(ii) research conducted under this section; and

“(iii) other information available to the Secretary.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on the benchmark standards developed under subparagraph (A).

(3) REPORT.—Not later than 180 days after On page 918, line 16, strike “(as amended by section 661)”. On page 918, line 18, strike “21” and insert “20”.

On page 918, strike lines 20 through 23 and insert the following:

“(a) DEFINITIONS.—In this section:

“(1) RENEWABLE ENERGY.—The term ‘renewable energy’ means energy derived from a wind, solar, biomass, geothermal, or hydroelectric source.

“(2) RURAL AREA.—The term ‘rural area’ includes any area that is not within the boundaries of—

“(A) a city, town, village, or borough having a population of more than 20,000; or

“(B) an urbanized area (as determined by the Secretary).

On page 919, line 2, after “utilities”, insert the following: “(as determined by the Secretary)”.

Beginning on page 925, strike line 14 and all that follows through page 926, line 25, and insert the following:

“(B) ELIGIBILITY CRITERIA.—To be eligible for a grant under paragraph (1), a project shall hold (as determined by the Secretary)—

“(i) be designed to—

“(I) achieve long-term sequestration of carbon or long-term reductions in greenhouse gas emissions;

“(II) address concerns regarding leakage; or

“(III) promote additivity; and

“(ii) not involve—

“(I) the reforestation of land that has been deforested since 1990; or

“(II) the conversion of native grassland.

(C) QUALITY CRITERIA.—The Secretary shall give priority in awarding a grant under paragraph (1) to an eligible project that—

“(i) involves multiple parties, a whole farm approach, or any other approach, such as the aggregation of land areas, that would—

“(I) increase the environmental benefits or reduce the transaction costs of the eligible project; and

“(II) reduce the costs of measuring, monitoring, and verifying any net sequestration of carbon or net reduction in greenhouse gas emissions; and

“(ii) provides certain benefits, such as improvements in—

“(I) soil fertility;

“(II) wildlife habitat;

“(III) water quality; and

“(IV) soil erosion management;

“(V) the use of renewable resources to produce energy;

“(VI) the avoidance of ecosystem fragmentation; and

“(VII) the promotion of ecosystem restoration with native species.

Beginning on page 927, strike line 22 and all that follows through page 928, line 11.

On page 928, line 12, strike “(d)” and insert “(e)”.

On page 928, line 20, strike “(e)” and insert “(d)”.

On page 930, strike lines 8 through 10 and insert the following:

“Subtitle D—Country of Origin Labeling

SEC. 281. DEFINITIONS.

On page 932, line 6, strike “272” and insert “282”.

On page 934, line 6, strike “24” and insert “284”. On page 935, line 12, strike “273” and insert “263”.

On page 935, line 16, strike “272” and insert “292”.

On page 935, lines 23, strike “272” and insert “292”.

On page 936, line 1, strike “272” and insert “292”.

On page 936, line 6, strike “274” and insert “294”.

On page 936, line 14, strike “275” and insert “295”.

On page 937, strike lines 1 through 3 and insert the following:

“Subtitle E—Commodity-Specific Grading Standards

SEC. 291. DEFINITION OF SECRETARY.

On page 937, line 6, strike “292” and insert “297”.

On page 937, line 12, strike “283” and insert “293”.

On page 937, between lines 16 and 17, insert the following:

SEC. 1. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONLAMINATORY LIVE-STOCK.

Title III of the Packers and Stockyards Act, 1921 (7 U.S.C. 2147 et seq.), is amended by adding at the end of the section—

“(2) by redesignating subsection (b) as subsection (c); and

“(3) by inserting after subsection (a) the following:

“(b) DEVELOPMENT OF FARMERS’ MARKETS.—The Secretary shall—

“(1) work with the Governor of a State, and State agency designated by the Governor, to develop programs to train managers of farmers’ markets;

“(2) develop opportunities to share information among managers of farmers’ markets;

“(3) establish a program to train cooperative extension service employees in the development of direct marketing techniques; and

“(4) work with producers to develop farm markets.

(c) FARMERS’ MARKET PROMOTION PROGRAM.—The Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 2301 et seq.) is amended by inserting after section 5 the following:

“SEC. 6. FARMERS’ MARKET PROMOTION PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall carry out a program, to be known as the ‘Farmers’ Market Promotion Program’ (referred to in this section as the ‘Program’), to make grants to eligible entities for projects to establish, expand, and promote farmers’ markets.

“(b) PROGRAM PURPOSES.—The purposes of the Program are—

“(1) to increase domestic consumption of agricultural commodities by improving and

The Animal Welfare Act is amended by inserting after section 17 (7 U.S.C. 2147f) the following:

“SEC. 18. LIMITATION ON EXHIBITION OF POLAR BEARS.

“(1) in the first sentence, by striking “and establishing” and inserting “an annual”; and

“(2) by striking the second sentence.

(c) DIRECT MARKETING ASSISTANCE.—Section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 2304) is amended—

“(1) in subsection (a)—

“(A) in the first sentence, by striking “Extension Service of the United States Department of Agriculture” and inserting “Secretary”; and

“(B) in the second sentence—

“(i) by striking “and establishing” and inserting “an annual” and inserting “and”; and

“(ii) by striking “and on the basis of which of these two agencies, or combination thereof, can best perform these activities” and inserting “an annual” and as determined by the Secretary”;

“(2) by redesigning subsection (b) as subsection (c); and

“(3) by inserting after subsection (a) the following:

“(b) DEVELOPMENT OF FARMERS’ MARKETS.—The Secretary shall—

“(1) work with the Governor of a State, and State agency designated by the Governor, to develop programs to train managers of farmers’ markets;

“(2) develop opportunities to share information among managers of farmers’ markets;

“(3) establish a program to train cooperative extension service employees in the development of direct marketing techniques; and

“(4) work with producers to develop farm markets.”
expanding, or assisting in the improvement and expansion of, domestic farmers’ markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer infrastructure; and

(2) to develop, or aid in the development of, new farmers’ markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer infrastructure.

(c) Eligible Entities.—An entity shall be eligible to receive a grant under the Program if it is an agricultural cooperative; a local government; a nonprofit corporation; a community-supported agriculture program; or a regional farmers’ market authority.

(2) determination of participation.—In determining the rates under paragraph (1), the Secretary shall consider, for each county and State, the number of socially disadvantaged farmers and ranchers as a percentage of the total participation of all farmers and ranchers for each program of the Department of Agriculture established for farmers or ranchers.

(b) Availability.—The amount of a grant shall be computed annually the participation rate of socially disadvantaged farmers and ranchers in proportion to the total number of farmers and ranchers participating in each program.

(c) Eligible Entities.—An entity shall be eligible to receive a grant under the Program if it is an agricultural cooperative; a local government; a nonprofit corporation; a community-supported agriculture program; or a regional farmers’ market authority.

(d) Criteria and Guidelines.—The Secretary shall establish criteria and guidelines for any fiscal year.

(e) Amount.—

(1) an economic development corporation;

(2) a nonprofit corporation;

(3) a school pest management plan;

(4) a school;

(5) an educational agency, or State to apply a pesticide; or

(7) such other entity as the Secretary may designate.

(f) Funding.—

(1) In General.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2008.

(2) Limitation.—The value of any real or personal property owned by an eligible entity as of the date on which the eligible entity submits a proposal for a project under the Program shall not be credited toward the non-Federal share required under this paragraph.

(g) Public Availability and Report to Congress.—

(1) Public Disclosure.—The Federal share of any 1 fiscal year.

(2) Certification.—The Secretary shall certify the amount of a grant made under this section to Congress.

(h) Public Exposure.—The public exposure of any private information collected and computed under section 2501A(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 and clause (ii) of section 35(e) of the Elementary and Secondary Education Act of 1965 shall be governed by section 552 of title 5, United States Code.

(i) Public Availability.—The Secretary shall make the grant applications and other records relating to pesticide applications available to the public, via website and otherwise in electronic and paper form, all data required to be collected and computed under section 2501A(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 and clause (ii) of section 35(e) of the Elementary and Secondary Education Act of 1965.

(j) Certification.—The Secretary shall certify the amount of the grant made under this section to Congress. 1965.

(k) Notice.—The Secretary shall provide notice to the State involved of the approval of the application submitted by the applicant.

(l) Enforcement.—The Secretary shall enforce the provisions of this section and shall deny any grant application that does not comply with the provisions of this section.

SEC. 10. PEST MANAGEMENT IN SCHOOLS.

(a) Short Title.—This section may be cited as the “School Environment Protection Act of 2001”.

(b) Pesticide Management.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136b, 136y) as sections 33 and 34, respectively; and

(2) by inserting after section 32 (7 U.S.C. 136w-7) the following:

SEC. 33. PEST MANAGEMENT IN SCHOOLS.

(a) Definitions.—In this section:

(21) person assisting in the application of a pesticide; or

(22) person assisting in the application of a pesticide.

(b) Pesticides.—The term “pesticide” means an urgent need to mitigate or eliminate pests; or

(c) Pesticides.—The term “pesticide” means an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

(d) Staff Person.—The term “staff person” means an individual who—

(2) has knowledgeable about school pest management plans; and

(3) has an educational agency to carry out implementation of the school pest management plan of a school.

(4) School.—The term “school” means—

(4) any educational agency; and

(4) any educational agency.

(5) Pest Plant.—The term “pest plant” means—

(4) a person assisting in the application of a pesticide; or

(5) any educational agency.

(6) Pesticide.—The term “pesticide” means any substance or mixture of substances that is a toxicant, a defoliant, an insecticide, a fungicide, or a rodenticide.

(7) Staff Person.—The term “staff person” means any school employee who is exempt from the provisions of the School Environment Protection Act of 2001, or the State education agency, or State to apply a pesticide.

SEC. 2501A. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS; PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.

(a) Transparency and Accountability for Socially Disadvantaged Farmers and Ranchers.—The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subparagraph (B) and inserting the following:

(2) by inserting after section 32 (7 U.S.C. 136w-7) the following:

SEC. 33. PEST MANAGEMENT IN SCHOOLS.

(a) Definitions.—In this section:

(21) Staff Person.—The term “staff person” means an individual who—

(2) has knowledgeable about school pest management plans; and

(3) has an educational agency to carry out implementation of the school pest management plan of a school.

(4) School.—The term “school” means—

(4) any educational agency; and

(4) any educational agency.

(5) Pest Plant.—The term “pest plant” means—

(4) a person assisting in the application of a pesticide; or

(5) any educational agency.

(6) Pesticide.—The term “pesticide” means any substance or mixture of substances that is a toxicant, a defoliant, an insecticide, a fungicide, or a rodenticide.

(7) Staff Person.—The term “staff person” means any school employee who is exempt from the provisions of the School Environment Protection Act of 2001, or the State education agency, or State to apply a pesticide.
mented the State school pest management plan, the local educational agency may maintain the school pest management plan and shall not be required to develop and implement a new school pest management plan under subparagraph (A).

(C) APPLICATION OF PESTICIDES AT SCHOOLS.—A school pest management plan shall provide—

(1) the application of a pesticide (other than a pesticide, including a bait, gel or paste, described in paragraph (4)(C)(i)) to any part of the area in which a room is occupied or in use by students or staff members (except students or staff members participating in regular or vocational agricultural instruction involving the use of pesticides);

(ii) the use by students or staff members of an area or room treated with a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging during—

(I) the period specified on the label of the pesticide during which a treated area or room should remain unoccupied; or

(ii) if there is no period specified on the label, the 24-hour period beginning at the end of the treatment.

(A) I N GENERAL .—Not later than 1 year after the date on which a local educational agency receives a copy of a school pest management plan under subsection (A), and—

(B) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

(1) A school pest management plan shall be adopted by the local educational agency and shall meet the requirements of subparagraph (B); and

(ii) maintain and make available to parents, legal guardians, or other persons with legal standing as parents of each child attending the school, before and during the notice period and after application—

(i) identify the person on the registry of the school, contact

(iv) provide the school with more information concerning any pesticide application or any product used at the school, contact

(iii) a description of any potential pest problems that the school may experience (including a description of the procedures that may be used to address those problems);
"(IV) information that the State agency shall provide to the local educational agency, including a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied based on—

"(aa) a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied, as stated on the label of the pesticide approved by the Administrator;

"(bb) information derived from the material safety data sheet for the end-use dilution of the pesticide to be applied (if available) or the material safety data sheets; and

"(cc) final, official information related to the pesticide prepared by the Administrator and provided to the local educational agency by the State agency;

"(V) a description of the purpose of the application of the pesticide;

"(VI) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

"(VII) the statement described in subparagraph (A)(IV) (other than the ninth sentence of that statement).

"(C) NOTIFICATION AND POSTING EXEMPTION.—A pesticide that has been 30 days in the inventory of the State agency of which it is a part of the minor use pesticide data revolving fund or has been approved by the Department of Agriculture program shall not be required to be posted as a pesticide covered by this part in an emergency, subject to clauses (ii) and (iii).

"(D) POSTING OF SIGNS.

"(1) IN GENERAL.—A school may apply a pesticide at a school without complying with this part in an emergency, subject to subparagraph (B).

"(ii) the name and telephone number of the designated contact person; and

"(ee) the statement contained in subparagraph (A)(IV).

"(IV) OUTDOOR PESTICIDE APPLICATIONS.—

"(D) IN GENERAL.—In the case of an outdoor pesticide application at a school, each sign shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled.

"(II) DURATION OF POSTING.—A sign described in clause (I) shall be posted after an outdoor pesticide application in accordance with clauses (ii) and (iii).

"(G) POSTING OF SIGNS.

"(1) BAIT. —A school may apply a pesticide to a school without complying with this part in an emergency, subject to subparagraph (B).

"(II) DURATION OF POSTING.

"(A) IN GENERAL.—A school may apply a pesticide at a school without complying with this part in an emergency, subject to subparagraph (B).

"(C) NOTIFICATION AND POSTING EXEMPTION.—A school may apply a pesticide at a school without complying with this part in an emergency, subject to subparagraph (B).

"(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this paragraph, the school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

"(E) AUTHORIZATION OF APPROPRIATIONS.

"(1) Authorization of appropriations. —There are authorized to be appropriated such sums as are necessary to carry out this section.

"(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relating to sections 30 through 32 and inserting the following:

"(d) Requires of training for maintenance applicators and service technicians.

"(Sec. 31. Environmental Protection Agency minor use program. )

"(Sec. 32. Department of Agriculture minor use program. )

"(a) Minor use pesticide data.

"(1) Minor Use Pesticide Data Revolving Fund.

"(Sec. 33. Pest management in schools. )

"(a) Definitions.

"(1) Bait.

"(2) Contact person.

"(3) Emergency.

"(4) Local educational agency.

"(5) School.

"(6) Staff member.

"(7) State agency.

"(8) Universal notification.

"(b) School pest management plans.

"(1) State plans.

"(2) Implementation by local educational agencies.

"(3) Contact person.

"(4) Notification.

"(5) Emergencies.

"(6) Relationship to State and local requirements.

"(7) Exclusion of certain pest management activities.

"(e) Authorization of appropriations.

"(Sec. 34. Severability. )

"(Sec. 35. Authorization of appropriations. )

"(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2001.

On page 978, line 11, strike "FELONIES" and insert "MAJOR VIOLATIONS".

On page 978, line 13, after "person", insert the following: "that commits a violation of this title described in this subparagraph shall be guilty of a felony and, on conviction,"

On page 979, line 25, strike "MISDEMEANORS" and insert "OTHER VIOLATIONS.

On page 980, line 12, insert the following: "that commits a violation of this title described in this subparagraph shall be guilty of a misdemeanor and, on conviction,"

On page 983, strike line 1 and insert the following:

Subtitle D—Animal Health Protection

SEC. 1041. SHORT TITLE.

This subtitle may be cited as the "Animal Health Protection Act".

SEC. 1042. FINDINGS.

Congress finds that—

(1) the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect—

(A) animal health;

(B) the health and welfare of the people of the United States;

(C) the economic interests of the livestock and related industries of the United States;

(D) the environment of the United States; and

(E) interstate commerce and foreign commerce of the United States in animals and animal products;

(2) animal diseases and pests are primarily transmitted by animals and articles regulated under this subtitle;

(3) the health of animals is affected by the methods by which animals and articles are transported in interstate commerce and foreign commerce;
(4) the Secretary must continue to conduct research on animal diseases and pests that constitute a threat to the livestock of the United States; and
(5) all animals and articles regulated under this subtitle are in or affect interstate commerce or foreign commerce; and
(B) regulation by the Secretary and cooperation by the Secretary with foreign countries, States or other jurisdictions, or persons are necessary—
(i) to prevent and eliminate burdens on interstate or foreign commerce; and
(ii) to regulate effectively interstate commerce and foreign commerce; and
(iii) to protect the agriculture, environment, and health and welfare of the people of the United States.

SEC. 1043. DEFINITIONS.
In this subtitle:
(1) ANIMAL.—The term “animal” means any member of the animal kingdom (except a human).
(2) ARTICLE.—The term “article” means any pest or disease or any material or tangible object that could harbor a pest or disease.
(3) DISEASE.—The term “disease” means—
(A) any infectious or noninfectious disease or condition affecting the health of livestock; or
(B) any condition detrimental to production or health.
(4) ENTER.—The term “enter” means to move from a place outside the territorial limits of the United States.
(5) EXPORT.—The term “export” means to move from a place within the territorial limits of the United States to a place outside the territorial limits of the United States.
(6) FACILITY.—The term “facility” means any structure.
(7) IMPORT.—The term “import” means to move from a place outside the territorial limits of the United States to a place within the territorial limits of the United States.
(8) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
(9) INTERSTATE COMMERCE.—The term “interstate commerce” means trade, traffic, or other commercial intercourse—
(A) between a place in a State and a place in another State, or between places within the same State but through any place outside the State; or
(B) within the District of Columbia or any territory or possession of the United States.
(10) LIVESTOCK.—The term “livestock” means all farm-raised animals.
(11) MEANS OF CONVEYANCE.—The term “means of conveyance” means any personal property used for or intended for use for the movement of any other personal property.
(12) MOVE.—The term “move” means—
(A) to carry, enter, import, mail, ship, or transport; or
(B) to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting; or
(C) to offer to carry, enter, import, mail, ship, or transport; or
(D) to receive in order to carry, enter, import, mail, ship, or transport; or
(E) to release into the environment; or
(F) to allow any of the activities described in this paragraph.
(13) PEST.—The term “pest” means any of the following that can directly or indirectly injure the livestock, or cause disease in livestock:
(A) A protozoan.
(B) A plant.
(C) A virus.
(D) A fungus.
(E) A human.
(F) An infectious agent or other pathogen.
(G) An arthropod.
(H) A parasite.
(I) A prion.
(J) A vectored disease.
(K) An animal.
(L) Any organism similar to or allied with any of the organisms described in this paragraph.
(14) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.
(15) STATE.—The term “State” means any of the original States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, or any territory or possession of the United States.
(16) THIS SUBTITLE.—Except when used in this section, the term “this subtitle” includes any regulation or order issued by the Secretary under the authority of this subtitle.

SEC. 1044. RESTRICTION ON IMPORTATION OR ENTRY.
(a) IN GENERAL.—The Secretary may prohibit or restrict—
(1) the importation or entry of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock; or
(2) the importation or entry of any article or if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock; or
(3) the use of any means of conveyance in connection with the importation or entry of livestock if theSecretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.
(b) REQUIREMENTS OF OWNERS.—
(1) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—
(A) a means of conveyance used in connection with the importation of an animal; or
(B) an individual involved in the exportation of an animal; and
(C) any article used in the exportation of an animal.
(2) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—
(A) take remedial action, destroy, or remove from the United States the animal or progeny of any animal, article, or means of conveyance as authorized under paragraph (1); and
(B) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary under this section, the Secretary may—

SEC. 1045. EXPORTATION.
(a) IN GENERAL.—The Secretary may prohibit or restrict—
(1) the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock; or
(2) the exportation of any livestock if the Secretary determines that the livestock is not to be moved; or
(3) the use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock; or
(4) the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.
(b) REQUIREMENTS OF OWNERS.—
(1) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—
(A) a means of conveyance used in connection with the exportation of an animal; or
(B) an individual involved in the exportation of an animal and personal articles of the individual; and
(C) any article used in the exportation of an animal.
(2) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—
(A) take remedial action with respect to the animal, article, or means of conveyance referred to in paragraph (1); and
(B) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action.
(c) CERTIFICATION.—The Secretary may certify the classification, quality, quantity, condition, processing, handling, or storage of any animal or article intended for export.

SEC. 1046. INTERSTATE MOVEMENT.
The Secretary may prohibit or restrict—
(1) the movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock; and
(2) the use of any means of conveyance or facility in connection with the movement in interstate commerce of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock.
SEC. 1047. SEIZURE, QUARANTINE, AND DISPOSAL.

(a) IN GENERAL.—The Secretary may hold, seize, destroy, or take other remedial action with respect to—

(1) any animal or progeny of any animal, article, or means of conveyance that—

(1) is moving or has been moved in interstate commerce or has been imported and entered; and

(2) the Secretary has reason to believe may carry, may have carried, or may have been affected with or exposed to any pest or disease of livestock at the time of movement or that is otherwise in violation of this subtitle;

(2) any animal or progeny of any animal, article, or means of conveyance that is moving or is being handled, or has moved or has been handled, in interstate commerce in violation of this subtitle;

(3) any animal or progeny of any animal, article, or means of conveyance that has been imported, and is moving or is being handled or has moved or has been handled, in violation of this subtitle; or

(4) any animal or progeny of any animal, article, or means of conveyance that the Secretary finds is not being maintained, or has not been maintained, in accordance with any post-importation quarantine, post-importation condition, post-movement quarantine, or post-movement condition in accordance with this subtitle.

(b) EXTRAORDINARY EMERGENCIES.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary determines that an extraordinary emergency exists because of the presence in the United States of a pest or disease of livestock that the presence of the pest or disease threatens the livestock of the United States, the Secretary may—

(A) hold, seize, quarantine, dispose of, or take other remedial action with respect to the animal, article, or means of conveyance; and

(B) and (C), the compensation shall be based on the fair market value, as determined by the Secretary, of the destroyed animal, article, facility, or means of conveyance.

(2) F A I L U R E T O C O M P L Y W I T H O R D E R S .—If the owner fails to comply with the order of the Secretary, the Secretary may—

(A) seize, quarantine, dispose of, or take other remedial action with respect to the animal, article, or means of conveyance under subsection (a) or (b); and

(B) recover from the owner the costs of any care, handling, disposal, or other remedial action incurred by the Secretary in connection with the seizure, quarantine, disposal, or other remedial action.

(d) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall compensate the owner of any animal, article, facility, or means of conveyance that the Secretary requires to be destroyed under this section.

(2) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the compensation shall be based on the fair market value, as determined by the Secretary, of the destroyed animal, article, facility, or means of conveyance.

(B) LIMITATION.—Compensation paid any owner under this subsection shall not exceed the difference between—

(i) the fair market value of the destroyed animal, article, facility, or means of conveyance; and

(ii) any compensation received by the owner from a State or other source for the destroyed animal, article, facility, or means of conveyance.

(C) REVIEWS A B I L I T Y O F D E T E R M I N A T I O N .—The determination by the Secretary of the amount to be paid under this subsection shall be final and not subject to judicial review.

(3) EXCEPTIONS.—No payment shall be made by the Secretary under this subsection for—

(A) any animal, article, facility, or means of conveyance that has been moved or handled by the owner in violation of an agreement for the control and eradication of diseases or pests in violation of this subtitle;

(B) any progeny of any animal or article, which animal or article has been moved or handled by the owner in violation of an agreement for the control and eradication of diseases or pests in violation of this subtitle;

(C) any animal, article, facility, or means of conveyance that is refused entry under this subtitle; or

(D) any animal, article, facility, or means of conveyance that has become affected with or exposed to any pest or disease of livestock because of a violation of an agreement for the control and eradication of diseases or pests.

SE. 1048. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) GUIDELINE.—The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) WARRANTLESS INSPECTIONS.—The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States, to determine whether the person or means of conveyance is carrying any animal or article regulated under this subtitle;

(2) in interstate commerce, on probable cause to believe that the person or means of conveyance is carrying any animal or article regulated under this subtitle; or

(3) in intrastate commerce from any State, or any portion of a State, quarantined under section 1047(b), on probable cause to believe that the person or means of conveyance is carrying any animal or article quarantined under section 1047(b).

(c) INSPECTIONS WITH WARRANTS.—

(1) IN GENERAL.—The Secretary may enter, with a warrant, any premises in the United States for the purpose of making inspections or seizures under this subtitle.

(2) APPLICATION AND ISSUANCE OF WARRANTS.—

(A) IN GENERAL.—On proper oath or affirmation showing probable cause to believe that there is on certain premises any animal, article, facility, or means of conveyance regulated under this subtitle, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may issue a warrant for the entry on premises within the jurisdiction of the judge or magistrate to make an inspection or seizure under this subtitle.

(B) EXECUTION.—The warrant may be applied for and executed by the Secretary or any other Federal officer or employee.

SE. 1049. DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) IN GENERAL.—The Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.

(b) COMPENSATION.—The Secretary may pay a claim arising out of the destruction of any animal, article, facility, or means of conveyance consistent with the purposes of this subtitle.

SE. 1050. VETERINARY ACCREDITATION PROGRAM.

(a) IN GENERAL.—The Secretary may establish a veterinary accreditation program that is consistent with this subtitle, including the establishment of standards of conduct for accredited veterinarians.

(b) CONSULTATION.—The Secretary shall consult with State animal health officials regarding the establishment of the veterinary accreditation program.

SE. 1051. COOPERATION.

(a) IN GENERAL.—To carry out this subtitle, the Secretary may cooperate with Federal agencies, Federal governments, or their subdivisions of States, national governments of foreign countries, local governments of foreign countries, domestic or international organizations, domestic or international associations, Indian tribes, and other persons.

(b) RESPONSIBILITY.—The person or other entity cooperating with the Secretary shall be responsible for the authority necessary to carry out operations or measures—

(1) on all land and property within a foreign country or State, or under the jurisdiction of an Indian tribe, other than on land and property owned or controlled by the United States; and

(2) using other facilities and means, as determined by the Secretary.

(c) SCREWWORMS.—

(1) IN GENERAL.—The Secretary may, independently or in cooperation with national governments of foreign countries, international organizations or associations, produce and sell sterile screwworms to any national government of a foreign country or international organization or association, if the Secretary determines that the livestock industry and related industries of the United States...
States will not be adversely affected by the production and sale. (2) PROCEDURES.—(A) INDEPENDENT PRODUCTION AND SALE. If the Secretary independently produces and sells sterile screwworms under paragraph (1), the proceeds of the sale shall be—
(1) deposited into the Treasury of the United States; and
(2) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(3) USE OF FUNDS.—(A) IN GENERAL.—The United States portion of the proceeds shall be—
(1) deposited into the Treasury of the United States; and
(2) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(4) REQUIREMENTS.—(A) IN GENERAL.—The Secretary may—
(1) acquire and maintain real or personal property;
(2) employ a person;
(3) make a grant; and
(4) notwithstanding chapter 63 of title 31, United States Code, enter into a contract, cooperative agreement, memorandum of understanding, or other agreement.

(b) TORT CLAIMS.—(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim, in the manner authorized by the first paragraph of section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with an activity authorized under this subtitle.

(c) USE OF FUNDS.—(1) be credited to accounts that may be established by the Secretary for the improvement of livestock and livestock products.

(2) Cooperation in Program Administration.—(A) The Secretary may cooperate with State authorities, Indian tribe authorities, or other persons in the administration of regulations for the improvement of livestock and livestock products.

(3) Consultation With Other Federal Agencies.—(A) In general.—The Secretary shall consult with the head of a Federal agency with respect to any activity that is under the jurisdiction of the Federal agency.

(B) The Department of Agriculture shall be the lead agency with respect to issues related to pests and diseases of livestock.

SEC. 1052. REMEDIAL AGREEMENTS.

(a) Authority To Enter Into Agreements.—The Secretary may enter into remedial agreements with persons for preclearance of animals or articles at locations outside the United States for movement into the United States.

(b) Funds Collected for Preclearance.—Funds collected for preclearance activities shall—
(1) be credited to accounts that may be established by the Secretary for carrying out this section; and
(2) remain available until expended for the preclearance activities, without fiscal year limitation.

(c) Payment of Employees.—(1) In general.—Notwithstanding any other law, the Secretary may pay an officer or employee of the Department of Agriculture performing services under this subtitle relating to imports into and exports from the United States for overtime, night, or holiday work performed by the officer or employee at a rate of pay determined by the Secretary.

(2) Location.—(A) In general.—The Secretary shall require a person for whom the services are performed to reimburse the Secretary for any expenditure paid by the Secretary for the services under this subsection.

(B) Use of Funds.—All funds collected under this subsection shall—
(1) be credited to the account that incurs the costs; and
(2) remain available until expended, without fiscal year limitation.

(d) Collection of Penalties.—(1) Collection.—On failure by a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late penalty equal to the interest on overdue funds, as required by section 5717 of title 31, United States Code.

(2) Use of Funds.—Any late payment penalty and any accrued interest shall—
(A) be credited to the account that incurs the costs; and
(B) remain available until expended, without fiscal year limitation.

SEC. 1053. ADMINISTRATION AND CLAIMS.

(a) Administration.—To carry out this subtitle, the Secretary may—
(1) acquire and maintain real or personal property;
(2) employ a person;
(3) make a grant; and
(4) notwithstanding chapter 63 of title 31, United States Code, enter into a contract, cooperative agreement, memorandum of understanding, or other agreement.

(b) Tort Claims.—(1) In general.—Except as provided in paragraph (2), the Secretary may pay a tort claim, in the manner authorized by the first paragraph of section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with an activity authorized under this subtitle.

(c) Use of Funds.—(1) be credited to accounts that may be established by the Secretary for the improvement of livestock and livestock products.

(2) Cooperation in Program Administration.—(A) The Secretary may cooperate with State authorities, Indian tribe authorities, or other persons in the administration of regulations for the improvement of livestock and livestock products.

(3) Consultation With Other Federal Agencies.—(A) In general.—The Secretary shall consult with the head of a Federal agency with respect to any activity that is under the jurisdiction of the Federal agency.

(B) The Department of Agriculture shall be the lead agency with respect to issues related to pests and diseases of livestock.

SEC. 1054. PENALTIES.

(a) Criminal Penalties.—(1) Any person that knowingly violates this subtitle, or that knowingly violates a provision of this subtitle, shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, imprisoned not more than 2 years, or both.

(b) Civil Penalties.—(1) In general.—Any person that violates this subtitle, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided under this subtitle shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, imprisoned not more than 2 years, or both.

SEC. 1055. ENFORCEMENT.

(a) Collection of Information.—(1) In general.—The Secretary may gather and compile information by any inspection or investigation that the Secretary considers to be necessary for the administration or enforcement of this subtitle.

(b) Subpoenas.—(1) Authority.—The Secretary shall have power to issue a subpoena to compel the attendance and testimony of any witness and the production of documentary evidence relating to the administration or enforcement of this subtitle or any matter under investigation in connection with this subtitle.

(c) Hearings.—(1) Authority.—The Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this subtitle.

(d) Finality of Orders.—(1) Authority.—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 155 of title 28, United States Code.

(2) Review.—The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(3) Summary Suspension.—(A) In general.—Withholding paragraph (1), the Secretary may summary suspend the accreditation of a veterinarian who the Secretary has reason to believe has violated this subtitle.

(B) Hearings.—The Secretary shall provide the accredited veterinarian with a subsequent notice and an opportunity for a prompt post-suspension hearing on the record.

(e) Liability for Acts of Agents.—In the construction and enforcement of this subtitle, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of the employment or office of the officer, agent, or person, shall be deemed also to be the act, omission, or failure of such person.

(f) Guidelines for Civil Penalties.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this subtitle.

SEC. 1056. FURTHER PROVISIONS.

(a) Collaboration.—(1) Authority.—The Secretary, in carrying out this subtitle, may enter into an agreement with any State, or any political subdivision thereof, or the United States, or any international organization or association in a manner determined by the Secretary.

(b) Coordination.—(1) Authority.—The Secretary may coordinate with the head of any Federal agency with respect to any activity that is under the jurisdiction of the Federal agency.

(2) Assistance.—The Secretary may cooperate with State authorities, Indian tribe authorities, or other persons in the administration of regulations for the improvement of livestock and livestock products.
court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence.

(ii) Determination. Any failure to obey the order of the court may be punished by the court as contempt of the court.

(D) COMPENSATION. (i) WITNESSES. A witness summoned by the Secretary under this subtitle shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(ii) Pay. The witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(E) PROCEDURES.—

(i) PUBLICATION.—The Secretary shall publish procedures for the issuance of subpoenas under this section.

(ii) REVIEW.—The procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and, to be effective, be signed by the Secretary.

(iii) DELEGATION.—If the authority to sign a subpoena is delegated to an agency other than the Office of Administrative Law Judges by the Secretary, the delegation shall seek review of the subpoena for legal sufficiency outside that agency.

(b) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General—

(1) prosecute, in the name of the United States, all criminal violations of this subtitle that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this subtitle, or to enjoin any interference by any person with the Secretary in carrying out this subtitle, in any case in which the Secretary believes that the violation has occurred, and is about to violate this subtitle or has interfered, or is about to interfere, with the actions of the Secretary; or

(3) bring an action for the recovery of any unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this subtitle.

(c) COURT JURISDICTION.—

(1) IN GENERAL.—The United States district courts, the District Court of Guam, the District Court of the Northern Mariana Islands, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions, are vested with jurisdiction in all cases arising under this subtitle.

(2) VENUE.—Any action arising under this subtitle may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, or threatening interference, failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(3) EXCEPTION.—Paragraphs (1) and (2) do not apply to subsections (b) and (c) of section 1054.

SEC. 1056. REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders as the Secretary determines necessary to carry out this subtitle.

SEC. 1057. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—In connection with an emergency situation under a pest or disease of livestock threatens any segment of agricultural production in the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such funds as the Secretary determines necessary to prevent, or eradicate, or prevent the spread of the pest or disease of livestock and for related expenses.

(2) AVAILABILITY.—Any funds transferred under this subsection shall remain available until expended, without fiscal year limitation.

(3) USE OF FUNDS.—In carrying out this subtitle, the Secretary may use funds made available to carry out this subtitle for—

(A) printing and binding, without regard to section 501 of title 44, United States Code;

(B) the employment of civil nationals in foreign countries; and

(C) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

SEC. 1058. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of law are repealed:


(2) Section 101(b) of the Act of September 21, 1944 (7 U.S.C. 2260).


(8) Sections 2 through 9, 11, and 13 of the Act of May 29, 1904 (21 U.S.C. 112, 113, 114, 114a, 114a–1, 115 through 120, 130).


(13) The third and fourth provisos of the fourth paragraph under the heading “BUREAU OF ANIMAL INDUSTRY” under the heading “BUREAU OF ANIMAL INDUSTRY” of the Act of May 31, 1920 (21 U.S.C. 116).


(b) CONFORMING AMENDMENTS.—

(1) Section 414(b) of the Plant Protection Act (7 U.S.C. 7714b) is amended—

(A) in paragraph (1), by striking “, or the owner’s agent, ‘;”’; and

(B) in paragraph (2), by striking “or agent of the owner” each place it appears.

(2) Section 422 of the Animal Plant Health Protection Act (7 U.S.C. 7733) is amended—

(A) by striking subsection (b) and inserting the following:

LOCATION OF PRODUCTION.—The attendance of any witness and production of documentary evidence relevant to the inquiry may be required from any place in the United States:

(B) in the third sentence of subsection (e), by inserting “to an agency other than the Office of Administrative Law Judges” after “is delegated”; and

(C) by striking subsection (f).


(4) Section 18 of the Federal Meat Inspection Act (21 U.S.C. 618) is amended by striking “‘cattle’” and inserting “through as herein described” and inserting “of the carcasses and products of cattle, sheep, swine, goats, horses, mules, and other equines.”

(5) Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 113a) is amended—

(A) in subsection (c), by inserting after paragraph (1) the following:

(“2) VETERINARY DIAGNOSTICS.—The Secretary may prescribe and collect fees to recover the costs of carrying out the provisions of the Animal Health Protection Act that relate to veterinary diagnostics.”;

and

(B) in subsection (d), by striking subparagraphs (1) through (O) and inserting the following:

(“B) section 9 of the Act of August 30, 1890 (21 U.S.C. 101).”

(“C) the Animal Health Protection Act; or

(“D) any other Act administered by the Secretary relating to plant or animal diseases or pests.”;

(3) EFFECT OF REGULATIONS.—A regulation issued under a provision of law repealed by subsection (a) shall remain in effect until the Secretary issues a regulation under section 1056 that supersedes the earlier regulation.

Subtitle E—Administration

On page 984, after line 2, insert the following:

SEC. 10. REPORT TO CONGRESS ON POUCHED AND CANNED SALMON.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the “Secretary”) shall submit to Congress a report on efforts to expand the promotion, marketing, and purchasing of pouched and canned salmon harvested and processed in the United States under food and nutrition programs administered by the Secretary.

(b) COMPONENTS.—The report under subsection (a) shall include—

(1) an analysis of pouched and canned salmon inventories in the United States that, as of the date on which the report is submitted, that available for purchase; and

(2) an analysis of the demand for pouched and canned salmon and value-added products (such as salmon “nuggets”) by—

(A) partners of the Department of Agriculture (including other appropriate Federal agencies); and

(B) consumers; and
SA 2587. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 424, strike line 7 and insert the following:

SEC. 460. USE OF APPROVED FOOD SAFETY TECHNOLOGY.

In acquiring commodities for distribution through programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the Child Nutrition Act of 1966 (42 U.S.C. 1711 et seq.), the Food Stamp Act of 1964 (7 U.S.C. 2011 et seq.), the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.), or the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86), the Secretary of Agriculture shall prohibit or discourage the use of any technology that the Secretary of Agriculture or the Secretary of Health and Human Services has approved to improve food safety.

SA 2588. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, line 19, strike the period at the end and insert a period and the following:

SEC. 114. PILOT PROGRAM FOR FARM COUNTERCYCLICAL SAVINGS ACCOUNTS.

Subtitle B of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7211 et seq.) is amended by adding at the end the following:

SEC. 119. PILOT PROGRAM FOR FARM COUNTERCYCLICAL SAVINGS ACCOUNTS.

(a) Definitions.—In this section:

(1) IN GENERAL.—Subject to paragraphs (2) through (5), the Secretary shall provide a matching contribution on the amount deposited by the producer into the account.

(b) FORMULA.—The Secretary shall establish a formula to determine the amount of matching contributions that will be provided by the Secretary under paragraph (1).

(c) MAXIMUM CONTRIBUTIONS FOR INDIVIDUAL PRODUCER.—The amount of matching contributions that may be provided by the Secretary for an individual producer under this subsection shall not exceed $5,000 annually.

(d) MAXIMUM CONTRIBUTIONS FOR ALL PRODUCERS IN A STATE.—The total amount of matching contributions that may be provided by the Secretary for all producers in a State under this subsection shall not exceed $2,000,000 for each of fiscal years 2003 through 2005.

(e) DATE FOR MATCHING CONTRIBUTIONS.—The Secretary shall provide the matching contributions required for a producer under paragraph (1) as of the date that a majority of the covered commodities grown by the producer are harvested.

(f) INTEREST.—Funds deposited into the account may earn interest at the commercial rates provided by the bank or financial institution in which the Account is established.

(g) USE.—Funds credited to the account—

(1) shall be available for withdrawal by a producer, in accordance with subsection (h); and

(2) may be used for purposes determined by the producer.

(h) WITHDRAWAL.—In subparagraph (421(a)(2)(A), strike—

(2)(ii) a comparable tax form related to the taxable income of a producer for each of the preceding 5 taxable years, as determined by the Secretary; and

(iii) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue of the previous 5 taxable years, as determined by the Secretary.

(i) ADMINISTRATION.—The Secretary shall administer this section through the Farm Service Agency and local, county, and area offices of the Department of Agriculture.

SA 2589. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

In subparagraph 421(a)(2)(A), strike—

36-month and insert—

12-month (24-month prior to fiscal year 2004).
rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

"(i) 8 percent for each of fiscal years 2002 through 2006;
(ii) 9.5 percent for each of fiscal years 2007 through 2008;
(iii) 9 percent for fiscal year 2009;
(iv) 9.5 percent for fiscal year 2010; and
(v) 9 percent for fiscal year 2011 and each subsequent fiscal year."

SA 2591. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 941, line 4, strike the period at the end and insert the following:

Subtitle C—Income Loss Assistance

SEC. 10. INCOME LOSS ASSISTANCE.

(a) IN GENERAL. The Secretary shall use funds made available under this section to provide assistance to States for crop disaster losses and for income losses attributable to the quantity and economic losses as were incurred in the calendar year 2001.

(b) GEOGRAPHIC DIVERSITY. The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States, particularly agricultural production in the Northeast and Mid-Atlantic States.

(c) OTHER PURCHASES. The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS. The Secretary may use not more than $15,000,000,000, of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS. The Secretary shall use not less than $55,000,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 11. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle.

SEC. 12. ADMINISTRATION.

(a) IN GENERAL. In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, the Secretary shall transfer to the Commodity Credit Corporation $25,000,000,000, of which the Secretary may use funds made available under subsection (a) to provide assistance to States for crop disaster losses and for income losses attributable to the quantity and economic losses as were incurred in the calendar year 2001.

(b) RECEIPT AND ACCEPTANCE. The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

SEC. 13. REGULATIONS.

(a) IN GENERAL. The Secretary may promulgate such regulations as are necessary to implement this subtitle.

(b) PROCEDURE. The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code; or

(2) the provisions of the Agriculture Act of 1949, as amended by section 1307 of the Food, Agriculture, Conservation, and General Agriculture Act of 1977 (42 U.S.C. 2277l). ""
December 13, 2001

CONGRESSIONAL RECORD—SENATE

S13223

2006, the General Accounting Office shall submit a report to Congress describing programs and activities that tobacco States have funded using funds received under the Master Settlement Agreement of 1997.

(b) TOBACCO STATE.—The term “tobacco State” has the same meaning as that term has in the Master Settlement Agreement of 1997.

SA 2595. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) by inserting “PENALTIES.—” after “(e);”

(2) by striking “$5,000” and inserting “$15,000;” and

(3) by striking “1 year” and inserting “2 years;” and

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SA 2596. Mr. SMITH of New Hampshire (for himself, Mr. TORRICElli, Mr. GRAHAM, Mr. ALLEN, Mr. ENNS, Mr. HELMS, Mr. NELSON of Florida, Mr. LIEBERMAN, and Mr. SMITH of Oregon) proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 335, insert the following:

“(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that Cuba is not a state sponsor of international terrorism.”

SA 2597. Mr. TORRICElli (for himself, Mr. NELSON of Florida, and Mr. LIEBERMAN) proposed an amendment to amendment SA 2596 proposed by Mr. SMITH of New Hampshire to the amendment SA 2471 submitted by Mr. SMITH of New Hampshire and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 335, insert the following:

“(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that Cuba is not a state sponsor of international terrorism.”

SA 2598. Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. KERRY) proposed an amendment to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

At the end of this underlying bill, insert the following:

SEC. 2. MARKET NAME FOR CATFISH.

The term “catfish” shall be considered to be a common or usual name (or part thereof) for any fish in keeping with Food and Drug Administration procedures that follow scientific standards and market practices for establishing such names for the purposes of section 403 of the Food, Drug, and Cosmetic Act, including with respect to the importation of such fish pursuant to section 301 of such Act.

SEC. 3. LABELING OF FISH AS CATFISH.

Section 755 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, is repealed.

SA 2599. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHEL and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 164 and insert a period and the following:

SEC. 165. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND; FOOD STAMP PROGRAM FUNDING INCREASES.

(a) RESTRICTION.—Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127; 110 Stat. 945) is amended to read as follows:

“SEC. 194. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND; FOOD STAMP PROGRAM FUNDING INCREASES.

(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section:

(1) IN GENERAL.—The term ‘‘agricultural commodity’’ has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 6902).

(2) EXCLUSIONS.—The term ‘‘agricultural commodity’’ does not include forage, livestock, timber, or hay.

(b) COMMODITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, except as provided in paragraph (2), the Secretary shall not provide a payment, loan, or other benefit under this title to an owner or producer, with respect to land or a loan commodity or considered planted on land during a crop year unless the land has been planted, considered planted, or devoted to an agricultural commodity during—

(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

(B) at least 3 of the 10 crop years preceding the 2002 crop year.

(2) CROP ROTATION.—Paragraph (1) shall not apply to an owner or producer, with respect to any agricultural commodity planted considered planted, or devoted to an agricultural commodity during—

(A) has been planted, considered planted, or devoted to an agricultural commodity during—

(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

(B) at least 3 of the 10 crop years preceding the 2002 crop year; or

(B) has been maintained using long-term crop rotation practices, as determined by the Secretary.

(c) CROP INSURANCE.—Notwithstanding any provision of the Federal Crop Insurance Act (7 U.S.C.1501 et seq.), the Federal Crop Insurance Corporation shall not pay premium subsidies or administrative costs of a reinsured company for insurance regarding a crop insurance policy of a producer under that Act unless, the land that is covered by the insurance policy—

(A) has been planted, considered planted, or devoted to an agricultural commodity during—

(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

(B) at least 3 of the 10 crop years preceding the 2002 crop year; or

(B) has been maintained using long-term crop rotation practices, as determined by the Secretary.

(4) CONSERVATION RESERVE LAND.—For purposes of this section, land that is enrolled in the conservation reserve program established under chapter 1 of title XII of the Food Security Act of 1985 (18 U.S.C.3831 et seq.) shall be considered planted to an agricultural commodity.

(b) FOOD STAMP PROGRAM.—

(1) EXCLUSION OF LICENSED VEHICLES FROM FINANCIAL RESOURCES.—

(A) IN GENERAL.—Section 9(g)(2) of the Food Stamp Act of 1977 (7 U.S.C.3104(g)(2)) is amended by striking subparagraph (C) and inserting the following:

“(C) EXCLUDED VEHICLES.—Financial resources under this paragraph shall not include—

(i) 1 licensed vehicle per household; and

(ii) a vehicle (and any other property, real or personal, to the extent that the property is directly related to the maintenance or use of the vehicle) if the vehicle is—

(I) used to produce earned income;

(II) necessary for the transportation of a physically disabled household member; or

(III) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.”

(B) CONFORMING AMENDMENT.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C.302) is amended by inserting “(h).”

(2) RESTORATION OF BENEFITS TO CERTAIN ELDERLY INDIVIDUALS.—Section 402(a)(2)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (title II of U.S.C.1622a(2)(I)) is amended by striking “who” and all that follows and inserting the following:

“who—

(i) is lawfully residing in the United States; and

(ii) is 65 years of age or older.”.
SA 2600. Mr. CARPER (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 2. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Section 1202(a) is amended by striking “5 years” and inserting “3 years”.

(2) CONFORMING AMENDMENTS.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 are each amended by striking “5 years” and inserting “3 years”.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) (relating to items of tax preference) is amended by striking paragraph (7).

(c) EFFECTIVE DATE.

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to stock issued after the date of enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SA 2601. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 3. REVIEW OF STATE MEAT INSPECTION PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the goal of a safe and wholesome supply to meat and meat food products throughout the United States would be better served if a consistent and uniform requirements, established by the Federal Government, were applied to all meat and meat food products, whether produced under State inspection or Federal inspection;

(2) under such a system, State and Federal meat inspection programs would function together to create a seamless inspection system to ensure food safety and inspire consumer confidence in the food supply in interstate commerce; and

(3) such a system would ensure the viability of State meat inspection programs, which should help to foster the viability of small establishments.

(b) IN GENERAL.—Not later than September 30, 2003, the Secretary of Agriculture shall conduct a comprehensive review of each State meat and poultry inspection program, which shall include—

(1) a determination of the effectiveness of the State program; and

(2) identification of changes that are necessary to enable the future transition to a State program of implementing a State meat and poultry inspection program that enforces the mandatory ante-mortem and post-mortem inspection, re-inspection, sanitation, sanitation, and related titles of the Federal Meat Inspection Act and the Poultry Products Inspection Act. (including the and daughters of certain Vietnamese freedom fighters who served in the United States Armed Forces on behalf of the United States; H.R. 1840, to extend eligibility for nonimmigrant spouses of treaty traders and treaty investors; H.R. 2278, To provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors; H.R. 861, To make technical amendments to section 10 of title 9, United States Code; H.R. 2048, To require a report on the operations of the United States. Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, December 13, 2001, at 3 p.m., to hold a hearing titled, “The Campaign Against Terrorism.”

Agenda

Witnesses

Panel 1: The Honorable Elizabeth Jones, Assistant Secretary for European and Eurasian Affairs, U.S. State Department, Washington, DC. Additional witnesses to be announced.

Panel 2: Witnesses to be announced. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet Thursday, December 13, 2001, at 9 a.m., to conduct a markup on Thursday, December 13, 2001, at 3 p.m., to hold a hearing entitled, “Riding the Rails: How Secure is our Passenger and Transit Infrastructure?” The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet a conduct a markup on Thursday, December 13, 2001, at 10 a.m. in Dirksen Room 226.

Tentative Agenda

Nominations: Callie V. Granade to be U.S. District Court Judge for the Southern District of Alabama; Marcia S. Kriger to be U.S. District Court Judge for the District of Colorado; James C. Mahan to be U.S. District Court Judge for the District of Nevada; Philip R. Martinez to be U.S. District Court Judge for the Western District of Texas; C. Ashley Royal to be U.S. District Court Judge for the Middle District of Georgia; Michael Battle, to be U.S. attorney for the Western District of New York; Christopher J. Christie, to be U.S. attorney for the District of New Jersey; Harry E. Cummings, to be U.S. attorney, for the Eastern District of Arizona; David Preston York, to be U.S. attorney, for the Southern District of Alabama; Mauricio J. Tamargo to be Chair of the Foreign Claims Settlement Commission of the United States.

Bills: S. 1174, Children’s Confinement Improvement Act of 2001 [Leahy/Hatch/Kennedy]; H.R. 1892, Family Sponsor Immigration Act of 2001; H.R. 2277, To provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors; H.R. 2278, To provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States; H.R. 1840, to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees; H.R. 861, To make technical amendments to section 10 of title 9, United States Code; H.R. 2048, To require a report on the operations of the State Justice Institute. Resolutions: S.J. Res. 8, A joint resolution designating 2002 as the “Year of the Rose” [Landrieu/Breaux/Lincoln/Bayh/Feinstein]; S.J. Res. 13, A joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette [Warner/Allen/Kerry/Breaux/Helms/Sessions/Roberts/Jeffords/Inhofe/Leahy]. The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet to conduct a closed business meeting on Thursday, December 13, 2001, at 3:30 p.m.

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

SUBCOMMITTEE ON STRATEGIC

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 13, 2001, at 10 a.m., in open and closed session to receive testimony on the security of U.S. nuclear weapons and nuclear weapons facilities.

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

SUBCOMMITTEE ON STRATEGIC

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 13, 2001, at 2:30 p.m., in open and closed session to receive testimony on the security of U.S. nuclear weapons and nuclear weapons facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.
The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 86) expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan; and

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the Record.

The concurrent resolution (S. Con. Res. 86) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

(2) Afghan women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan; and

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that:

(1) a portion of the humanitarian assistance provided to Afghanistan should be targeted to Afghan women and their organizations;

(2) Afghan women from all ethnic groups in Afghanistan should be permitted to participate in the economic and political reconstruction of Afghanistan; and

(3) any constitution or legal structure of a reconstructed Afghanistan should guarantee the human and political rights of Afghan women.

The legislative clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2873) to extend and amend the program entitled Promoting Safe and Stable Families Amendments under title IV-E of the Social Security Act, and to provide new authority to support programs for mentoring children of incarcerated parents; to amend the Foster Care Independent Living Program under title IV-E of that Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the Record.

The concurrent resolution (S. Con. Res. 86) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas until 1996 women in Afghanistan enjoyed the right to be educated, work, vote, and hold elective office; and

Whereas women served on the committee that drafted the Constitution of Afghanistan in 1964; and

Whereas during the 1970s women were appointed to the Afghan ministries of education, health, and law; and

Whereas in 1977 women comprised more than 15 percent of the Loya Jirga, the Afghan national legislative assembly; and

Whereas in 1996 the Taliban stripped the women of Afghanistan of their most basic human and political rights; and

Whereas under Taliban rule women have become one of the most vulnerable groups in Afghanistan, accounting for 75 percent or more of all Afghan refugees; and

Whereas a study conducted by Physicians for Human Rights and released in May 2001 indicates that more than 90 percent of Afghan men and women believe that women should have the right to receive an education, work, freely express themselves, enjoy legal protections, and participate in the government; and

Whereas restoring the human and political rights that were once enjoyed by Afghan women is essential to the long-term stability of a reconstructed Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a portion of the humanitarian assistance provided to Afghanistan should be targeted to Afghan women and their organizations;

(2) Afghan women from all ethnic groups in Afghanistan should be permitted to participate in the economic and political reconstruction of Afghanistan; and

(3) any constitution or legal structure of a reconstructed Afghanistan should guarantee the human and political rights of Afghan women.

PROMOTING SAFE AND STABLE FAMILIES AMENDMENTS OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 227, H.R. 2873.

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

The concurrent resolution (S. Con. Res. 86) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas in 1964 women comprised more than 15 percent of the Loya Jirga, the Afghan national legislative assembly; and

Whereas during the war with the Soviet Union as many as 70 percent of the teachers, nurses, doctors, and small business owners in Afghanistan were women; and

Whereas in 1996 the Taliban stripped the women of Afghanistan of their most basic human and political rights; and

Whereas under Taliban rule women have become one of the most vulnerable groups in Afghanistan, accounting for 75 percent or more of all Afghan refugees; and

Whereas a study conducted by Physicians for Human Rights and released in May 2001 indicates that more than 90 percent of Afghan men and women believe that women should have the right to receive an education, work, freely express themselves, enjoy legal protections, and participate in the government; and

Whereas restoring the human and political rights that were once enjoyed by Afghan women is essential to the long-term stability of a reconstructed Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a portion of the humanitarian assistance provided to Afghanistan should be targeted to Afghan women and their organizations;

(2) Afghan women from all ethnic groups in Afghanistan should be permitted to participate in the economic and political reconstruction of Afghanistan; and

(3) any constitution or legal structure of a reconstructed Afghanistan should guarantee the human and political rights of Afghan women.

PROMOTING SAFE AND STABLE FAMILIES AMENDMENTS OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 227, H.R. 2873.
committed to this, and hope that this important step forward will help build the good will and bipartisanship necessary to deliver on all of our long-term goals in the years ahead.

I want to especially thank my primary cosponsor, Senator Mike Enzi, who is a passionate leader on adoption and child welfare reform for many years. Senator DeWine was a leader in 1997 on improving the reasonable efforts standards to ensure that a child’s health, safety, and need for a permanent home are priorities. This change and others have helped reform the system and dramatically increase adoptions.

I also want to thank and recognize the strong bipartisan support from all of my Senate colleagues for our original bill, including Senators Bingaman, Bond, Breaux, Chafee, Collins, Craig, DeWine, Graham, Johnson, Kerry, Landrieu, Levin, Lieberman, Lincoln, and Snowe.

In West Virginia, adoptions are increasing, thanks to both the reforms set in 1997 under the Adoption and Safe Families Act, and the new investments. My state needs increased funding to help develop local community-based systems, so our children can get the needed services in their own communities and not be sent out-of-state, away from family, friends and familiar schools. I am proud of my State for its improvement, but we all understand much more must be done, in West Virginia and nationwide, for these vulnerable children who depend on our efforts.

Today’s action provides a good foundation, but we must continue working in a bipartisan manner to build upon today’s action, and achieve all of the goals we share.

Mr. BAUCUS. Mr. President, I rise in support of the Promoting Safe and Stable Families Amendments of 2001. This legislation expresses our support for state efforts to reunify troubled families and to promote the adoption of children in foster care who are unable to return to their birth homes. It also authorizes additional educational assistance to former foster children in the Independent Living program.

Abused and neglected children are among the most vulnerable of all the members of our society—it is important that we continue to look after their needs.

This proposal mirrors that made by the President. I thank him for his interest in this issue. It is an important part of being a compassionate leader, ensuring that federal efforts to assist abused and neglected children continue. It also contains a new proposal offered by the President, authorizing a new grant program to mentor the children of prisoners, a particularly disadvantaged group. I commend him for that idea.

Mr. LEVIN. Mr. President, I ask unanimous consent the bill be read the third time, passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2873) was read the third time and passed.

THE USE OF TRUST LAND AND RESOURCES OF THE CONFEDERATE TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 483, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 483) regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD at the appropriate place as if read.

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

The bill (H.R. 483) was read the third time and passed.

HONORING THE NATIONAL GUARD ON THE OCCASION OF ITS 365TH ANNIVERSARY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 93, submitted earlier today by Senators LEVIN, WARNER, and others.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 93) recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEVIN. Mr. President, I am privileged today to introduce a concurrent resolution recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony.

This resolution is cosponsored by all members of the Armed Services Committee, the Majority Leader, Senator Daschle, the Republican Leader, Senator Lott, the co-chairs of the U.S. Senator National Guard Caucus, Senators Leahy and Bond, and Senator Rockefeller. I invite all other members to join with me in cosponsoring this concurrent resolution.

It is significant that we appropriately recognize the 365th anniversary of the National Guard, which serves our Nation 365 days a year. National Guardsmen respond to every crisis that affects American citizens, from natural disasters to terrorist attacks.

As one of the Members of Congress who visited the ruins of the World Trade Center just before the September 11th attacks, I will never forget that Guardsmen were among the first to respond. More than 4,000 Army National Guardsmen from New York rushed to lower Manhattan to help to remove debris, rescue victims, treat the injured, and provide security. Today, National Guard personnel are flying combat patrols over American cities; they are providing security at our nation’s airports, and they even provide security for us here on Capitol Hill. Today, in our own backyard, they stand guard at crossings along the Canadian border.

These citizen soldiers and airmen are indispensable to our Nation’s security and to U.S. military operations. They have fought in every major American conflict since the colonial wars of the 17th century, and they are an integral part of all of our ongoing military operations today.

I know my colleagues join me in recognizing the many achievements of the National Guard on this historic day.

Mr. WARNER. Mr. President, I am delighted to join Chairman LEVIN and others in cosponsoring this resolution to honor the National Guard on the occasion of its 365th anniversary.

The men and women of today’s National Guard have inherited a proud tradition of military service dating back to colonial days and extending throughout this Nation’s history. Today, they are upholding our support for this tradition. National Guard units are integrally involved in military operations in Bosnia, over Iraq, and against the al Qaeda terrorist network and the Taliban regime in Afghanistan. Our citizen soldiers and airmen are diligently performing their homeland security mission as part of Operation Noble Eagle. This service includes augmenting airport security operations at Virginia’s nine commercial service airports.

No element of the National Guard has a prouder, more distinguished record of service that that of the Virginia National Guard. I need only mention the 29th Infantry Division and its superb service in the D-Day invasion at Normandy. In seven minutes that awful day, one company of that Division’s 116th Infantry Regiment lost 96 percent of its fighting force. Twenty-six Bedford, Virginia, men went ashore. Nineteen were killed, including the company commander and first sergeant. Today, Guardsmen of that same unit are leading the U.S. sector’s multinational Stabilization Force in Tuzla,
Mr. DAYTON. Mr. President, I rise today to acknowledge the 365th anniversary of a true American institution: The National Guard. Now, perhaps more than ever, it is fitting to pay a special anniversary tribute to our citizen-soldiers, the oldest of America’s armed forces.

The National Guard dates back to the first Americans. Responsible for their own defense, the colonists drew on English military tradition and organized their able-bodied male citizens into militias. These early colonial militias protected citizens from Indian attacks, foreign adversaries and eventually successfully waged our Nation’s war for independence. Following independence, the framers of the Constitution empowered Congress to “provide for organizing, arming, and disciplining the militia.” Thus commenced the historic dual role of the National Guard as a state and a Federal force.

My home State of Minnesota formed a Territorial Enrolled Militia in 1850, and in April 1856 the first uniformed, volunteer company was formed in St. Paul. Called the Minnesota Pioneer Guard, it was a source of pride and inspired the subsequent formation of nine sister companies in St. Paul, St. Anthony, Minneapolis, and in river towns from Stillwater to Winona. From these roots grew the Minnesota National Guard on which we depend so greatly. Each State has a similar, distinguished inspirational story.

Throughout the 19th Century, the size of the regular U.S. Army was small. The militia provided the bulk of the troops in the Mexican War, the early months of the Civil War, and the Spanish-American War. The National Guard comprised 40 percent of American troops deployed in France during World War I. In World War II, National Guard units were among the first to deploy overseas and the first to fight. Following World War II, National Guard aviation units, some of them dating back to World War I, because the Air National Guard, the Nation’s newest Reserve component. September 11 ushered in a new chapter in the storied history of our heroes in the National Guard. We called on them to secure our Nations’ most vital infrastructure from terrorists committed to evil and violence. They did not hesitate to leave their jobs and families to answer the call to protect the American freedoms we hold so dear.

Today the National Guard continues to provide the States’ trained and ready units equipped to protect life and property at home. And it stands ready to defend the United States and its interests all over the globe. Whether called upon by governor or President, from the villages of Bosnia, to the terminals of our own Minneapolis-St. Paul International Airport, our co-workers and neighbors in the National Guard continue to answer the call to defend freedom.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the Record.

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

The concurrent resolution (S. Con. Res. 93) was agreed to.

The preamble was agreed to.

Mr. REID. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1291).

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Mr. Speaker:

That the House agree to the amendment of the Senate to the bill (H.R. 1291) entitled “An Act to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill,” with the following House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Veterans Education and Benefits Expansion Act of 2001.”

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.
Sec. 102. Increase in rates of survivors’ and dependents’ educational assistance.
Sec. 103. Restoration of certain education benefits of individuals being ordered to active duty.
Sec. 104. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.

Sec. 105. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.
Sec. 106. Increase in maximum allowable annual Senator ROTC educational assistance for eligibility for benefits under the Montgomery GI Bill.
Sec. 107. Expansion of work-study opportunities.
Sec. 108. Eligibility for survivors’ and dependents’ educational assistance of spouses and surviving spouses of veterans with total service-connected disabilities.
Sec. 109. Expansion of special restorative training benefit to certain disabled spouses or surviving spouses.
Sec. 110. Inclusion of certain private technology entities in definition of educational institution.

Sec. 111. Distance education.

TITLE II—COMPENSATION AND PENSION PROVISIONS

Sec. 201. Modification and extension of authorizations on presumption of service connection for herbicide-related disabilities of Vietnam veterans.
Sec. 203. Preservation of service connection for undiagnosed illnesses to provide for participation in research projects by Persian Gulf War veterans.
Sec. 204. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.
Sec. 205. Extension of round-down requirement for compensation cost-of-living adjustments.
Sec. 206. Expansion of presumptions of permanent and total disability for veterans applying for nonservice-connected pension.
Sec. 207. Eligibility of veterans 65 years of age or older for veterans’ pension benefits.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

Sec. 301. Authority to establish overseas veterans assistance offices to expand transition assistance.
Sec. 302. Timing of preseparation counseling.
Sec. 303. Improvements in training outreach services for separating servicemembers and veterans.
Sec. 304. Improvement of veterans outreach programs.

TITLE IV—HOUSING MATTERS

Sec. 401. Increase in home loan guaranty amount for construction and purchase of homes.
Sec. 402. Native American veteran housing loan pilot program.
Sec. 403. Modification of loan assumption notice requirement.
Sec. 404. Increase in assistance amount for specially adapted housing.
Sec. 405. Extension of other housing authorities.
Sec. 406. Clarifying amendment relating to eligibility of members of the Selected Reserve for housing loans.

TITLE V—OTHER MATTERS

Sec. 501. Increase in burial benefits.
Sec. 502. Government markers for marked graves at private cemeteries.
Sec. 503. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans.
Sec. 504. Extension of limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 505. Prohibition on provision of certain benefits with respect to persons who are fugitive felons.

Sec. 506. Limitation on payment of compensation for veterans remaining incarcerated since October 7, 1980.

Sec. 507. Elimination of requirement for providing a copy of notice of appeal to the Secretary of Veterans Affairs.

Sec. 508. Increase in fiscal year limitation on number of veterans in programs of institutional living services and assistance.

Sec. 509. Technical and clerical amendments.

TITe 6—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Sec. 601. Facilitation of staggered terms of judges through temporary expansion of the Court.

Sec. 602. Repeal of requirement for written notice regarding acceptance of reappointment as condition to reappointment from the Court.

Sec. 603. Termination of notice of disagreement as jurisdictional requirement for the Court.

Sec. 604. Registration fees.

Sec. 605. Administrative authorities.

Sec. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITe 7—EDUCATIONAL ASSISTANCE PROVISIONS

SEC. 101. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER UNITED STATES GI BILL FOR VETERANS CLAIMS

(a) IN GENERAL.—(1) Paragraph (1) of section 3015(a) is amended to read as follows:

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

(A) for months beginning on or after January 1, 2002, $600; and

(B) for months occurring during fiscal year 2003, $630; and

(C) for months occurring during fiscal year 2004, $675; and

(2) For months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (b); or

(2) Paragraph (1) of section 3015(b) is amended to read as follows:

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

(A) for months beginning on or after January 1, 2002, $650; and

(B) for months occurring during fiscal year 2003, $672; and

(C) for months occurring during fiscal year 2004, $700; and

(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (b); or

(b) CPI ADJUSTMENT.—No adjustment in rates of educational assistance shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2003 and 2004.

SEC. 102. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3522 is amended—

(1) in subsection (a)(1)—

(A) by striking "$588" and inserting "$670"; and

(B) by striking "$441" and inserting "$503"; and

(C) by striking "$294" and inserting "$335";

(2) in subsection (a)(2), by striking "$588" and inserting "$670";

(3) in subsection (b), by striking "$588" and inserting "$670"; and

(4) in subsection (c)—

(A) by striking "$475" and inserting "$541";

(B) by striking "$356" and inserting "$406"; and

(C) by striking "$238" and inserting "$271";

(b) CORRESPONDENCE COURSES.—Section 3534(b) is amended by striking "$588" and inserting "$670".

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking "$588" and inserting "$670"; and

(2) by striking "$184" each place it appears and inserting "$210";

(d) APPRENTICESHIP TRAINING.—Section 3670(b)(2) is amended by striking "$428" and inserting "$488";

(e) FOR MONTHS OCCURRING DURING FISCAL YEAR 2003.—Section 3121(a)(6) of this title is amended by striking "2001" and inserting "2003".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 2001.

SEC. 103. RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY.

(a) IN GENERAL.—(1) Paragraph (1) of section 3014A(c) of title 38, United States Code, is amended—

(1) by striking "$271" and inserting "$300"; and

(2) by striking "$271" and inserting ".300".

(2) in subsection (b)(1), by striking "$271" and inserting "$300".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of June 13, 2001.
amount of the established charges for the program of education.

“(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of educational assistance shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding

“(1) the individual’s enrollment in and pursuit of the program of education; and

“(2) the amount of the established charges for the program of education.

“(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the Secretary shall prescribe, determine and define with respect to an eligible educational institution regarding

(1) the individual’s enrollment in and pursuit of the program of education,

(2) the individual’s entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance otherwise payable to the individual under section 3013 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(2) If the monthly rate of basic educational assistance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual’s entitlement to basic educational assistance under this chapter shall be determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under section 3680(d) of this title for the same enrollment period.

(h) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under section 3680(d) of this title for the same enrollment period.

(i)(1) The Secretary may not make an accelerated payment under this section for a program of educational assistance for an individual who has received an advance payment under section 3680(d) of this title for the same enrollment period.

(ii) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under section 3680(d) of this title for the same enrollment period.

(ii) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under section 3680(d) of this title for the same enrollment period.

(iii) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under section 3680(d) of this title for the same enrollment period.

(j)(1) The Secretary may, pursuant to regulations prescribed by the Secretary, accept, process, and approve an agreement of an individual to perform service in the Armed Forces in exchange for the provision of educational assistance benefits under chapter 30 of title 38, United States Code, including, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

(2) Pursuant to an agreement referred to in subsection (j)(1), the Secretary may determine and define with respect to an eligible educational institution regarding

(1) the individual’s enrollment in and pursuit of the program of education,

(2) the individual’s entitlement to basic educational assistance under this chapter,

(3) the amount of the monthly rate of basic educational assistance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(k) In the case of an individual other than an individual described in paragraph (j), the Secretary may accept the individual’s monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

(l) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual’s enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.

(m) The amendments made by this section shall be in effect on October 1, 2002, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 105. ELIGIBILITY FOR MONTGOMERY GI BILL REIMBURSEMENT OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.

(a) Active Duty Program.—Section 3011(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A); and

(2) by adding “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(C) as of December 31, 1989, was eligible for educational assistance benefits under chapter 34 of title 38, United States Code.

(b) Effective Date.—The amendments made by this section shall take effect October 1, 2002, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 106. INCREASE IN MAXIMUM ALLOWABLE ANNUAL SUBVENTION FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL.

(a) In General.—Sections 3011(c)(1)(B) and 3012(d)(3)(B) are each amended by striking “$2,000” and inserting “$2,400”.

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months beginning after the date of the enactment of this Act.

SEC. 107. EXPANSION OF WORK-STUDY OPPORTUNITIES.

(a) Five-Year Expansion of Qualifying Work-Study Activities.—Subsection (a) of section 3485 is amended to read as follows:

“(1) Individuals who have the authority of subsection (b) shall be paid an additional educational assistance allowance (hereinafter in this section referred to as ‘work-study allow-

ance’) during the five-year period beginning on the date of an individual’s entering into an agreement described in paragraph (3).

“(2) Such work-study allowance shall be paid in an amount equal to the product of—

“(A) the applicable hourly minimum wage; and

“(B) the number of hours worked during the applicable period.

“(3) An agreement described in this paragraph is an agreement of an individual to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with a qualifying work-study activity.

“(4) For the purposes of this section, the term ‘qualifying work-study activity’ means any of the following:

“(A) The outreach services program under subchapter II of chapter 77 of this title as car-

ried out under the supervision of an appointed employee or, during the five-year period begin-

ning on the date of the enactment of the Vet-

erans Education and Benefits Expansion Act of 2001, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

“(B) The preparation and processing of neces-

sary papers and other documents at edu-

cational institutions or regional offices or facili-

ties of the Department.

“(C) The provision of hospital and domiciliary care for medical treatment of a major nature under chapter 17 of this title, including, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

“(D) Any other activity of the Department as the Secretary determines appropriate.

“(E) In the case of an individual who is re-

ceiving educational assistance under chapter 30 for less than four continuous months in the Selected Reserve during a period during which the individual participates satisfactorily in training as prescribed by the Secretary,

“(f) During the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, an
activity relating to the administration of a national cemetery or a State veterans' cemetery. 

(5) An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual agreeing to perform at least 20 hours of work specified in the agreement (but not more than an amount equal to 30 times the applicable hourly minimum wage).

(b) The provisions of this subsection and subsection (e), the term 'applicable hourly minimum wages' means—

(A) the hourly minimum wage under subsection (a) of this Act; or

(B) the hourly minimum wage under comparable State law which is in effect in the State in which the work is to be performed, if such wage is higher than the wage referred to in subparagraph (A) and the Secretary has made a determination to pay such higher wage.

(b)(2) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 108. ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE FROM VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES.

(a) DESIGNATION OF ELIGIBILITY.—Section 3501(a)(1)(D) is amended—

(1) by inserting after "(D)"; and

(2) by inserting "(ii)" after "or".

(b) RESTATEMENT AND EXPANSION OF USE OF ELIGIBILITY.—(1) Section 3512 is amended by adding at the end the following new subsection:

(c) Any entitlement used by an eligible person under section 3501(a)(1)(A)(ii) or (iii), or 3501(a)(1)(D)(ii) of this title shall be deducted from any entitlement to which such person may subsequently be entitled under this chapter.

(2) Section 3512 is amended by striking subsection (q).

(d) DELIMITING PERIOD.—(1) Section 3512(a)(1) is amended by adding at the end the following new sentence: "In no event may the aggregate educational assistance afforded to a spouse made eligible under both 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii) of this title exceed 45 months."

(2) Paragraph (1) of section 3512(b) is amended to read as follows:

'(1)(A) Except as provided in subparagraph (B), a person made eligible by subparagraph (B) or (D) of section 3501(a)(1) of this title may be afforded educational assistance under this chapter during the 10-year period beginning on the date (as determined by the Secretary) the person becomes an eligible person within the meaning of section 3501(a)(1)(B), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title. In the case of a surviving spouse made eligible by clause (ii) of section 3501(a)(1)(D) of this title, the 10-year period may not be reduced by any earlier period during which the person was eligible for educational assistance under this chapter as a spouse made eligible by clause (i) of that section.

'(B) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph may, subject to the Secretary's approval, elect a later beginning date for the 10-year period than would otherwise be applicable to the person under that subparagraph. The beginning date so elected may be any date between the beginning date of the person under subparagraph (A) and whichever of the following dates applies:

(i) the date on which the Secretary notifies the veteran from whom eligibility is derived that the veteran has a service-connected total disability permanent in nature;

(ii) the date at which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability; or

(iii) the date on which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability.

(3) Section 3512(b) is further amended by striking paragraph (3).

(4) The amendments made by this subsection shall apply with respect to any determination (whether administrative or judicial) of the eligibility of an eligible person for educational assistance under section 1335 of title 38, United States Code, made on or after the date of the enactment of this Act, whether pursuant to an original claim or pursuant to a reopening of the claim or in response to a reapplication or attempt to reopen or rejudicate a claim for such assistance.

SEC. 109. EXPANSION OF SPECIAL RESTORATIVE TRAINING PROGRAM FOR CERTIFIED UNDERSERVICE SPouses OR SURVIVING SPOUSES.

(a) In GENERAL.—Section 3450 is amended by striking "as determined by the Secretary" and inserting "as so determined by the Secretary".

(b) PROVISIONS APPLICABLE TO CERTIFIED UNDERSERVICE SPouses OR SURVIVING SPOUSES.

(a) In GENERAL.—Section 3450 is amended by striking "as determined by the Secretary" and inserting "as so determined by the Secretary".

(b) CONFORMING AMENDMENTS.—(1) Section 3451(a)(1) is amended in the matter preceding paragraph (1) by striking "of the parent or guardian".

(2) Section 3452(a) is amended—

(A) by striking "the parent or guardian shall be entitled to receive on behalf of such person" and inserting "the eligible person shall be entitled to receive"; and

(B) by striking "upon election by the parent or guardian of the eligible person" and inserting "upon election by the eligible person".

(3) The second sentence of section 3453(a) is amended by striking "the parent or guardian for the training provided to an eligible person" and inserting "for the training provided to the eligible person".

(4) Section 3453 is amended by adding at the end the following new subsection:

(1)(A) Subparagraph (F) of subsection (a) of this section is amended by striking "as so determined by the Secretary" and inserting "as so determined by the Secretary, as transferred and redesignated by subsection (f);"

(2) (B) in subsection (f), as transferred and redesignated by subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act.

SEC. 111. DISTANCE EDUCATION.

(a) IN GENERAL.—Sections 3452(c) and 3501(a)(6) are each amended by adding at the end the following:

"(x) the Secretary shall make provisions for programs, courses or training that are offered, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in courses beginning on or after the date of the enactment of this Act.

SEC. 112. SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—Section 3452(c) is further amended by adding at the end the following:

"(x) the Secretary shall make provisions for programs, courses or training that are offered, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in courses beginning on or after the date of the enactment of this Act.
herbicide agent, including a presumption of service-connection under this section, a veteran; and (ii) by striking ‘‘and has a disease referred to in paragraph (10) of this subsection’’.

(2)(A) The heading of that section is amended to read as follows: ‘‘§1116. Presumptions of service connection for certain Manitowoc, exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam’’.

(B) The item relating to that section in the table of sections at the beginning of chapter 11 is amended by inserting after ‘‘1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam’’.]

(d) EXTENSION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Subsection (e) of such section is amended by striking ‘‘10 years’’ and all that follows through ‘‘Agent Orange Act of 1991’’ and inserting ‘‘September 30, 2015’’.

(2) Section 3(i) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking ‘‘10 years’’ and all that follows through ‘‘of 1998’’ and inserting ‘‘September 30, 2011’’.

202. PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY PERSIAN GULF VETERANS. (a) AUTHORITY FOR SECRETARY TO PROVIDE FOR PARTICIPATION WITHOUT LOSS OF BENEFITS.—Section 1521 of such chapter is amended by inserting after subsection (a), as added by section 202(b), the following new subsection: ‘‘(h)(1) If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under any other provision of law for disability of a veteran who participated in the research project may not be terminated. Except as provided in paragraph (2), notwithstanding any other provision of law any grant of service connection protected under this subsection shall remain service-connected for purposes of all provisions of law under this title.

(2) Paragraph (1) does not apply in a case in which—

(A) the original award of compensation or service connection was based on fraud; or

(B) it is clearly established by independent records that the person concerned did not have the requisite service or character of discharge.

(3) The Secretary shall publish in the Federal Register a notice of research projects sponsored by the Department for which service connection granted under this section or section 1118 of this title may not be terminated pursuant to paragraph (1).

(b) EFFECTIVE DATE.—The authority provided by subsection (b) of section 1118 of title 38, United States Code, as added by subsection (a), may be used by the Secretary of Veterans Affairs with respect to any medical research project of the Department of Veterans Affairs, whether conducted on or, after the date of the enactment of this Act.

204. REPEAL OF LIMITATION ON PAYMENTS TO INCOMPETENT VETERANS. (a) REPEAL.—Section 5503 is amended by striking ‘‘10 years’’ and all that follows through ‘‘of 1992’’ and inserting ‘‘of 1998’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 17, 2001.

205. EXTENSION OF ROUND-DOWN REQUIREMENT FOR INCOMPETENT VETERANS. (a) IN GENERAL.—Section 1521(f)(1) is amended by inserting after section 1513 the following new subsection: ‘‘(1) The Secretary may round down the amount of the pension paid under that section (as prescribed in subsection (g)) to the nearest thousand dollars.’’

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 17, 2001.

206. EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NON-SERVICE-CONNECTED PENSION. (a) IN GENERAL.—Section 1520(a)(1) is amended by striking ‘‘such person’’ and all that follows through the end of the subsection and inserting the following: ‘‘such person is any of the following:’’

(1) A patient in a nursing home for long-term care because of disability reasonably certain to continue throughout the life of the person.

(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.

(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 17, 2001.

207. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS’ PENSION BENEFITS. (a) IN GENERAL.—(1) Subchapter II of chapter 15 is amended by inserting after section 1512 the following new section:

1513. Veterans 65 years of age and older. ‘‘(a) The Secretary shall pay to each veteran of a period of war who is 65 years of age or older who meets the service requirements of section 1521 of this title (as prescribed in subsection (i)) of that section and the service connection rates or conditions prescribed by section 1521 of this title and under the conditions (other than the permanent and total disability requirement) applicable to pension paid under that section.

(b) If a veteran is eligible for pension under both this section and section 1521 of this title, pension shall be paid to the veteran only under section 1521 of this title.’’

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 17, 2001.

TITLe III—TRANSITION AND OUTREACH PROVISIONS

SEC. 301. AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE. Section 7723(a) is amended by inserting after the first sentence the following new sentence: ‘‘The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense, determines to be necessary to carry out such purposes.’’

SEC. 302. TIMING OF PREPARATION COUNSELING. (a) IN GENERAL.—(1) The first sentence of section 1142(a)(1) of title 10, United States Code, is amended to read as follows: ‘‘Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preparation counseling of each member of the armed forces
three months after the date of such applica-
tion.

(3) The amendments made by paragraph (1) of section 3762(a)(1) shall apply to deaths occurring on or after September 30, 2009.

SEC. 304. IMPROVEMENT OF VETERANS OUT-REACH PROGRAMS.

Section 727(c)(1) is amended—

(c) by adding “or” at the end of the second sentence of paragraph (3) of section 727(c)(1); and

(d) by adding that part of section 727(c)(2)(E) after “The Secretary...”.

SEC. 401. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 7103(a)(1) is amended by striking “$5,700” and inserting “$5,700.10”.

TITLE V—OTHER MATTERS

SEC. 501. INCREASE IN BURIAL BENEFITS.

(a) BURIAL AND FUNERAL EXPENSES.—(1) Clause (1) of section 2301 is amended by striking “$1,500” and inserting “$2,000”.

(b) PLOT ALLOWANCE.—(1) Section 2303 is amended by striking “$150” and inserting “$200”.

(c) The amendments made by paragraph (1) shall apply to burials occurring on or after September 11, 2001.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to deaths occurring on or after September 30, 2007.

SEC. 502. GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES.

(a) GOVERNMENT MARKERS.—Section 2396 of title 38, United States Code, is amended—

(c) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(d) by inserting after subsection (c) the following new subsection (d):—

(1) The Secretary shall furnish, when requested, an appropriate government marker at the expense of the United States for the grave of an individual described in subparagraph (A) if the individual is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense, if the Secretary determines that such a marker furnished only if the individual making the request for the government marker certifies to the Secretary that the marker will be placed on the grave for which the marker is requested.

(2) Any marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located.

(3) The authority to furnish a marker under this subsection expires on December 31, 2006.

(4) Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

(1) The rate of use of the benefit under this subsection, shown by fiscal year.

(2) An assessment of the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on graves sites consistent with the provisions of this subsection.

(3) The Secretary’s recommendation for extension or repeal of the expiration date specified in paragraph (3).

(b) DESIGN OF MARKER.—Section 2396(c) is further amended by striking “subsection (a) or (b)” and inserting “subsection (a), (b), or (c)”.

(c) CROSS REFERENCE CORRECTION.—Section 2396(d) of such section is amended by striking “subsection 67” and inserting “subsection 127”.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to the issuance of government markers or government markers furnished under this subsection.

SEC. 503. INCREASE IN AMOUNT OF ASSISTANCE FOR HOME CARE.

Section 2303 is amended by striking “$8,000” and inserting “$9,000”.

SEC. 504. EXTENSION OF LIMITATION ON PEN-SONSHIP FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Paragraph (7) of subsection (d) of section 5503, as redesignated by section 204(a), is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

SEC. 505. PROHIBITION ON PROVISION OF CERTAIN BENEFITS WITH RESPECT TO PERSONS WHO ARE FUGITIVE FEL-ONS.

(a) PROHIBITION.—(1) Chapter 53 is amended by inserting after section 5313A the following new section:

“§5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons.

(1) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon.

(2) For purposes of this section:

(A) The term ‘fugitive felon’ means a person who is fugitively eluding the law; and

(B) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense,
SEC. 507. ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS.

(a) REPEAL.—Section 7266 is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking “(1)” after “(a)”; 
(2) by redesignating paragraph (2) as subsection (b); 
(3) by redesignating paragraph (3) as subsection (c) and redesignating subparagraphs (A) and (B) thereof as paragraphs (1) and (2); and 
(4) by redesignating paragraph (4) as subsection (d) and by striking “paragraph (3)(B)” therein and inserting “subsection (c)(2)”.

SEC. 508. INCREASE IN FISCAL YEAR LIMITATION ON TRANSFERS TO VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) INCREASE.—Section 610C of title 38, United States Code, as added by subsection (a), is amended by striking “five hundred” and inserting “2,500”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 30, 2001.

SEC. 509. TECHNICAL AND CLERICAL AMENDMENTS.

(a) REPEAL OF PROVISION EXPRESSED AS A LIMITATION.—Section 1720B(c)(2)(B) is amended by inserting “on” before “November” and in subsection (c) by striking “TERM OF OFFICE.” before “Term”.

(b) CORRECTION OF WORD OMISSION.—Section 1709(c)(2) is amended by striking “an” at the end of sub-paragraph (b).

(c) CORRECTION OF CROSS REFERENCE.—Section 1709(a)(5) is amended by striking “1610” and inserting “1611”.

(d) STYLISTIC CORRECTION.—Section 1001(a)(2) of the Veterans Benefits Improvements Act of 1994 (Public Law 103–354; 117 Stat. 1335) is further amended by striking “on” and inserting “as part of the”.

(e) STYLISTIC AMENDMENT.—That section is further amended—

(1) in subsection (b), by inserting “APPOINT-” before “the judge”;

(2) in subsection (f), by striking “((f)(1))” and inserting “(f)(1)”; and

(3) in subsection (h), by striking “((h)(1))” and inserting “(h)(1)”.

SEC. 602. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT.

Section 7296(b)(2) is amended by striking the second sentence.

SEC. 603. TERMINATION OF NOTICE OF DISAPPROVAL AGREEMENT AS CONDITIONAL REQUIREMENT FOR THE COURT.


(b) ATTORNEY FEES.—Section 403 of the Veterans’ Judicial Review Act (102 Stat. 1042; 38 U.S.C. 7266 note) is repealed.

(c) CONSTRUCTION.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) APPLICABILITY.—The repeals made by subsections (a) and (b) shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

(1) on or after the date of the enactment of this Act; or

(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 604. REGISTRATION FEES.

(a) FEES FOR COURT-Sponsored ACTIVITIES.—Subsection (a) of section 7285 is amended by adding the end the following new sentence: “The Court may also impose a registration fee on persons (other than judges of the Court) participating in judicial conferences convened pursuant to section 7296 of this title or in any other court-sponsored activity.”.

(b) USE OF FEES.—Subsection (b) of such section is amended by striking “(1)” and all that follows through the period and inserting “for the following purposes:”
I am very pleased that the compromise bill, in section 101, will increase the MGIB basic monthly benefit to $800 per month beginning in January 2002, $900 in 2002, and $985 in 2003. I am even more proud that H.R. 1291 also takes the next step to keep pace with the education needed for success in high-technology fields. As our colleagues know, many servicemembers leave the military with skills that place them in demand for careers in the technology sector. Thus, they may require additional coursework to convert their military skills to civilian careers. Sections 104 and 110 of the committee bill will allow veterans to use their Montgomery GI bill benefits to pay for short-term, high-technology courses that enable veterans to earn the credentials they need to gain entry to lucrative civilian-sector careers.

Currently, the MGIB provides a basic monthly benefit for educational costs. This payment structure is designed to assist veterans pursuing traditional 4-year degrees at universities. However, in today’s fast-paced, high-tech economy, traditional degrees may not always be the best option. Many veterans are pursuing forms of nontraditional training, such as short-term courses that lead to certification in a technical field. In certain fields, these certifications are a prerequisite to employment. These courses, such as Microsoft or Cisco systems training, may be offered through training centers, private contractors, or the companies themselves. They often last just a few weeks or months, and can cost many thousands of dollars. The way MGIB is paid out in monthly disbursements is not suited to this course structure. For example, MGIB would pay less than $1,400 for a 2-month course that could cost as much as $10,000.

The percentage of veterans who actually use the MGIB benefits they have earned and paid for is startlingly low. 45 percent of eligible veterans, according to VA’s Program Evaluation of the Montgomery GI bill published in April 2000, despite almost full enrollment in the program by servicemembers. By increasing the flexibility of the MGIB program, we will permit more veterans to take advantage of these benefits. This legislation gives veterans the right to choose the kind of educational programs that best fit them. This legislation will modify the payment method to accommodate the compressed schedule of these courses. Specifically, section 104 allows veterans to receive an accelerated payment equal to 60 percent of the cost of the program. This is comparable to VA’s MGIB benefit for flight training, for which VA reimburses 60 percent of the costs. The dollar value of the accelerated payment would then be deducted from the veteran’s remaining entitlement. Section 110 allows courses offered by these providers to be covered by MGIB.

I am extremely proud that section 103 of this legislation will restore educational and vocational rehabilitation and training benefits for servicemembers and reservists who must leave their course of study to serve on active duty, such as military members called away to serve in connection with the current National Emergency declared in response to the events of September 11, 2001. This provision will amend a provision that restricts entitlements for servicemembers and reservists called to active duty for the Persian Gulf War. In 1997, Congress similarly expanded educational benefits restoration for the Selected Reserve Program. Section 102 will increase the Dependents’ Educational Allowance, DEA, for dependents and eligible spouses of veterans. Congress created this educational program in 1968 to provide educational opportunities to children whose education would be impaired or interrupted because of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces. In addition, surviving spouses of veterans who do not remarry are generally eligible for the educational allowance. Congress has assisted them in preparing to support themselves and their families at the standard-of-living level that the veteran could have been expected to provide for his or her family but for the service-connected disability or death of a parent.

DEA is available for full-time, three-quarter time or half-time attendance at an institution of higher learning, for students taking correspondence courses, pursuing special private training, or apprenticeship training. The increase in DEA for full-time students would be to $670 from $608 on January 1, 2002, with no cost-of-living adjustment that year. The allowance for a three-quarter time student would increase to $503 from $456, and the allowance for half-time pursuit would increase to $335 from $304.

As many of my colleagues remember, questions about the long-term consequences of exposure to Agent Orange arose during the Vietnam War. Decades later, veterans of that war still await clear answers. A series of ongoing reviews by the National Academy of Sciences has helped to provide some of those answers, such as the potential link between exposure to chemicals in Agent Orange and respiratory cancers. The legislation before us would continue these scientific reviews, and extend the Secretary of Veterans Affairs’ authority to act upon new scientific evidence.

Currently, Vietnam veterans can claim service-connected benefits for respiratory cancers, but only if those...
cancers are diagnosed within 30 years of their Vietnam service. Section 201 would remove that time limit, which the last scientific review preliminarily found to be without clear basis. However, to ensure that this decision is based upon sound science, the provision also allows the Secretary to request a scientific review by NAS specifically addressing whether a time limit on manifestation of respiratory cancers is warranted, and to impose such a limit if supported by scientific findings. Should the Secretary’s request result in a finding of a more restrictive latency period for manifestation of these respiratory cancers, the compromise agreement would ensure that the families and survivors of these veterans remain eligible for VA benefits. Finally, this bill also restores VA presumption, eliminated by a Court decision, that all in-country Vietnam veterans were exposed to Agent Orange.

Following the Gulf War, returning troops began to report a range of unexplained illnesses that many attributed to their service, but that could not be linked conclusively to a specific battlefield hazard. In 1994, Congress passed the Persian Gulf War Veterans’ Health Research Act, allowing the Secretary to compensate certain Gulf War veterans disabled by “undiagnosed illnesses” for which no other causes could be identified. The term “undiagnosed illnesses” has been interpreted by VA to preclude any veteran from eligibility who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This legislation would authorize the Secretary to compensate all Gulf War veterans disabled by a “medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms,” such as chronic fatigue syndrome or fibromyalgia. Rather than define Gulf War illnesses, section 202 of this legislation would correct an unfair situation that penalizes Gulf War veterans whose physicians have embraced changes in medical terminology in the past decade.

Since 1993, there has been a prohibition on paying benefits to an incompetent veteran who has no dependents and who has assets of $1,500 or more, if the veteran is being provided institutional health care by the Government. Then, individual veterans’ assets would be institutionalized for years. It was believed that a large estate based on the veteran’s benefits should not be allowed to build up just to pass to the state upon the veteran’s death. Now, treatment modalities have changed and veterans are more likely to cycle in and out of treatment, which results in virtually constant suspension and reinstatement of their benefits.

Last year, in Public Law 106-119, Congress addressed this anomaly in the law. Although we had hoped to fully eliminate the disparate and discriminatory treatment of incompetent veterans, due to cost restraints we were only able to raise the dollar amount of the cutoff to five times the 100 percent compensation rate. I am enormously proud that Section 204 would fully repeal the limitation on payment thereby ending decades of prejudice and discrimination against these veterans.

The House compromise extends and expands home loan programs. As most of our colleagues appreciate, VA does not provide a direct home loan for servicemembers and veterans. Instead, it provides mortgage guarantees. As mortgage lenders should the borrower veteran be unable to meet the payments and go into foreclosure. VA guaranty allows a veteran to buy a home valued at up to four times the guaranty amount. The price of homes in major metropolitan areas has increased significantly in the last several years, yet the VA guaranty amount has not been increased since 1994. VA estimates that during fiscal year 2001, VA will guarantee 250,000 loans for veterans. Section 203 will increase the guaranty amount to $60,000 from the current $50,750, supporting a loan of up to $240,000.

Section 403 will extend for 2 years the authority for housing loan guaranties for military veterans in the Reserve, currently set to expire in 2007. Reservists must serve 6 years in order to become eligible for a VA-guaranteed loan. In order for the home loan to be used as a recruiting incentive now, the benefit would be extended beyond 6 years. It is especially appropriate that we recognize the importance of those who serve in the Selected Reserves as we rely on them yet again, in this time of national crisis.

In conclusion, I want to thank Senator SPECTER and his benefits staff, Bill Tuerk, Jon Towers, and Chris McNamme, for diligently working with me and my benefits staff, Bill Brew, Mary Schoelen, Julie Fischer, Bridget Elder, Baylon McDonald, and Dahlia Melendrez, to craft this legislation during this extraordinary year. As I urge my colleagues to support this vital enhancement to veterans benefits, as has been the case in previous years and is particularly important in light of our country’s current military actions, this truly represents a bipartisan commitment to our Nation’s veterans.

I ask unanimous consent that the Joint Explanatory Statement be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

**Summary of H.R. 1291, Compromise Agreement, the Veterans Education and Benefits Expansion Act of 2001**

The Senate considered S. 1088, as amended, struck the existing text and incorporated it into H.R. 1291, then passed it by unanimous consent on December 7, 2001.

**Education Matters**

Increases the rate of the basic benefit of the Montgomery G.I. Bill (MGB) from the current $672 per month to $800 per month beginning on January 1, 2002; $900 per month on October 1, 2002; and $965 per month on October 1, 2003. Increases the Dependent’s Educational Allowance to $670 from $608 for dependents and spouses of veterans who are totally disabled or who die as a result of a service-connected condition, effective January 2002.

Restores lost educational and vocational rehabilitation benefits for servicemembers and reservists who must leave their course of education to serve on active duty military or to serve in active duty reserve military. Restores the last scientific review preliminary to the current National Emergency. Ensures flexibility in the payment method for MGB to partially pay for short-term/ high tech courses. It would accelerate payment of up to 60 percent of the cost of an approved program that leads to employment in a high technology industry.

**Compensation and Pension Matters**

Removes the arbitrary 30-year limit for manifestation of Agent Orange-related respiratory cancers in Vietnam veterans and tasks the National Academy of Sciences (NAS) to continue reviewing scientific evidence on effects of dioxin or herbicide exposure through October 1, 2014. Extends authority of the VA to presume service connection for additional diseases as based on future NAS reports through September 30, 2015.

Codifies presumption that Type 2 diabetes in Vietnam veterans exposed to Agent Orange is service-connected. Authorizes the Secretary to pay compensation to Gulf War veteran chronically disabled by a diagnosed, but medically unexplained illness whose medical history on the Gulf War veteran was the basis for a VA disability rating of 100 percent, including conditions such as chronic fatigue syndrome.

Allows the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project.

**Housing Matters**

Increases the VA home loan guaranty amount to $60,000 from the current $50,750. The VA guaranty amount has not been increased since 1994.

Extends the Native American veterans housing loan program, which allows loans on tribal lands for four years. Extends the authority for housing loan guaranties for members of the Selected Reserves for two years. Increases the grant for specially adapted housing for severely disabled veterans to $8,000 from $5,000.

**Insurance Matters**

Increases VA burial benefits for service-connected deaths of veterans from $1,500 to $2,000.

Allows VA to furnish a bronze marker to permanently commemorate the service of a veteran on an already marked grave in a private cemetery.

**Explanatory Statement on House Amendment to Senate Amendments to H.R. 1291**

The House amendment to the Senate amendments to H.R. 1291 reflect a compromise agreement that the House and Senate Committees on Veterans Affairs have prepared the following explanation of H.R. 1291 as amended, which has reached on H.R. 801, H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088. H.R. 801 passed the House on March 27, 2001. H.R. 1291 passed the House on July 31, 2001. H.R. 2540 passed the House on July 31, 2001. H.R. 3240 passed the House on November 13, 2001. The Senate considered S. 1088 (hereinafter known as the “Senate bill”) and also incorporated in H.R. 1291 as an amendment and passed the Senate by unanimous consent on December 7, 2001.

The House an Senate Committees on Veterans’ Affairs have prepared the following explanation of H.R. 1291, as amended, hereinafter referred to as the “Compromise Agreement”). Differences between the provisions contained in the Compromise Agreement and the related provisions of H.R. 801,
H.R. 1291, H.R. 2540, H.R. 2940, and S. 1088 are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

Title I — Educational Assistance Provisions

INCREASES IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL

Current law

Section 3011 of title 38, United States Code, establishes the basic educational assistance entitlement under the All-Volunteer Force Educational Assistance Program, commonly referred to as the Montgomery GI Bill or MGIB program. Section 3015 establishes the base amount of such educational assistance at the monthly rate of $528 for a 3-year period of service and $429 for a 2-year period of service. These amounts increased to $650 per month and $528 per month, respectively, on November 1, 2000. With the addition of a cost-of-living adjustment (CCBA) on October 1, 2001, the rates are $672 and $546, respectively.

House bill

Section 2(a)(1) of H.R. 1291 would amend section 3015(a)(1) to increase the amount of educational assistance under the Montgomery GI Bill for an approved program of education on a full-time basis from the current monthly rate of $650 ($372 with COLA) for an obligated period of active duty of 3 or more years to $690 effective October 1, 2001, $750 effective October 1, 2002, and $800 effective October 1, 2003.

House bill

Section 2(a)(2) of H.R. 1291 would amend section 3015(b)(1) of title 38, United States Code, to increase the amount of educational benefits for an obligated period of active duty of 2 years from the current monthly rate of $528 ($456 with COLA) to $560 effective October 1, 2001, $727 effective October 1, 2002, and $794 effective October 1, 2003.

House bill

Section 2(b) of H.R. 1291 would suspend the statutory annual adjustment in MGIB rates based on the Consumer Price Index beginning in fiscal year 2002 and reinstate that adjustment beginning in fiscal year 2003.

Senate bill

Section 101 of the Senate bill would increase the amount of educational benefits under the Montgomery GI Bill for veterans whose original service obligation was 3 or more years to $700 in fiscal year 2002, $750 in fiscal year 2003, and $800 in fiscal year 2004. For veterans whose original service obligation was 2 years, the monthly educational benefit shall be increased to $590 in fiscal year 2002, $650 in fiscal year 2003, and $772 in fiscal year 2004.

Compromise agreement

Section 101 of the compromise agreement would increase the amount of educational benefits under the Montgomery GI Bill for an obligated period of active duty of 3 or more years to $690 effective January 1, 2002, $750 effective October 1, 2002, and $800 effective October 1, 2003. For service obligation of 2 years, increases are to $650 effective January 1, 2002, $732 effective October 1, 2002, and $800 effective October 1, 2003. The COLA is suspended for Fiscal Years 2003 and 2004.

Section 3014 of title 38, United States Code, provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments.

Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38, United States Code, provides for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month. This payment structure is geared primarily toward the pursuit of traditional two- and four-year degrees.

House bill

The House bills contain no comparable provision.

Senate bill

Section 103 of the Senate bill would further expand the Montgomery GI Bill benefit to accommodate a compressed schedule of courses leading to employment in a high-technology industry by authorizing accelerated payment covering up to 60% of the cost of a high-technology course, provided the cost of such courses exceeds 200% of the monthly MGIB rate. This lump sum would be deducted from the veteran’s remaining MGIB entitlement.

Compromise agreement

Section 104 of the compromise agreement follows the Senate language, effective October 1, 2002.

ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS FOR CERTAIN ADDITIONAL VIETNAM-ERA VETERANS

Current law

Section 3011 of title 38, United States Code, provides that a Vietnam-era veteran may convert his or her Vietnam-era GI Bill benefit to the Montgomery GI Bill educational benefit if the veteran had eligibility for Vietnam-era GI Bill benefits as of December 31, 1989, was on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces on or after July 1, 1985.

Compromise agreement

Section 105 of the compromise agreement follows the Senate language.

INCREASE IN MAXIMUM ALLOWABLE ANNUAL ROTC AWARD FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL

Current law

Sections 3011(c)(3)(B) and 3012(d)(3)(B) of title 38, United States Code, provide that $2,000 is the maximum annual amount of a partial scholarship that a participant in the Senior Reserve Officers’ Training Corps (SROTC) may receive and still be eligible for basic educational assistance entitlement for active duty under the Montgomery GI Bill educational assistance program.

House bill

The House bills contain no comparable provision.

Senate bill

Section 101 of the Senate bill would enable Vietnam-era veterans to convert their Vietnam-era GI Bill benefits to Montgomery GI Bill benefits if the veteran had eligibility for Vietnam-era GI Bill benefits as of December 31, 1989, was not on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces on or after July 1, 1985.

Compromise agreement

Section 105 of the compromise agreement follows the Senate language.

ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY

Current law

Section 3014 of title 38, United States Code, provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments.

House bill

The House bills contain no comparable provision.

Senate bill

Section 101 of H.R. 801 would increase from $2,000 to $3,400 per year the amount a student under SROTC may receive in scholarship assistance and still retain eligibility for the Montgomery GI Bill—Active Duty under chapter 30, title 38, United States Code.

Senate bill

The Senate bill contains no comparable provision.
EXPANSION OF WORK-STUDY OPPORTUNITIES

Current law
Section 3455(a)(1) of title 38, United States Code, provides that eligible veterans and eligible dependents may participate in work-study opportunities that provide educational assistance under the chapter 35 program to include only certified work-study opportunities for veteran-students and eligible dependents. In general, VA work-study opportunities offered at VA facilities, provide care at VA hospitals and domiciliaries, or work at Department of Defense facilities in certain circumstances.

House bill
Section 102 of H.R. 801 would expand work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State Approving Agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the veteran-student; and the provision of chapter 17 of title 38, United States Code, domiciliary care and nursing home and hospital care to veterans, including state veterans homes.

Senate bill
The Senate bill contains no comparable provision.

Compromise agreement
Section 107 of the compromise agreement follows the House language.

EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES

Current law
Section 3541 of title 38, United States Code, provides that eligible children entitled to assistance under the Survivors’ and Dependents’ Educational Assistance Program of chapter 35 may receive special restorative training to overcome or lessen the effects of a physical or mental disability and enable them to undertake a program of education.

House bill
Section 104 of H.R. 801 would expand the special restorative training benefit provided under the chapter 35 program to include certain disabled spouses or surviving spouses.

Senate bill
The Senate bill contains no comparable provision.

Compromise agreement
Section 109 of the compromise agreement follows the House language.

INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN THE DEFINITION OF EDUCATIONAL INSTITUTION

Current law
Section 345(c) of title 38, United States Code, defines “educational institution” as any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teacher college, college, normal school, professional school, university, scientific or technical institution furnishing education for adults. Section 350(a)(6) of title 38, United States Code, uses a substantively identical definition with the addition of any other institution if it furnishes education at the secondary school level or above.

House bill
Section 103 of H.R. 801 would expand the definition of an educational institution to include any private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill a requirement for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession, trade or vocation in a particular occupational, as determined by the Secretary.

Senate bill
Section 105 of the Senate bill contains a substantively identical provision.

Compromise agreement
Section 110 of the compromise agreement follows the Senate language.

DISTANCE EDUCATION

Current law
Section 3680(a)(4) of title 38, United States Code, limits the enrollment of an eligible veteran to an accredited independent study program (including open circuit television) leading to a standard college degree.

House bill
Section 105 of H.R. 801 would permit eligible veterans to receive VA education benefits while pursuing non college-degree courses that are offered through independent study programs of higher learning.

Senate bill
The Senate bill contains no comparable provision.

Compromise agreement
Section 111 of the compromise agreement follows the House language.
the Senate language; and section 201(d) of the compromise agreement extends the Secretary’s authority to contract with NAS through October 1, 2014, and extends the Secretary’s authority to determine the presumptive period for service connection through September 30, 2015.

**PAYMENT OF COMPENSATION FOR PERSIAN GULF VETERANS WITH CERTAIN CHRONIC DISABILITIES**

**Current law**

Public Law 103–446 gave the Secretary the authority to compensate a Gulf War veteran who suffers from disabilities that cannot be diagnosed at the time they are first described, where causes cannot be identified. Section 1117 of title 38, United States Code, sets forth parameters for compensating disabilities occurring in Gulf War veterans.

**House bill**

Section 202 of H.R. 2540 would expand, effective April 1, 2002, the definition of “undiagnosed illness” for Gulf War veterans to include fibromyalgia, chronic fatigue syndrome, and chronic multisymptom illness, as well as other illnesses that cannot be clearly defined. Signs and symptoms listed in the House bill that are associated with an undiagnosed illness include headache, muscle, pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.

**Senate bill**

Section 202(b) of the Senate bill would expand the definition of “undiagnosed illness” by adding poorly defined chronic multisymptom illnesses of unknown etiology and signs or symptoms, any diagnosis defined by a cluster of signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.

**Compromise agreement**

Section 202 of the compromise agreement authorizes the Secretary effective March 1, 2002, to compensate a Gulf War veteran chronically disabled by an “undiagnosed illness,” a “medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms,” or “any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connectedness” (or any combination of these). The term “undiagnosed illnesses” has been interpreted by VA to preclude from eligibility for benefits under sections 1117 or 1118 of title 38, United States Code, any veteran who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This section would authorize the Secretary to compensate a Veteran for a Persian Gulf War veteran’s grant of service connection for an undiagnosed illness if, as a result of participating in a medical research study, the condition is diagnosed.

**Current law**

Under current law, the Secretary does not have specific authority to protect a Persian Gulf War veteran’s grant of service connection for an undiagnosed illness if, as a result of participating in a medical research study, the condition is diagnosed.

**House bill**

Section 203 of H.R. 2540 would authorize the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project. The Secretary would be required to publish in the Federal Register any medical research project in which participants would be protected under this section. The Secretary’s authority extends to research projects commenced before, on or after date of enactment.

**Senate bill**

The Senate bill contains no comparable provision.

Compromise agreement

Section 203 of the compromise agreement protects veterans participating in medical research projects supported by the Department from loss of service-connection if the Secretary determines that such protection is necessary for conduct of the medical research. The Secretary is required to publish in the Federal Register a list of medical research projects supported by the Department for which service-connection is protected under this section.

**REPEAL OF THE LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT VETERANS CURRENT LAW**

Subsections (b) and (c) of section 5503 of title 38, United States Code, establishes that compensation and pension benefits cannot be issued to an incompetent, institutionalized veteran with no dependents whose assets exceed five times the 100-percent compensation rate. Public Law 106–419 raised the dollar amount of the cutoff from $1,500 to its present level.

**House bill**

The House bills contain no comparable provision.

**Senate bill**

Section 209 of the Senate bill would repeal the present limitation on payment of benefits to incompetent institutionalized veterans who have no dependents.

**Compromise agreement**

Section 204 of the compromise agreement follows the Senate language.

**EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NONSERVICE-CONNECTED PENSION CURRENT LAW**

Under sections 1104 and 1303 of title 38, United States Code, the Secretary has the authority to round down to the next lower whole dollar amount in the computation of cost-of-living adjustments through fiscal year 2002.

**House bill**

The House bills contain no comparable provision.

**Senate bill**

The Senate bill contains no comparable provision.

**Compromise agreement**

Section 205 of the compromise agreement extends the Secretary’s authority to round down the next lower whole dollar amount in the computation of cost-of-living adjustments through Fiscal Year 2011.

**EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NONSERVICE-CONNECTED PENSION CURRENT LAW**

Under section 1502(a) of title 38, United States Codes, applicants for nonservice-connected pensions are considered to be totally and permanently disabled if they are unemployable, unable to follow a gainful occupation, or determined by the Secretary to be totally and permanently disabled. It is the Committees’ understanding that VA regional office directors have been verbally instructed to implement a policy of presuming permanent and total disability for veterans who are patients in nursing homes for long-term care, or veterans determined permanently disabled by the Social Security Administration.

**House bill**

The House bills contain no comparable provision.

**Senate bill**

Section 203 of the Senate bill would presume that veterans who are in nursing
homes for long-term care; are determined to be permanently disabled by the Social Security Administration (SSA); are at least 65 years old and have no current, recurring income; or are unemployable as a result of a disability reasonably certain to continue throughout life, are permanently and totally disabled for purposes of nonservice-connected pension. This provision would be made retroactive to September 10, 2001.

Compromise agreement

According to information provided to the Committee, SSA has recently instructed its employees to adjudicate pension claims for veterans who are patients in long-term care facilities or who have been determined to be permanently disabled by the Social Security Administration without requiring a VA determination of disability. The Committees express their strong disapproval of the verbal manner in which the policy changes concerning evaluation of disability for patients in long-term care and those determined disabled by SSA were implemented. Verbally advising VA regional office directors to implement major policy changes without issuing either formal regulations or written guidance invites misinterpretation and confusion. The Committees strongly urge the Secretary to communicate all interpretative changes to policy in writing to appropriate officials, to make such instructions available to the public, and to comply with the notice and comment requirements of the Administrative Procedures Act for all substantive changes to policy in writing to appropriate officials, to make such instructions available to the public, and to comply with the notice and comment requirements of the Administrative Procedures Act for all substantive rules.

Section 206(a)(1) of the compromise agreement provides specific statutory authority for the evidentiary presumption verbally communicated to regional office directors for determining disability for purposes of pension eligibility at age 65. The Committees believe that a SSA determination of disability for purposes of pension eligibility at age 65 is not reasonably certain to continue throughout life, and that SSA regional offices are believed to have implemented this policy in an administratively inefficient manner. The Committees believe that a SSA determination of disability for purposes of pension eligibility at age 65 by SSA regional offices is detrimental to caring for our Nation’s elderly veterans, and to transmit appropriate corrective legislative proposals for consideration.

Section 206(a)(2) of the compromise agreement provides that persons who have been determined disabled by the Social Security Administration (SSA) will be considered disabled for purposes of pension benefits. Since the Committees believe that a SSA disability determination is an appropriate evidentiary basis for considering a veteran disabled, the compromise agreement provides that a veteran disabled if SSA has made a determination of disability. The bill provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(3) of the compromise agreement provides that a person shall be considered disabled if the veteran is unemployable as a result of disability reasonably certain to continue throughout the life of the person. The compromise agreement follows the Senate language.

Section 206(a)(4) restates provisions currently contained in section 152(a)(1) and (2) of current law. The compromise agreement follows the Senate language.

ELIGIBILITY OF VETERANS 6 YEARS OF AGE OR OLDER FOR VETERANS’ PENSION BENEFITS

Current law

Public Law 90-77 provided that a veteran is presumed disabled for purposes of pension benefits. Public Law 101-508 reversed the Secretary’s authority to presume that a veteran was disabled for purposes of pension benefits at age 65. Although the Secretary’s authority to presume disability at age 65, it is the Committees’ understanding that VA regional office directors were verbally instructed to implement a policy of presuming disability for pension applicants aged 65 and older.

House bill

The House bills contain no comparable provision.

Senate bill

Section 203(a)(3) of the Senate bill would restore the presumption of disability for purposes of pension eligibility at age 65 for veterans who based on evidence available to the Secretary have no current, recurring income from employment.

Compromise agreement

According to information provided to the Committees, VA has recently instructed its employees to implement the Senate language. Since the Committees express their strong disapproval of the Secretary’s decision to ignore the requirements of Public Law 101-508 prohibiting a presumption of disability for purposes of pension eligibility at age 65 by verbally reinstating the policy, when the Secretary believes that legislation passed by Congress and enacted into law is unwise or inconsistent with the Secretary’s responsibility to propose appropriate legislation to the Congress so that the problem identified can be corrected. Verbally instructing VA regional office directors to ignore statutory requirements and to presume that veterans are disabled at age 65 without authorizing legislation violates current law. The Committees, VA has recently instructed its employees to implement the Senate language.

Section 207 of the compromise agreement provides that a pension will be provided to wartime veterans aged 65 and older without regard to disability. These veterans must still meet the nondisability requirements of section 1521 of title 38, United States Code, such as income and net worth. In determining that benefits will be provided at age 65 without regard to employment status, the Committees noted that any veteran employed full-time and receiving at least a minimum wage would not qualify for pension based on the presumption of disability. Nonetheless, the Committees agree that a policy of requiring proof of disability for an aged veteran and in the aftermath of any in-service disability is based on the presumption of disability for wartime veterans aged 65 and older.

Title III—Transition and Outreach Provisions

AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE

Current law

Sections 7722, 7723 and 7724 of title 38, United States Code, set forth VA’s responsibilities with respect to outreach services, including those providing assistance for servicemembers and eligible dependents. These sections do not specifically provide for the establishment and maintenance of veterans’ assistance offices on military installations outside of the United States, its territories, possessions, or the Commonwealth of Puerto Rico. Through a funding arrangement with the Department of Defense, VA currently assigns representatives overseas on a rotational basis in a number of locations to provide large and small service populations.

House bill

Section 201(a) of H.R. 801 would amend section 7723(a) of title 38, United States Code, to give the Secretary specific discretionary authority to establish veterans’ assistance offices on such military installations in other locations as the Secretary determines necessary. In doing so, the Secretary would be required to consult with the Secretary of Defense.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 301 of the compromise agreement follows the House language.

TIMING OF PREPARATION COUNSELING

Current law

The Departments of Defense, Veterans Affairs, and Labor, and the National Association of State Approving Agencies (SAA) are responsible for preparing servicemembers and veterans of the Armed Forces for civilian life. Currently, section 112(a)(1) of title 10, United States Code, requires that preparation counseling begin not less than 90 days prior to discharge or release.

House bill

Section 202 of H.R. 801 would change the timing of preparation counseling to begin as soon as possible during the 24-month period preceding an anticipated retirement and as soon as possible during the 12-month period preceding other separations, but in no event later than 90 days before the date of discharge or release. In case of an unanticipated retirement or other separation with 90 days fewer prior to separation, preparation counseling shall begin as soon as possible within the remaining period of service. Except in the case of a servicemember who is being retired or separated for a disability, the Secretary concerned would not be permitted to provide preparation counseling to a servicemember who is being discharged or released before the completion of that servicemember’s first 180 days of active duty service.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 302 of the compromise agreement follows the House language.

IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS

Current law

Section 3672 of title 38, United States Code requires that the Secretary of Veterans Affairs actively promote the development of programs for purposes of section 3677 (on the job training) and section 3687 (apprenticeship or other on-job training).

House bill

Section 203 of H.R. 801 would require that State Approving Agencies (SAA), in addition to the Secretary, actively promote the development of VA programs of training on the job (including programs of apprenticeship) under chapter 36 of title 38, United States Code. Section 203 would also require SAA’s, including those representing the Commonwealth of Puerto Rico, to submit a report of their activities to the Secretary for education and training benefits under chapter 77 of title 38.
United States Code, to conduct programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State laws.

**Senate bill**
The Senate bill contains no comparable provision.

**Compromise agreement**
Section 303 of the compromise agreement follows the House language.

**IMPROVEMENT OF VETERANS OUTREACH PROGRAMS**

**Current law**
Section 7722(c) of title 38, United States Code, requires the Secretary to distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Department and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) that the Secretary determines would be beneficial to veterans.

**House bill**
Section 205 of H.R. 801 would require VA, whenever a veteran or dependent first applies for any benefit (including a request for burial or related benefits or on application for life insurance proceeds), to provide information concerning all benefits and health services under programs administered by the Secretary.

**Senate bill**
The Senate bill contains no comparable provision.

**Compromise agreement**
Section 304 of the compromise agreement follows the House language with a modification that the Secretary provides the information within 3 months of the veteran or dependent making an initial contact with VA.

**Title IV—Housing Matters**

**INCREASE OF THE VA HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES**

**Current law**
Under section 3703 of title 38, United States Code, VA currently provides a guaranty of up to $50,750 on home mortgage loans issued to eligible veterans by private lenders.

**House bill**
The House bills contain no comparable provision.

**Senate bill**
Section 301 of the Senate bill would increase the maximum home mortgage loan guaranty amount to $63,175.

**Compromise agreement**
Section 401 of the compromise agreement would increase the maximum home mortgage loan guaranty amount to $60,000.

**NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM**

**Current law**
Section 3761 of title 38, United States Code, established a pilot program whereby the Secretary may make direct housing loans to Native American veterans to permit such veterans to purchase, construct, or improve dwellings on trust lands. Section 404(a) would extend section 3762(a)(1) of title 38, United States Code, to permit VA to make a direct housing loan to a member of a Native American tribe that has entered into an MOU with another federal agency if that MOU generally conforms to the requirements of VA’s program.

**Senate bill**
Section 302 of the Senate bill extends the Native American veterans housing loan program to December 31, 2005. It also extends the requirement of an annual report under section 3762(j) through 2006.

**Compromise agreement**
Section 402 of the compromise agreement follows the House language with the addition of the reporting requirement until 2006.

**MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT**

**Current law**
Section 3714(d) of title 38, United States Code, requires that all VA loans and security instruments contain on the first page in letters two and one half times the size of the regular type face used in the document, a statement that the loan is not assumable without approval of VA or its authorized agent.

**House bill**
Section 405 of H.R. 2540 would modify the requirement in section 3714(d) of title 38, United States Code, by requiring that such notice appear conspicuously on at least one instrument (such as a VA rider) under guidelines established by VA in regulations.

**Senate bill**
The Senate bill contains no comparable provision.

**Compromise agreement**
Section 403 of the compromise agreement follows the House language.

**INCREASE IN ASSISTANCE AMOUNT FOR SPECIALY ADAPTED HOUSING**

**Current law**
The Secretary is authorized in chapter 21 of title 38, United States Code, to assist eligible veterans in acquiring suitable housing and adaptations with special fixtures made necessary by the nature of the veteran’s service-connected disability, and with the necessary land. The assistance authorized for a severely disabled veteran shall not exceed $40,000. The amount authorized for less severely disabled veterans shall not exceed $20,000.

**House bill**
Section 305 of H.R. 801 would increase the grant for specially adapted housing for severely disabled veterans to $48,000 and for less severely disabled veterans to $29,250.

**Senate bill**
The Senate bill contains no comparable provision.

**Compromise agreement**
Section 404 of the compromise agreement follows the House language.

**EXTENSION OF OTHER HOUSING AUTHORITIES**

**Current law**
Subsection 3720(a)(2)(E) of title 38, United States Code, authorizes VA to provide housing loan guaranties to members of the Selected Reserve through September 30, 2007; subsection 3723(h)(2) authorizes VA to issue guaranties of timely principal and interest payments on trust-issued securities backed by vendee loans through December 31, 2008; subsection 3723(h)(2) authorizes VA to charge a loan fee for VA home loan guaranties for loans that have been prepaid; and subsection 3723(c)(11) of title 38, United States Code, authorizes VA to apply specified procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2008.

**House bill**
The House bills contain no comparable provision.

**Senate bill**
Section 303(a) of the Senate bill extends VA’s authority to provide housing loan guaranties to members of the Selected Reserve through September 30, 2011; section 303(b) extends VA’s loan asset sale authority through December 31, 2011; section 303(c) extends the VA’s authority to charge a loan fee for VA home loan guaranties through October 1, 2011; and section 303(d) extends VA’s authority to apply specified procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2011.

**Compromise agreement**
Section 405(a) of the compromise agreement extends the housing loan guaranties to members of the Selected Reserve through September 30, 2009; sections 405(b) through (d) of the compromise agreement follows the Senate language.

**Title V—Other Matters**

**INCREASE IN BURIAL BENEFITS**

**Current law**
Under section 2307 of title 38, United States Code, the Secretary, upon request of the survivor of a veteran, may provide burial and funeral expenses incurred in connection with the death of a veteran. In the case of a veteran who dies as the result of a service-connected disability, the amount authorized to be paid is the greater of (1) $1,500, or (2) the amount authorized to be paid under section 8134(a) of title 5, United States Code, in the case of a federal employee whose death occurs as the result of an injury sustained in the performance of duty. In the case of non-service-connected deaths, section 2302 of title 38, United States Code provides for a payment in the amount of $300 for veterans in receipt of compensation or pension. Section 2303(b) of title 38, United States Code, also authorizes the Secretary to pay a $300 plot allowance for eligible veterans buried in a state or private cemetery.

**House bill**
Section 301(a) of H.R. 801 would increase the burial and funeral allowance payable for service-connected deaths from $1,500 to $2,000, and for nonservice-connected deaths from $300 to $500. Section 301(b) would increase the burial plot allowance from $150 to $300. Section 301(c) would require the amounts payable under sections 2302 (funeral expenses), 2303 (plot allowance), and 2307 (death from service-connected disability) would be indexed to cost-of-living increases in benefits paid under the Social Security Act, title 42, United States Code.

**Senate bill**
Section 401 of the Senate bill would increase the burial benefits for service-connected deaths from $1,500 to $2,000.

**Compromise agreement**
Section 501 of the compromise bill would increase burial benefits for service-connected deaths from $1,500 to $2,000 effective September 11, 2001, and increase the plot allowance from $150 to $300 effective December 1, 2001.

**GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES**

**Current law**
Section 2306 of title 38 limits the provision of headstones and grave markers by VA to the unmarked graves of veterans, or to commemorate the grave of an eligible person whose remains are unavailable. A veteran’s family is permitted to obtain a private
Compromise agreement
Section 504 of the compromise agreement follows the Senate language.

PROHIBITION OF VETERANS RECEIVING BENEFITS
WHILE FUGITIVE FILONS

Current law
Public Law 104-193 bars fugitive felons from receiving Supplemental Security Insur-
ance from the Social Security Administration and food stamps from the Department
of Agriculture. Currently, there is no law bar-
r ing veterans who are fugitive felons from receiving VA benefits.

House bill
The House bills contain no comparable provision.

Senate bill
Section 207 of the Senate bill would proh-
hit veterans and eligible dependents from
receiving veterans benefits while a “fugitive,
" which is defined under this section as
fleeing to avoid prosecution, or custody or
confinement after conviction, for an offense,
or an attempt to commit an offense, which is
defined under the laws of the place from
which the veteran flees.

Compromise agreement
Section 505 of the compromise agreement
substantially follows the Senate language.

LIMITATION ON PAYMENT FOR COMPEN-
SATION FOR VETERANS REMAINING INCARCERATED SINCE
OCTOBER 7, 1980

Current law
Under section 513(d) of title 38, United
States Code, compensation paid to any vet-
eran incarcerated after October 7, 1980, is re-
duced to a level equal to the compensation rate
for a 10 percent disability with the bal-
ance allowed to be apportioned to the vet-
eran’s dependents, if any.

House bill
The House bills contain no comparable
provision.

Senate bill
Section 208 of the Senate bill would apply
the restrictions listed in section 513(d) of title
38, United States Code, to veterans in-
carcerated before October 7, 1980. This provi-
sion would not affect any payments made
prior to the enactment of this legislation.

Compromise agreement
Section 506 of the compromise agreement
follows the Senate language. It is the Com-
mittees’ hope that VA will receive all nec-
 essary cooperation from the state and fed-
 eral prison systems in implementing this
provision, such as the timely compiling of
information on incarcerated veterans affected
by this change in law.

ELIMINATION OF REQUIREMENT FOR PROVIDING
A COPY OF NOTICE OF APPEAL TO THE SEC-
RETARY OF VETERANS AFFAIRS

Current law
Section 726(b) of title 38, United States
Code, requires an individual appealing a de-
cision of the Board of Veterans’ Appeals to
furnish the Secretary of Veterans Affairs
with a copy of his of her notice of appeal to
the U.S. Court of Appeals for Veterans
Claims.

House bill
Section 406 of H.R. 2540 repeals section
726(b) of title 38, United States Code.

Senate bill
The Senate bill contains no comparable
provision.

Compromise agreement
Section 507 of the compromise agreement
follows the House language.

INCREASE IN FISCAL YEAR LIMITATION ON THE
NUMBER OF VETERANS IN PROGRAMS OF INDE-
PENDENT LIVING SERVICES AND ASSISTANCE

Current law
Under section 3120 of title 38, United States
Code, VA’s Vocational Rehabilitation and
Employment Service maintains an inde-
pendent living program designed to assist
service-disabled veterans, who are to dis-
abled return to employment, in achieve-
ing and maintaining independent liv-
ing outcomes. Subsection 3120(e) of this title
limits participation in this program to no more
than 500 veteran participants per fiscal
year. Despite this limitation, VA has been pro-
viding services to approximately 2,400
veterans per year.

House bill
The House bills contain no comparable
provision.

Senate bill
Section 501 of the Senate bill would elimi-
nate the 500-veteran cap for participants of
the independent living program, and would
make the Secretary, in consultation with the
Corporation for Veterans Employment for whom
there is a reasonable feasibility of achieving
a vocational goal but for their service-con-
nected condition.

Compromise agreement
Section 508 of the compromise agreement
would increase the maximum number of vet-
erns allowed to participate in the VA inde-
pendent living program to 2,500, and would
retain the first priority to veterans for whom
there is a reasonable feasibility of achieving
a vocational goal but for their service-con-
nectcd condition.

While the Committees acknowledge the value of this program, the Committees
strongly disapprove of VA’s apparent deci-
sion to ignore the limitations in current law. When a limitation contains in current law
proves detrimental to veterans, the Commit-
tees expect that the Secretary will not pro-
cceed to ignore the law, but rather to present
the Congress with appropriate corrective leg-
islation. In the event that the number cur-
cently authorized proves to be insufficient to
meet the needs of our Nation’s disabled vet-
erans, the Committee expects the Secretary
to propose appropriate legislation to Con-
gress.

Title VI—U.S. Court of Appeals for Veterans
Claims

FACILITATION OF STAGGERED TERMS OF JUDGES
THROUGH TEMPORARY EXPANSION OF THE COURT

Current law
Section 7253 of title 38, United States Code,
requires that the U.S. Court of Appeals for
Veterans Claims (CAVC) shall be composed
of no more than seven judges and one
shall be chief judge. After the Court’s establish-
ment in 1988, the initial seven judges were
appointed within 16 months of one another.
A chief judge was appointed in 1997 to fill
vacancy created by the death of one of the
originally appointed judges. The chief judge
retired in 2000, and his seat has not yet been
filled. By 2005, the terms of five of the re-
main ing judges will have ended. This will
likely leave four simultaneously vacant
seats by 2005.

House bill
The House bills contain no comparable
provision.

Senate bill
Section 601 of the Senate bill would tempo-
arily expand the membership of the CAVC
by two seats until August 2005 in order to
bring the retirement of the original judges.

Compromise agreement
Section 601 of the compromise agreement
follows the Senate language.

December 13, 2001
CONGRESSIONAL RECORD—SENATE
S13241
REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF RE-APPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT

Current law
Section 7296(b)(2) of title 38, United States Code, requires a judge who has not been re-appointed following the expiration of his or her appointed term, before that judge is 65 years old, to apply to the President to advise the President, in writing, that the judge is willing to accept reappointment.

House bill
The House bills contain no comparable provision.

Senate bill
Section 602 of the Senate bill would repeal the requirement that a judge provide written notice indicating willingness to accept reappointment as a precondition to retirement from the CAVC.

Compromise agreement
Section 602 of the compromise agreement follows the Senate language.

TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT

Current law
Under section 602 of the Veterans’ Judicial Review Act (Public Law 100-687; 38 U.S.C. §7251 note) (VJRA), a Notice of Disagreement (NOD) must have been filed on or after November 18, 1988, in order to establish jurisdiction necessary for the CAVC to review a claimant’s case. Section 403 of the VJRA (102 Stat. 4122; 38 U.S.C. §5901 note) limits the payment of attorney fees to cases in which a post-November 17, 1988, NOD has been filed.

House bill
The House bills contain no comparable provision.

Senate bill
Section 603(a) of the Senate bill would eliminate the post-November 17, 1988, NOD as a prerequisite to jurisdiction at the CAVC. It would not affect the requirement of a NOD to trigger appeal within VA of a decision nor any other prerequisite to review at the Court. Section 603(b) of the Senate bill would similarly eliminate the limitation on payment of attorney fees to cases in which a post-November 17, 1988, NOD has been filed.

Compromise agreement
Section 603 of the compromise agreement follows the Senate language.

REGISTRATION FEES

Current law
Section 7225 of title 38, United States Code, provides that the CAVC may impose periodic registration fees on persons admitted to practice before the Court. These fees may be used for purposes of hiring independent counsel to pursue disciplinary matters and defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

House bill
Section 301(a) of H.R. 2540 would authorize the Court to collect registration fees for persons participating in a judicial conference or other Court-sponsored activities where appropriate.

Senate bill
Section 604 of the Senate bill contains a comparable provision.

Compromise agreement
Section 604 of the compromise agreement follows the House language.

Administrative Authorities

Current law
The CAVC, established by Congress under Article I of the United States Constitution to exercise judicial power, has unusual status as an independent tribunal that does not have the same general administrative authority as courts established under Article III of the Constitution. Because of its status, the Court does not have available to it certain general services that would normally be available were it part of the executive branch or another administrative structure.

House bill
Section 302 of H.R. 2540 would add a new section to title 38 United States Code, to make available to the Court generally the same management, administrative, and expenditure authorities that are available to the courts of the United States.

Senate bill
Section 605 of the Senate bill contains a comparable provision.

Compromise agreement
Section 605 of the compromise agreement follows the House language.

Legislative Provisions Not Adopted

Current law
MODIFICATION OF THE EFFECTIVE DATE OF THE REGULATION EXTENDING THE PRESUMPTIVE PERIOD FOR UNDIAGNOSED ILLNESSES

Current law
Section 204 of H.R. 2540 extends the presumptive period for undiagnosed illnesses to December 31, 2003.

House bill
Section 204 of H.R. 2540 extends the presumptive period for undiagnosed illnesses to December 31, 2003, or such later date as the Secretary may prescribe by regulation.
PAYMENT OF INSURANCE PROCEEDS TO AN ALTERNATE BENEFICIARY WHEN FIRST BENEFICIARY CANNOT BE IDENTIFIED

Current law
Under chapter 19 of title 38, United States Code, there is no time limitation for a first-named beneficiary of a National Service Life Insurance (NSLI) or a United States Government Life Insurance (USGLI) policy to file a claim for proceeds. As a result, when the insured dies and the beneficiary does not file a claim, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by that beneficiary. VA is not permitted to pay the proceeds to an alternate beneficiary unless VA can determine that the first beneficiary predeceased the policyholder.

House bill
Section 401 of H.R. 2540 would grant the Secretary of Veterans Affairs the authority to authorize payment of NSLI or USGLI proceeds to an alternate beneficiary when the proceeds have not been claimed by the first-named beneficiary within three years following the death of the policyholder. If no beneficiary has filed a claim within five years of the veteran’s death, benefits could be paid to such person as the Secretary determines is equitably entitled to the proceeds of the policy.

Senate bill
The Senate bill contains no comparable provision.

EXTENSION OF COPAYMENT REQUIREMENT FOR OUTPATIENT PRESCRIPTION MEDICATIONS

Current law
Section 1722A(c) of title 38, United States Code, furnishes the Secretary the authority, through September 30, 2002, to require a copayment of $2 for each 30-day supply of medication VA furnishes a veteran on an outpatient basis for the treatment of a non-service connected disability or condition.

House bill
Section 402 of H.R. 2540 would extend until September 30, 2006, the authority of the Secretary to require a $2 copayment for each 30-day supply of medication.

Senate bill
The Senate bill contains no comparable provision.

DEPARTMENT OF VETERANS AFFAIRS HEALTH SERVICES IMPROVEMENT FUND MADE SUBJECT TO APPROPRIATIONS

House bill
Section 403 of H.R. 2540 would amend section 1729B of title 38, United States Code, by making the availability of funds in the VA’s Health Services Improvement Fund subject to the provisions of appropriations acts effective October 1, 2001.

Senate bill
The Senate bill contains no comparable provision.

PILOT PROGRAM FOR EXPANSION OF TOLL-FREE TELEPHONE ACCESS TO VETERANS SERVICE REPRESENTATIVES

Current law
VA provides various toll-free automated telephone response systems for veterans to furnish them information on VA benefits and services.

House bill
Section 407 of H.R. 2540 would establish a two-year nationwide pilot program to test the benefit and cost effectiveness of expanding current access to VA veterans service representatives through a toll-free telephone number. Under the pilot program, the Secretary would be required to expand the available hours of such access to veterans service representatives to not less than twelve hours on each regular business day across U.S. time zones and not less than six hours on Saturday. The pilot would also require that such service representatives have available to them information about veterans benefits provided by all other federal departments and agencies, and state governments.

Senate bill
The Senate bill contains no comparable provision.

ORDERS FOR FRIDAY, DECEMBER 14, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, December 14; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the farm bill.

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

PROGRAM
Mr. REID. Mr. President, there will be no rollcall votes tomorrow. The next rollcall votes will occur on Tuesday, December 18, at approximately 11 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:06 p.m., adjourned until Friday, December 14, 2001, at 9:30 a.m.
HIGHLIGHTS

Senate and House agreed to the Conference Report to accompany S. 1438, Department of Defense Authorization Act.

Senate agreed to the Conference Report to accompany H.R. 2883, Intelligence Authorization Act.

The House passed H.J. Res. 76, making further continuing appropriations through December 21.

The House agreed to the Conference Report on H.R. 1, No Child Left Behind Act.

Senate

Chamber Action

Routine Proceedings, pages S13079–S13243

Measures Introduced: Fourteen bills and two resolutions were introduced, as follows: S. 1815–1828, S. Res. 191, and S. Con. Res. 93. Pages S13145–46

Measures Reported:

S. 990, to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, with an amendment in the nature of a substitute. (S. Rept. No. 107–123)

S. 1632, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to extend the deadline for submission of State recommendations of local governments to receive assistance of predisaster hazard mitigation and to authorize the President to provide additional repair assistance to individuals and households. (S. Rept. No. 107–124)

H.R. 861, to make technical amendments to section 10 of title 9, United States Code.

H.R. 1840, to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

H.R. 1892, to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked, with an amendment.

H.R. 2048, to require a report on the operations of the State Justice Institute.

H.R. 2277, to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

S.J. Res. 8, designating 2002 as the "Year of the Rose".

S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette. Pages S13144–45

Measures Passed:

Enrollment Correction: Senate agreed to H. Con. Res. 288, to provide for a technical correction in the enrollment of S. 1438, Department of Defense Authorization. Page S13113

Commending Afghan Interim Administration: Senate agreed to S. Res. 191, to express the sense of the Senate to commend the inclusion of women in
the Afghan Interim Administration and commending those who met at the historic Afghan Women’s Summit for Democracy in Brussels.

Women’s Participation in Afghanistan: Senate agreed to S. Con. Res. 86, expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan. Page S13225

Promoting Safe and Stable Families Amendments: Senate passed H.R. 2873, to extend and amend the program entitled Promoting Safe and Stable Families under title IV–B, subpart 2 of the Social Security Act, and to provide new authority to support programs for mentoring children of incarcerated parents; to amend the Foster Care Independent Living program under title IV–E of that Act to provide for educational and training vouchers for youths aging out of foster care, clearing the measure for the President. Page S13225–26

Indian Trust Lands: Committee on Indian Affairs was discharged from further consideration of H.R. 483, regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon, and the bill was then passed, clearing the measure for the President. Page S13226

Honoring the National Guard: Senate agreed to S. Con. Res. 93, to recognize and honor the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony. Pages S13226–27

Federal Farm Bill: Senate continued consideration of S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, taking action on the following amendments proposed there-to: Pages S13079–99, S13101–13, S13116–18, S13138–40

Adopted:

By 64 yeas to 31 nays, and 1 responding present (Vote No. 366), Feingold/Grassley/Harkin Amendment No. 2522 (to Amendment No. 2471), to reform certain mandatory arbitration clauses. Pages S13087–91, S13091–92

By 51 yeas to 46 nays (Vote No. 367), Johnson Amendment No. 2534 (to Amendment No. 2471), to make it unlawful for a packer to own, feed, or control livestock intended for slaughter. Pages S13093–99

Wyden/Brownback Amendment No. 2546 (to Amendment No. 2471), to provide for forest carbon sequestration and carbon trading by farmer-owned cooperatives. Pages S13116–18

Rejected:

Bond Amendment No. 2513 (to Amendment No. 2471), to authorize the Secretary of Agriculture to review Federal agency actions affecting agricultural producers. (By 54 yeas to 43 nays (Vote No. 365), Senate tabled the Amendment) Pages S13080–87, S13091

Withdrawn:

McCain/Gramm/Kerry Amendment No. 2598 (to the text of the bill proposed to be stricken), to provide for the market name for catfish. Pages S13110–12, S13138–39

Pending:


Smith (NH) Amendment No. 2596 (to Amendment No. 2471), to provide for Presidential certification that the government of Cuba is not involved in the support for acts of international terrorism as a condition precedent to agricultural trade with Cuba. Pages S13102–10

Torriceelli Amendment No. 2597 (to Amendment No. 2596), to provide for Presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States prior to the amendments relating to agricultural trade with Cuba becoming effective. Pages S13104–10

Daschle motion to reconsider the vote (Vote 368) by which the motion to close further debate on Daschle (for Harkin) Amendment No. 2471 (listed above) failed. Page S13112

During consideration of this measure today, Senate also took the following actions:

By 53 yeas to 45 nays (Vote No. 368), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate failed to agree to the motion to close further debate on Daschle (for Harkin) Amendment No. 2471 (listed above). Page S13112

A unanimous-consent agreement was reached providing for the filing of second degree amendments to Daschle (for Harkin) Amendment No. 2471 (listed above), until 11 a.m., on Friday, December 14, 2001. Pages S13092–93
A unanimous-consent agreement was reached providing for further consideration of the bill on Friday, December 14, 2001, that the pending Smith (NH) and Torricelli amendments (listed above) be laid aside, and that Senators Wellstone and McCain be recognized to offer certain amendments.  

**Department of Defense Authorization Act Conference Report:** By 96 yeas to 2 nays (Vote No. 369), Senate agreed to the conference report on S. 1458, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, and to prescribe personnel strengths for such fiscal year for the Armed Forces, clearing the measure for the President.  

**Intelligence Authorization Act Conference Report:** By unanimous consent, Senate agreed to the conference report on H.R. 2883, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, clearing the measure for the President.  

**21st Century Montgomery GI Bill Enhancement Act:** Senate concurred in the amendment of the House to the amendment of the Senate to H.R. 1291, to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill, clearing the measure for the President.  

**Education Reform Conference Report—Agreement:** A unanimous-consent-time agreement was reached providing for consideration of the conference report on H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, at 1 p.m., on Monday, December 17, 2001, and on Tuesday, December 18, 2001, with a vote on adoption of the conference report to occur on Tuesday at 11 a.m.  

**Nominations Confirmed:** Senate confirmed the following nominations:  

- Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.  
- John Magaw, of Maryland, to be Under Secretary of Transportation for Security for a term of five years.  
- Robert B. Holland III, of Texas, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of two years.  
- Andrea G. Barthwell, of Illinois, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.  
- Nehemiah Flowers, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.  
- Arthur Jeffrey Hedden, of Tennessee, to be United States Marshal for the Eastern District of Tennessee, for the term of four years.  
- David Glenn Jolley, of Tennessee, to be United States Marshal for the Western District of Tennessee for the term of four years.  
- Dennis Cluff Merrill, of Oregon, to be United States Marshal for the District of Oregon for the term of four years.  
- Michael Wade Roach, of Oklahoma, to be United States Marshal for the Western District of Oklahoma for the term of four years.  
- Eric Eugene Robertson, of Washington, to be United States Marshal for the Western District of Washington for the term of four years.  

**Messages From the House:**  

**Executive Reports of Committees:**  

**Additional Cosponsors:**  

**Statements on Introduced Bills/Resolutions:**  

**Additional Statements:**  

**Amendments Submitted:**  

**Authority for Committees to Meet:**  

**Record Votes:** Six record votes were taken today. (Total—370)  

**Adjournment:** Senate met at 9:30 a.m., and adjourned at 9:08 p.m., until 9:30 a.m., on Friday, December 14, 2001. (For Senate’s program, see the
remarks of the Acting Majority Leader in today’s Record on page S13243.)

Committee Meetings

(Committees not listed did not meet)

NUCLEAR WEAPONS

Committee on Armed Services: Subcommittee on Strategic concluded open and closed hearings to examine the security of United States nuclear weapons and nuclear weapons facilities, focusing on effective intelligence gathering, system vulnerability assessments, and responsive improvement programs and communication, after receiving testimony from Maj. Gen. Franklin J. Blaisdell, USAF, Director, Nuclear Operations and Counterproliferation Office of the Deputy Chief of Staff for Air and Space Operations; Brig. Gen. Ronald Haeckel, USAF, Acting Deputy Administrator for Defense Programs, National Nuclear Security Administration; Rear Adm. Dennis M. Dwyer, USN, Director, Strategic Systems Programs Office; and Linton Wells II, Principal Deputy Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

COMMUNITY DEVELOPMENT

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine housing and community development needs in America, focusing on providing a mortgage cut rate for National Guardsmen and Reservists called to active duty, relief on FHA insured mortgages for the victims families of the September 11, 2001 attacks, and for New York City’s economic recovery, after receiving testimony from Mel Martinez, Secretary of Housing and Urban Development.

CAMPAIGN AGAINST TERRORISM

Committee on Foreign Relations: Subcommittee on Central Asia and South Caucasus concluded hearings to examine contributions of central Asian nations to the campaign against terrorism, including basing facilities for U.S. and allied forces, over-flight rights, intelligence sharing, and use of airports for military and humanitarian activities in Afghanistan, after receiving testimony from Elizabeth A. Jones, Assistant Secretary of State for European Affairs; and S. Frederick Starr, Johns Hopkins University Nitze School of Advanced International Studies Central Asia and Caucasus Institute, and Fiona Hill, Brookings Institution, both of Washington, D.C.

RAILROAD SAFETY

Committee on Governmental Affairs: Committee concluded hearings to examine the security status of U.S. passenger and transit rail infrastructure, focusing on counter-terrorism equipment, security related training programs, and technologies capable of detecting chemical and biological agents on transit systems, after receiving testimony from Jennifer L. Dorn, Administrator, Federal Transit Administration, Department of Transportation; Ernest R. Fraizer, Sr., National Railroad Passenger Corporation (Amtrak); Dorothy W. Dugger, San Francisco Bay Area Rapid Transit District, San Francisco, California; Jeffrey A. Warsh, New Jersey Transit Corporation, Newark; Richard A. White, Washington Metropolitan Area Transit Authority, Washington, D.C.; and Trixie Johnson, San Jose State University Mineta Transportation Institute, San Jose, California.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

H.R. 1892, to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor’s classification petition should not be revoked, with an amendment;

H.R. 2277, to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors;

H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States;

H.R. 1840, to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees;

H.R. 861, to make technical amendments to section 10 of title 9, United States Code;

H.R. 2048, to require a report on the operations of the State Justice Institute;

S.J. Res. 8, designating 2002 as the “Year of the Rose”;

S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette; and
The nominations of Callie V. Granade, to be United States District Judge for the Southern District of Alabama, Marcia S. Krieger, to be United States District Judge for the District of Colorado, James C. Mahan, to be United States District Judge for the District of Nevada, Philip R. Martinez, to be United States District Judge for the Western District of Texas, C. Ashley Royal, to be United States District Judge for the Middle District of Georgia, and Michael A. Battle, to be United States Attorney for the Western District of New York, Christopher James Christie, to be United States Attorney for the District of New Jersey, Harry E. Cummins III, to be United States Attorney for the Eastern District of Arkansas, David Preston York, to be United States Attorney for the Southern District of Alabama, Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States, and Dwight MacKay, of Montana, to be United States Marshal for the District of Montana, all of the Department of Justice.

HOMELAND DEFENSE

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information concluded hearings to examine the protection of our homeland against terror, focusing on policy, planning, and resource allocation responsibilities coordination, future operational solutions which balance apportionment of forces nationally and abroad, and local, state, and federal interagency cooperation improvement, after receiving testimony from Senator Bond; Lt. Gen. Frank G. Libutti, USMC (Ret.), Special Assistant to the Interim Department of Defense Executive Agent for Homeland Security; Lt. Gen. Russell C. Davis, USAF, Chief, National Guard Bureau; Maj. Gen. Richard C. Alexander, NGATUS (Ret.), Executive Director, National Guard Association of the United States; and Maj. Gen. Paul D. Monroe, Jr., Adjutant General, California National Guard.
House of Representatives

Chamber Action

Measures Introduced: 28 public bills, H.R. 3476–3503; and 2 resolutions, H. Con. Res. 288–289, were introduced. Pages H10065–66

Reports Filed: Reports were filed today as follows:

H.R. 3084, to revise the discretionary spending limits for fiscal year 2002 set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 and to make conforming changes respecting the appropriate section 302(a) allocation for fiscal year 2002 established pursuant to the concurrent resolution on the budget for fiscal year 2002 (H. Rept. 107–338). Pages H10065


Department of Defense Authorization Conference Report: The House agreed to the conference report on S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces by a yea-and-nay vote of 382 yeas to 40 nays, Roll No. 495. Pages H10073–80

Earlier the House agreed to H. Res. 316, the rule that waived points of order against the conference report by voice vote. Pages H10069–73


No Child Left Behind Act: The House agreed to the conference report on H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind by a recorded vote of 381 ayes to 41 noes, Roll No. 497. Pages H10092–H10113

Earlier the House agreed to H. Res. 315, the rule that waived points of order against the conference report by voice vote. Pages H10082–92

Technical Correction in Enrollment of No Child Left Behind Act: The House agreed to H. Con. Res. 289, directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 1, No Child Left Behind Act. Pages H10113–14

Consideration of Suspensions on Dec. 19, 2001: The House agreed to H. Res. 314, the rule providing for the consideration of motions to suspend the rules on Wednesday, Dec. 19, 2001 by a recorded vote of 306 ayes to 100 nays, Roll No. 498. Pages H10082, H10113

Legislative Program: The Majority Leader announced the legislative program for the week of Dec. 17. Page H10114

Meeting Hour—Monday, Dec. 17: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, Dec. 17 in pro forma session. Page H10114

Meeting Hour—Tuesday, Dec. 18: Agreed that when the House adjourns on Monday, it adjourn to meet at 12:30 p.m. on Tuesday, Dec. 18 for morning hour debate. Page H10114–15

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Dec. 19. Pages H10115

Victims of Terrorism Relief Act: The House agreed to the Senate amendments to H.R. 2884, to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with an amendment. The motion to concur in the Senate amendments with an amendment was considered pursuant to an earlier unanimous consent order (the Senate amended the title so as to read: An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States). Pages H10115–41

Senate Messages: Message received from the Senate appears on page H10080.

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and appear on pages H10079–80, H10112, and H10113. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 5:54 p.m.
Committee Meetings

ELECTRIC SUPPLY AND TRANSMISSION ACT

FBI'S HANDLING OF CONFIDENTIAL INFORMANTS IN BOSTON
Committee on Government Reform: Held a hearing on “The FBI's Handling of Confidential Informants in Boston: Will the Justice Department Comply with Congressional Subpoenas?” Testimony was heard from the following officials of the Department of Justice: Michael Horowitz, Chief of Staff, Criminal Division; and Edward Whelan, Principal Deputy, Assistant Attorney General.

DIGITAL MILLENNIUM COPYRIGHT ACT SECTION 104 REPORT
Committee on the Judiciary: Subcommittee on Courts, the Internet and Intellectual Property concluded oversight hearings on “The Digital Millennium Copyright Act Section 104 Report.” Testimony was heard from Marybeth Peters, Register of Copyrights, Library of Congress; and public witnesses.

MISCELLANEOUS MEASURES
Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a hearing on the following bills: H.R. 2109, to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System; H.R. 2748, National War Permanent Tribute Historical Database Act; H.R. 3421, Yosemite National Park Educational Facilities Improvement Act; and H.R. 3425, to direct the Secretary of the Interior to study the suitability and feasibility of establishing Highway 49 in California, known as the “Golden Chain Highway,” as a National Heritage Corridor. Testimony was heard from Representatives Dreier, Meek of Florida and Hastings of Florida; Vincent L. Barile, Deputy Under Secretary, Management, National Cemetery Administration, Central Office, Department of Veterans Affairs; David Mihalic, Superintendent, Yosemite National Park, National Park Service, Department of the Interior; and public witnesses.

GENERAL AVIATION INDUSTRY REPARATIONS ACT
Committee on Transportation and Infrastructure, Subcommittee on Aviation approved for full Committee action, as amended, H.R. 3347, General Aviation Industry Reparations Act of 2001.

NATIONAL CEMETARY ELIGIBILITY
Committee on Veterans' Affairs: Ordered reported, as amended, H.R. 3423, to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery.

Prior to this action, the Committee held a hearing on this legislation. Testimony was heard from John C. Metzler, Superintendent, Arlington National Cemetery, Department of the Army; and representatives of various veterans organizations.

COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 14, 2001
(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance: to continue markup of H.R. 3005, to extend trade authorities procedures with respect to reciprocal trade agreements; and to consider the nomination of Richard Clarida, of Connecticut, to be Assistant Secretary for Economic Policy, the nomination of Kenneth Lawson, of Florida, to be Assistant Secretary for Enforcement, and the nomination of B. John Williams, Jr., of Virginia, to be Chief Counsel for the Internal Revenue Service and Assistant General Counsel, all of the Department of the Treasury; the nomination of Janet Hale, of Virginia, to be Assistant Secretary for Management and Budget, and the nomination of Joan E. Ohl, of West Virginia, to be Commissioner on Children, Youth, and Families, both of the Department of Health and Human Services; and the nomination of James B. Lockhart III, of Connecticut, to be Deputy Commissioner of Social Security, and the nomination of Harold Daub, of Nebraska, to be a Member of the Social Security Advisory Board, both of the Social Security Administration, 9:30 a.m., SD–215.

House

Committee on Government Reform, Subcommittee on Technology and Procurement Policy, hearing on Battling Bioterrorism: Why Timely Information-Sharing Between Local, State and Federal Governments is the Key to Protecting Public Health, 10 a.m., 2247 Rayburn.

NEW PUBLIC LAWS
(For last listing of Public Laws, see Daily Digest, of December 7, 2001, p. D1226)


S. 1573, to authorize the provision of educational and health care assistance to the women and children of Afghanistan. Signed on December 12, 2001. (Public Law 107–81)
Next Meeting of the SENATE
9:30 a.m., Friday, December 14

Senate Chamber
Program for Friday: Senate will continue consideration of S. 1731, Federal Farm Bill.

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Monday, December 17

House Chamber
Program for Monday: Pro forma session.